



---

---

**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

---

---

**2017 Assembly Bill 78**

**Assembly Substitute  
Amendment 1 and Assembly  
Amendment 4 to Assembly  
Substitute Amendment 1**

*Memo published: June 19, 2017*

*Contact: Zach Ramirez, Staff Attorney*

Assembly Substitute Amendment 1 (the substitute amendment) creates: (1) a process by which a water public utility may provide a grant, a loan, or both to a property owner for the purpose of assisting the property owner in replacing the portion of a lead-containing water service line that is owned by the property owner; and (2) a process by which a city, village, town, or county may provide a loan or facilitate owner-arranged financing from a third party for the purpose of replacing the portion of a lead-containing water service line that is owned by the property owner.

Assembly Amendment 4 modifies certain provisions of the substitute amendment, as described below.

**GRANTS AND LOANS PROVIDED BY A WATER PUBLIC UTILITY**

**Requirements**

**The Substitute Amendment**

Under the substitute amendment, a water public utility may provide a grant, a loan, or both to a property owner for the purpose of assisting the property owner in replacing the portion of a lead-containing water service line that is owned by the property owner, if all of the following requirements are satisfied:

1. The city, town, or village in which the water public utility provides utility service to the property has enacted an ordinance that permits the water public utility to provide a grant, a loan, or both.

2. The portion of the water service line pipe that is owned by the public utility and the water main pipe that are connected to the property either do not contain lead or are replaced at the same time as the portion that is owned by the property owner.
3. The Public Service Commission (PSC) has granted its approval.

#### **Assembly Amendment 4**

Assembly Amendment 4 further requires that the ordinance enacted by the city, town, or village must also require each owner of a premises located in the city, town, or village that is serviced by a customer-side water service line containing lead to replace that water service line.

#### **PSC Approval**

##### **The Substitute Amendment**

To obtain approval from the PSC under the substitute amendment, a water public utility must submit an application to the PSC that includes a description of the proposed financial assistance to be provided to property owners, a description of the method for funding the financial assistance, and any other information that the PSC requests.

Once the PSC has received a complete application, the PSC is required to investigate the application. As part of its investigation, the PSC may hold a public hearing on the application. The PSC must complete its investigation within 90 days if it does not hold a public hearing, and 180 days if it does hold a public hearing, unless the chairperson of the PSC extends the review period for good cause.

If the PSC finds that a water public utility's proposal is reasonable, it must grant its approval in writing.

##### **Assembly Amendment 4**

Assembly Amendment 4 adds to the list of information that a public utility must submit to the PSC a description of the customers served by the water public utility that would be eligible for financial assistance.

Assembly Amendment 4 deletes the requirement that the PSC must grant its approval if it finds a water public utility's proposal to be reasonable. Instead, Assembly Amendment 4 provides that the PSC must grant its approval if it finds that a public utility's proposal is not unjust, unreasonable, or unfairly discriminatory; and the proposal satisfies all of the following conditions:

1. The amount of any grant provided to a property owner does not exceed 50% of the total cost of replacing the owner's portion of the water service line.
2. Any loan provided may not be forgiven by the water public utility or the municipality.

3. If a water public utility intends to provide grants as a percentage of the cost of replacing the property owner's portion of a water service line, the percentage is the same for each property owner.
4. If a water public utility intends to provide grants as a specified dollar amount, the dollar amount is the same for each property owner.

### **Use of Revenue Collected From Public Utility Charges**

#### **The Substitute Amendment**

The substitute amendment provides that it is not unreasonable or unlawful for a water public utility to fund all or a portion of the cost of providing grants and loans using revenue collected from charges applied to retail customers receiving service from the water public utility in the same city, village, or town in which the property receiving financial assistance is located.

#### **Assembly Amendment 4**

Assembly Amendment 4 adds a limitation regarding revenue collected from charges by providing that the revenue collected from charges applied to a class of customers to fund financial assistance may not exceed an amount equal to the financial assistance received by the class.

### **Method for Collecting Loan Payments That are in Areams**

#### **The Substitute Amendment**

Under current law, municipally owned public utilities are authorized to collect unpaid charges for utility service by placing the charges on the property tax rolls, as a lien on the property served. In order to have unpaid charges become a tax lien, a municipal utility must follow a procedure that begins with giving notice on October 15.

The substitute amendment provides that these provisions apply to payments owing on loans provided by a municipally owned water public utility for the purpose of assisting a property owner in replacing the portion of a lead-containing water service line that is owned by the property owner.

Under current law, the procedures for a water utility of a first class city (i.e., the Milwaukee Water Works) differ from the procedures for other municipal utilities. For that water utility, no notice to the owner of the property is required.

The substitute amendment provides that these provisions apply to payments owing on loans provided by a water utility of a first class city that were granted for the purpose of assisting a property owner in replacing the portion of a lead-containing water service line owned by a property owner.

## **LOANS AND LOAN REPAYMENT AGREEMENTS BY A CITY, VILLAGE, TOWN, OR COUNTY**

Under current law, a political subdivision (i.e., a city, village, town, or county) may make a loan to the owner of a property located within its boundaries for the purpose of assisting the property owner in installing energy or water efficiency improvements or certain other projects.

Current law also provides that a political subdivision may instead enter into a loan repayment agreement with a property owner, under which the owner obtains a loan from a private lender, and the political subdivision collects the loan repayment and forwards the amount collected to the lender.

Current law authorizes a political subdivision to collect loan repayments in installments as a special charge on the property owner's property tax bill, even if the repayment is not delinquent. An installment payment that is delinquent becomes a lien on the property.

### **The Substitute Amendment**

The substitute amendment expands the purposes for which a political subdivision may provide a loan or enter into a loan repayment agreement, to include the purpose of replacing the portion of a lead-containing water service line that is owned by the property owner.

The substitute amendment provides that the collection method described above may be used to collect repayments of loans made for the purpose of replacing the portion of a lead-containing water service line that is owned by a property owner.

### **Assembly Amendment 4**

Assembly Amendment 4 provides that, if a political subdivision makes such a loan, the political subdivision must require each owner of a premises located in the political subdivision that is serviced by a lead-containing water service line to replace the portion of the line for which the owner of the premises is responsible.

## **Private Construction Work by Political Subdivisions and Municipal Public Utilities**

Current law prohibits a political subdivision from using its own workforce, including the workforce of a municipal public utility, to perform a construction project for which a private person is financially responsible.

### **Assembly Amendment 4**

Assembly Amendment 4 creates an exception for work incidental to replacing a utility-side water service line containing lead that is performed with the consent of a private property owner.

**BILL HISTORY**

Representative Thiesfeldt introduced Assembly Substitute Amendment 1 to Assembly Bill 78 on April 12, 2017, and he introduced Assembly Amendment 4 to the substitute amendment on June 13, 2017. On June 13, 2017, the Assembly Committee on Energy and Utilities voted to recommend adoption of Assembly Amendment 4 on a vote of Ayes, 8; Noes, 7; and it voted to recommend adoption of the substitute amendment, as amended, on a vote of Ayes, 10; Noes, 5. On the same day, the committee voted to recommend passage of the bill, as amended, on a vote of Ayes, 12; Noes, 3.

ZR:ty