WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO

2003 Wisconsin Act 31 [2003 Assembly Bill 378]	Utility Shared Revenue Payments
2003 Acts: www.legis.state.wi.us/2003/data/acts/	**Act Memos:** www.legis.state.wi.us/lc/act_memo/act_memo.htm

2003 Act 31 establishes a new, capacity-based formula for calculating state utility shared revenue payments to municipalities and counties that host power plants built or substantially renovated after 2003, while retaining the prior value-based formula for other utility property.

Background Information

Power plants, substations, and general structures owned by electric utilities or cooperatives or wholesale producers are exempt from property taxes. Instead, electric utilities, cooperatives, and wholesale producers pay a gross receipts tax to the state.

The state makes utility shared revenue payments to municipalities (cities, villages, and towns) and counties in which power plants, substations, and general structures are located, in lieu of the property tax revenues that the municipalities and counties would receive if the facilities were taxable industrial property. The payments are based on the value of the facilities, although the portion of the value of a facility that exceeds $125 million is excluded from the calculation. For facilities located in a city or village, the municipality receives 2/3 of the formula amount and the county receives 1/3; for facilities located in towns, this proportion is reversed.

Payments to a municipality are capped at $300 times the municipality's population per year and payments to a county are capped at $100 times the county's population per year. Subject to these caps, a municipality or county where a power plant with a capacity of at least 200 megawatts is located is guaranteed a payment of $75,000 per year. Regardless of the caps, each municipality and county in which spent nuclear fuel is stored receives an additional payment of $50,000 per year.

2003 Act 31

2003 Act 31 retains most aspects of prior law with regard to existing power plants and new or existing substations and general structures, but creates a new formula for calculation of utility shared revenue

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

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payments related to power plants that are either built or substantially renovated ("repowered") after December 31, 2003.

The new formula is based on the design capacity of the power plant, measured in megawatts. It consists of a base payment and three separate incentive payments to the municipality and county that host the new or repowered power plant:

- Every new or repowered facility generates a base payment of $2,000 times the facility's capacity. The Act distributes this payment between the municipality and county in the same manner as under the value-based formula for old facilities, described above.
- Every new or repowered facility that is a baseload power plant (designed to operate more or less continuously) generates additional payments of $600 times the facility's capacity to both the municipality and the county.
- Every new or repowered facility that is located on, or adjacent to, an existing or decommissioned power plant site or a brown field generates additional payments of $600 times the facility's capacity to both the municipality and the county.
- Every new or repowered facility that is either a cogeneration plant or is powered by an alternative fuel generates additional payments of $1,000 times the facility's capacity to both the municipality and the county.

The incentive payment for a baseload power plant applies to a power plant that has a capacity of at least 50 megawatts. The base payment and other two incentive payments apply to a power plant that has a capacity of at least one megawatt.

The total amount distributed to a municipality under the value-based formula for old facilities and the base payment under the capacity-based formula for new and repowered power plants is capped at $300 times the municipality's population per year. A county's similar distribution is capped at $100 times the county's population per year. The new incentive payments are not subject to these caps.

The Act provides that municipalities and counties shall continue to receive utility shared revenue payments related to decommissioned power plants for five years after decommissioning. The payments decline by 20% each year, and are reduced by the amount of property taxes paid for the decommissioned plant. This provision applies to payments under both the value-based formula for old facilities and the capacity-based formula for new and repowered facilities. [Prior law included a 10-year phase out of payments to a municipality hosting a decommissioned power plant, although that formula was flawed.]

The Act provides that, in applying the value-based formula to a payment generated by an ash disposal facility at a power plant that is owned by an electric cooperative and that was in operation before July 30, 2003, the value used in the calculation shall be twice the value of the facility.

Additional Information

For a more detailed description of 2003 Act 31, see Legal Memorandum 2003-3, *Utility Shared Revenue Payments to Municipalities and Counties (2003 Wisconsin Act 31)* (July 18, 2003), available at http://www.legis.state.wi.us/lc/jlc03/lm2003_3.pdf.

Effective Date: The Act takes effect on July 30, 2003. The new utility shared revenue formula created by the Act first applies to payments made in 2005.

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