



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

<b>2013 Senate Bill 517</b>	<b>Senate Substitute Amendment 1 and Senate Amendment 1 to Senate Substitute Amendment 1</b>
<i>Memo published:</i> February 17, 2014	<i>Contact:</i> David L. Lovell, Principal Analyst (266-1537)

2013 Senate Bill 517 relates to the collection of unpaid bills for utility service when the utility is owned by a municipality and the customer is a tenant.

### **CURRENT LAW**

Municipal public utilities, being a part of municipal government, have the legal authority to collect unpaid bills for utility service as a lien on the property served, collected as are property taxes. In the case of rental property, this creates the possibility of the unpaid utility bills of a tenant becoming a lien on the landlord's property. To help landlords manage this problem, current law allows a landlord to inform a municipal utility of the name and address of a tenant who is responsible for payment of bills for utility service to a rental dwelling unit. Upon receipt of this information, the municipal utility is required to provide the landlord certain notices when unpaid utility charges are accruing for the rental dwelling unit.

### **SENATE SUBSTITUTE AMENDMENT 1 TO SENATE BILL 517**

#### **Provisions Applicable if Requested by Landlord**

The following provisions of the substitute amendment apply if a landlord has given a municipal utility the name and address of a tenant who is responsible for utility bills at a rental property and requested notification when unpaid utility charges are accruing for that rental property.

### **Notice to Landlord as Condition of Lien Against Property**

Under current law, a utility has two options for the procedures it will follow in providing the required notices. The substitute amendment establishes a single procedure, as follows:

- A municipal utility must send bills for service to a customer who is a tenant in the tenant's own name.
- A municipal utility must provide notice to a landlord of a tenant's arrears within 14 days of the charges becoming past due.
- If the landlord notifies the utility that a tenant has vacated the dwelling while utility charges are in arrears and, within 21 days of the tenant vacating the dwelling, the utility must continue to send past-due notices to the tenant at the forwarding address until either the charges have been paid or the utility has started the procedure for collecting the charges as a tax lien.
- A municipal utility must send the notice that unpaid charges will become a lien on the property (the "October 15 notice") to the tenant and to the owner.

### **Lien Against the Tenant's Property**

The substitute amendment provides that, when a municipal utility provides the October 15 notice to a landlord and tenant, the municipality has a lien on the assets of the tenant in the amount of the arrears. If the landlord pays the amount of the arrears to the municipality, the lien transfers to the landlord, the municipality must file its lien with the clerk of courts. The lienholder (the municipality or the landlord) must file a notice of the lien with the clerk of courts before it may commence an action to enforce the lien and must file a notice of lien satisfaction with the clerk of courts when the lien is satisfied.

When a municipal utility provides the October 15 notice to a landlord and tenant, it must also provide a written notice to the tenant explaining the lien that has arisen on the tenant's assets.

### **Disconnection of Electric Service**

Beginning 14 days after receiving a notice of a tenant's past-due charges for electric service, the bill allows a landlord to request a municipal utility to disconnect electric service from the rental dwelling unit. Upon receiving such a request, the utility must notify the tenant that electric service to the dwelling unit will be terminated unless all past-due charges are paid within 10 days. Except as provided in rules of the Public Service Commission (PSC), relating

to disconnection of service<sup>1</sup>, if past-due charges remain 14 days after providing notice to the tenant, the municipal utility must terminate electric service.

### **Form of Notices**

The substitute amendment provides that, with the permission of the recipient (the tenant or landlord), a municipal utility may provide certain notices in electronic format.

### **Provisions Applicable in All Cases**

The following provisions of the substitute amendment apply regardless of whether a property owner has requested notices when utility charges for service to the owner's property become past-due and regardless of whether the municipal utility uses the tax lien procedure to collect unpaid charges:

- A municipal utility may require a prospective customer to submit an application for water or electric service.
- Upon the request of the owner of rental residential property, a municipal utility must disclose whether a new or prospective tenant has outstanding past-due charges for service provided by the utility in that tenant's name at a different address.
- A municipal utility is not required to offer a customer who is a tenant at a rental dwelling unit a deferred payment agreement.
- A municipal utility may adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer owns or leases the property that is receiving utility service and subject to a lien for unpaid utility bills.
- Under current law, a public utility may not adopt rules or procedures that are unreasonable or unjustly discriminatory. The bill provides that it is not unreasonable or unjustly discriminatory for a municipal utility to adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer owns or leases the property that is receiving utility service and subject to a lien for unpaid utility bills.

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<sup>1</sup> PSC rules prohibit disconnection of electric utility service, for example, during the winter months, during heat emergencies, if disconnection of service will aggravate an existing medical or protective services emergency, if the customer is in compliance with a deferred payment agreement, and while a dispute over the amount of arrears is under investigation by the PSC. The procedural requirements relate to matters such as ensuring that the customer has adequate notice and opportunity to respond prior to losing service.

### **Effective Dates**

The provisions of the substitute amendment that apply in all cases take effect the day after publication of the act. The provisions that apply only if the landlord has requested notification when unpaid utility charges are accruing for the landlord's property take effect on the first day of the ninth month beginning after publication of the act.

### **SENATE AMENDMENT 1 TO SENATE SUBSTITUTE AMENDMENT 1**

Senate Amendment 1 to Senate Substitute Amendment 1 relates to disconnection of electric service to a tenant at the landlord's request if the tenant has accrued delinquent charges for electric service.

The substitute amendment provides that:

- No earlier than 14 days after receiving a notice of a tenant's past-due charges for electric service, a landlord may request that a municipal utility disconnect electric service to the unit.
- Upon receipt of the request, the municipal utility must notify the tenant that, unless all past-due charges are paid within 10 days, the municipal utility will disconnect electric service.
- Except as provided under rules of the PSC relating to disconnections of service and subject to the procedural requirements under those rules, unless all past-due charges are paid, the municipal utility shall terminate electric service to the rental dwelling unit within 14 days after serving the notice.

Senate Amendment 1 essentially eliminates the middle step of the process outlined above.

### **BILL HISTORY**

2013 Senate Bill 517 was introduced by Senator Lasee and others on January 27, 2014. Senate Substitute Amendment 1 to Senate Bill 517 was offered by Senator Lasee on February 10, 2014. Senate Amendment 1 to Senate Substitute Amendment 1 was introduced by the Senate Committee on Housing and Insurance on February 12, 2014.

On February 12, 2014, the Senate Committee on Housing and Insurance voted to introduce and recommend adoption of Senate Amendment 1 to Senate Substitute Amendment 1 and to recommend adoption of Senate Substitute Amendment 1, as amended, on votes of Ayes, 5, and Noes, 0; and voted to recommend passage of Senate Bill 517, as amended, on a vote of Ayes, 3; and Noes, 2.

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