

CO-SPONSORSHIP MEMORANDUM

TO: All Legislators

FROM: Senator Robert Cowles
Representative Rachael Cabral-Guevara

DATE: Wednesday, October 13th, 2021

RE: Co-Sponsorship of LRB 1550/1 relating to: exemption from public utility regulation regarding third party financing of renewable electricity generation

DEADLINE: 5:00 PM on Friday, October 22nd, 2021

As distributed energy generation from solar and other small scale renewable sources becomes more common in other states, Wisconsin's energy choices remain limited. As many businesses, families, local governments, and schools look to find ways to manage large energy bills and develop cleaner energy practices, they are often turned-off by the steep initial installation costs associated with these types of energy projects.

Today in Wisconsin, if you have the financial means to self-finance solar panels on your roof, then it's no problem, you can go ahead and do it. If you don't have or want to spend thousands of dollars upfront on installation, leasing and lease-to-own options have removed this barrier to entry for households in every other state - except here in Wisconsin. This legislation simply allows Wisconsinites the ability to lease solar systems, like already commonly done for vehicles.

LRB 1550/1 clears the confusion and helps to mitigate those upfront costs by expressly allowing third-party financing structures, such as leasing options, for solar and other customer-located renewables in Wisconsin. This legislation simply clarifies that leases do not make the financing company a public utility under Wisconsin law.

While Wisconsin statutes haven't explicitly denied third-party financing options for businesses, families, and others, Wisconsin has an unusual prohibition which has denied all third-party renewable financing options. The Public Service Commission (PSC) has refused to formally clarify this matter and has maintained that this is 'more appropriately within the purview of the Wisconsin Legislature.'

After a decade of work by the Wisconsin Legislature to clean-up state statutes and administrative rules, third-party financing options have been crowded out by an informal letter issued in 2012 by a division administrator from the PSC. The letter, to a state representative in response to a constituent inquiry, included guidance which asserted that third-party financed small-scale renewables would 'meet the definition of a public utility'. This has consistently been used to prevent third-party financed arrangements and refute legal claims resulting in a ban in effect on these arrangements.

Therefore, LRB 1550/1 aims to clarify this matter and appropriately align Wisconsin with 49 other states, as we are the only state that disallows customers to lease rooftop solar equipment. In fact, 29 states have explicitly stated in statute their residents are allowed to lease or finance renewable projects.

Distributed solar is an economic driver, creating thousands of family-supporting jobs, and making Wisconsin businesses more competitive. This de facto ban continues to hurt job creators looking to expand their businesses, employ Wisconsinites, and offer competitive options to interested households, hospitals, schools, and local businesses.

LRB 1550/1 will help Wisconsinites mitigate installation costs of self-generation, help thousands of businesses and families manage their own energy costs, increase resiliency and back-up power options, and put energy choices back in the hands of those who know their needs and wants best.

If you have questions or would like to co-sponsor this bill, please reply to this email, contact Senator Cowles' office at 6-0484 or Representative Cabral-Guevara's office at 6-5719 **before 5:00 PM on Friday, October 22nd, 2021**. Your name will be added to the Senate and Assembly version unless otherwise specified.

Analysis by the Legislative Reference Bureau

This bill creates an exemption from the definition of public utility. If a person qualifies for an exemption, the Public Service Commission may not regulate the person as a public utility.

The bill creates an exemption for a person that owns, operates, manages, or controls, or leases to another person, equipment that generates electricity from a renewable resource if the equipment is located on premises owned or occupied by another person. The exemption applies to electricity generated from the following renewable resources: 1) certain renewable fuel cells; 2) tidal or wave action; 3) solar thermal electric or photovoltaic energy; 4) wind power; 5) geothermal technology; 6) biomass; 7) certain synthetic gas or fuel pellets; 8) fuel produced by pyrolysis of organic or waste material; 9) heat that is a byproduct of a manufacturing process; 10) hydroelectric power; or 11) other resources that the PSC designates as renewable resources. The exemption applies only if the person provides electricity generated by the equipment either 1) to another person pursuant to a lease or power purchase agreement or 2) to a public utility or a cooperative association that is not regulated as a public utility. In addition, to qualify for the exemption, the person may not engage in any other activity that would qualify the person as a public utility that is subject to regulation by the PSC.

The bill prohibits an electric public utility from refusing to connect its electric distribution facilities to the electric-generating equipment of a person subject to the exemption described above if the connection satisfies rules promulgated by the PSC establishing standards for connecting certain electric generating facilities with a capacity of no more than 15 megawatts to electric distribution facilities.