



Wisconsin's Climate Change Legislation

In the next several weeks, the Wisconsin Legislature will consider sweeping proposals derived in part from the recommendations of **Governor Doyle's Task Force on Global Warming**. Following an extraordinarily lengthy drafting process that began in the summer of 2008, a bill was introduced in the first week of January and special committees were created in both legislative houses to hold hearings and prepare the bill for floor debate.

Oftentimes, the effects of legislation are noticed only by small segments of the public. This bill is different. Probably even more so than with the far-reaching state budget bills, everyone who resides or does business in Wisconsin will be affected directly and often visibly, if what's been dubbed the **Clean Energy Jobs Act** is passed into law.

Universal Impact

It isn't hard to explain why the effects of the Clean Energy Jobs Act (Assembly Bill 649 and Senate Bill 450) would be so broadly felt. It would increase the price of energy across the board, affecting the cost of every phase of production, transportation and consumption of every kind of goods; in short, all human activity. Electricity, natural gas, propane, coal, motor and home-heating fuels, all would cost more because of increased regulatory compliance costs, reduced flexibility in fuel selection for generating electricity, and higher state fees added to utility bills to generate revenue for energy conservation and efficiency programs.

Many conflicting claims are made. Proponents of the legislation say it will create thousands of "green jobs" and turn Wisconsin into a Mecca for renewable energy development. They say it will actually reduce individual ratepayers' utility bills because even with energy prices going up, consumers will use less as energy production, consumer appliances and people's own behavior all grow more efficient. Critics say the rising energy prices will eliminate tens of thousands of jobs, driving them to other states or countries without the costs and regulatory burdens Wisconsin would impose on itself. It will take time to sort out which parts of all these claims are likeliest to represent reality.

Here are some key components of the proposal that, depending on one's perspective, may be viewed as cause for celebration or for deep concern:

- **Enhanced renewable portfolio standard (RPS) for electric utilities** — Wisconsin law requires electric utilities to obtain 10 percent of their power from renewable sources by 2015. The new proposal accelerates the timeline to 10 percent by 2013 and increases the percentage to 25 by 2025. It also mandates growing percentages of the renewable quota to be generated in-state, with six percent of renewables to be Wisconsin-based by 2020 and 10 percent by 2025. Some say this domestic-sourcing requirement is needed to make sure job creation occurs here, not in other states. Others say it will needlessly increase the price of energy that can be generated more efficiently in windier states and brought here by transmission lines.

- **Advanced Renewable Tariff** — Utilities would be required to buy renewable energy from local, customer-owned facilities at a price exceeding the utility's own retail rates, to ensure cost recovery and profitability for generation owners. The additional cost of purchasing this power would be borne by other ratepayers. In the initial bill draft, electric cooperatives were exempt from this provision. Cooperatives were exempted because of the inherent problem with asking all electric cooperative members to pay higher electric rates to subsidize the smaller number of members who produce renewable energy.

- **Enhanced energy conservation/efficiency goals** — This provision calls for a two percent reduction of electricity use by 2015 and a one percent reduction in use of natural gas, propane, and heating oil by 2013.

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131 W. Wilson St., Suite 400
Madison, WI 53703-3269
(608) 258-4400 fax: (608) 258-4407
www.cooperativenetwork.coop

Universal Impact —continued from front—

- Nuclear Plants — Wisconsin's effective prohibition would be modified to ease restrictions on regulatory approval for new nuclear power plants. New restrictions appear, including a requirement that a plant's entire output must be used in-state. Beyond practical, operational questions, this raises constitutional issues some believe may invalidate the revised language and keep the existing ban in place.
- Low-carbon fuel standard — The proposal would create incentives and disincentives based on a life cycle analysis of carbon footprints by fuel type. Some suggest it would have a negative impact on corn-based ethanol fuels produced in Wisconsin and other types of fuel used by Wisconsin agriculture. It's also disturbing that a low carbon fuel standard would likely give a pricing advantage to oil imported from the Middle East compared with oil from Canada. That's troubling, since more than half of Wisconsin's motor fuels are refined from Canadian oil.
- Energy crop reserve program — This provision calls for incentives to farmers for growing crops to be used as energy feedstocks, but the bill provides no actual funding for the incentive payments.
- Energy conservation code for agriculture facilities — This new code would specifically address energy efficiency standards for barns and milking parlors.
- Repeal of fee limits — This provision repeals limits on the fees added to monthly utility bills for energy conservation programs. In doing so, it creates a new energy conservation fee to be paid on propane and heating oil sales, thereby raising consumer energy costs.

Delegation of Authority

Questions have been raised concerning broad delegation of authority to state agencies and even to non-legislative bodies outside Wisconsin. It's been suggested that at least some of these provisions may be unconstitutional.

One open-ended grant of authority goes to the Public Service Commission (PSC) in administering Utility Public Benefits Fees. These fees, added on to monthly gas and electric bills, finance energy conservation and efficiency programs under the Focus on Energy umbrella. The proposal would greatly expand these programs and the PSC's latitude in funding them.

Investor-owned utilities now must collect the equivalent of 1.2 percent of their operating revenues from customers and remit that money to the state for Focus on Energy. Cooperatives and municipal utilities must collect an annual amount averaging \$8 per meter, with no individual assessed in any given month for more than 1.5 percent of the total of all other charges on the bill or \$375, whichever is less. Co-ops and municipals may also conduct their own programs rather than pay into the state fund.

The new proposal retains the option for locally-administered programs but repeals the 1.5 percent/\$375 caps on individual bills. In a January 7 memorandum, the nonpartisan Legislative Council advises: "The overall result of the new process is to change the current funding formula, 1.2 percent of investor-owned utilities operating revenues plus \$8 per meter of municipal utilities and retail electric cooperatives, with a level of funding that PSC determines is sufficient to accomplish all cost-effective energy savings that can potentially be accomplished in such programs."

This may be of concern to those familiar with the history of legislatures and governors of both parties raiding "segregated" funds to balance Wisconsin's chronically deficit-ridden budgets, spending the money for purposes other than those for which it was collected. Utility public benefits fees have been a favored target. In 2009, three years after passage of legislation supposedly prohibiting such raids, utility public benefits were tapped again, to pay district attorney salaries.

Other grants of authority that may stir controversy:

- A requirement that the Department of Natural Resources adopt a low-carbon fuel standard if an advisory panel appointed by the Midwest Governors Association recommends one and it's endorsed by whomever is our governor and a majority of the other participating governors. Some contend this cedes Wisconsin's law- and rule-making authority to a non-legislative body with no jurisdiction over this or any other state.
- A requirement that the DNR adopt vehicle emission standards identical to those prescribed by the California Air Resources board, a move some contend would submit Wisconsin residents to the authority of another state's regulatory agency.

Great Expectations

A lengthy paper would be needed to explore all the provisions in the Clean Energy Jobs Act. It requires development of new energy efficiency codes for residential, commercial and government buildings and consumer appliances. It prohibits sale of television sets that draw more than three watts of power in standby mode. It regulates truck-idling to no more than five minutes in a 60-minute period. It creates municipal taxing authority to finance renewable and energy-efficiency projects, and seeks to do much more.

One thing not specified is the anticipated impact on global climate if all the many challenges posed by the bill are successfully met. It is much to be hoped that this, along with realistic expectations on job gains and losses and other economic impacts will be thoroughly discussed in the brief time before this bill is presented for passage.