

Jeremy Thiesfeldt

STATE REPRESENTATIVE • 52nd ASSEMBLY DISTRICT

Testimony on Assembly Bill 78 April 18, 2017

The bill I am testifying about to you today is an important step toward assisting community leadership to eliminate lead pipe laterals from drinking water systems. I would like to thank the committee chairman for scheduling this hearing today.

I am certainly not a medical doctor. However, no one needs a medical degree to understand that lead, whether ingested or inhaled, is a mineral that has proven to be harmful--particularly to children. While there are disputed medical studies on the dangers of many types of chemicals and minerals, I know of no one who disputes the dangers of lead.

The substitute amendment you have before you today is the result of a significant amount of work of attempting to solve a challenging problem. At issue is trying to remove lead pipe laterals that are not owned by the municipalities, but are directly connected to municipal water pipes. Much care was taken to maintain to the greatest extent possible, the authority of the Public Service Commission, the municipal elected bodies, and allow some flexibility for water customers to finance the work in a reasonable fashion at a reasonable price.

You will be hearing from a number of communities today struggling to address this problem. The City of Fond du Lac, who I represent, has already taken bold action to solve this problem. They will be sharing their story with you this morning of how this legislation will be beneficial to their efforts to continue to provide healthy and affordable drinking water for city water customers.

It is not popular to mandate repairs on citizens. It is also not popular to spread the cost around to other customers who are not in need of replacement of lead laterals. But it most of all is not popular to fail to proactively aggressively address a public health issue of this nature. The importance of this bill is to facilitate the repairs and minimize the cost in the most effective way.

I would like to thank Sen. Cowles for his leadership on this issue that is important to cities in both of our legislative districts. We are eager to hear of any further suggestions committee members or our guests may have to improve this important piece of legislation.

Serving the communities of Fond du Lac, Oakfield, Byron, Empire, Taycheedah, and the western half of Calumet township

STANDING COMMITTEES:
Natural Resources & Energy, Chair
Transportation & Veterans Affairs



ROBERT L. COWLES

Wisconsin State Senator
2nd Senate District

JOINT COMMITTEES
Audit Committee, Co-Chair
Information Policy and Technology

Assembly Committee on Energy and Utilities
April 17, 2017 Public Hearing
AB 78 – Leading on Lead Testimony

Thank you Chairman Kuglitsch and Committee Members for allowing me to speak today on Assembly Bill 78, the Leading on Lead Act. This proposal is a response to the public health concern related to lead exposure from one's own drinking water.

As you may know, lead is a metal which was used in the construction of drinking water pipes and plumbing fixtures in homes, schools and other buildings as recently as 1986. Lead is being leached into Wisconsin's drinking water by the corrosion of these lead lateral service pipes connecting someone's home to their water supply.

Background:

Prior to the 1940's, metal pipes containing lead were often used for the laterals that carry water from the street water mains to buildings. After lead material was banned in 1986, EPA issued a Lead and Copper Rule (LCR) in 1991 to control the amount of lead and copper in drinking water in public water systems. The LCR outlines several measures that public water systems must take if water samples exceed an action limit in 10 percent of more of water samples taken. The public utility must treat and remove lead before it leaves the facility. If there is still an exceedance, the LCR requires partial lead service line replacement, but only of the lead water main and portion of the service lateral owned by the utility (from the main to the curb). It is **not** required to replace the portion of the lead service lateral on private property. Therefore, the public portion of the service line with lead may be removed, but homeowners, including children, are still at risk to lead exposure in their drinking water.

Health Impacts:

There are several health concerns when a person is exposed to lead in drinking water. The Centers for Disease Control (CDC) and the United States Environmental Protection Agency (EPA) indicates that exposure to high levels of lead can cause damage to a person's brain, red blood cells, and kidneys. Children under the age of six are most at risk due to their rapid rate of growth.

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Numerous public health organizations have asserted that exposure to even low levels of lead can cause lower IQ, hearing impairment, reduced attention span, and poor classroom performance.

Historically, when public health is at stake, government has moved in and taken action. Right here at home, our local and state officials have also worked to respond to public health crises. During last year's international Zika Virus outbreak, our government worked continuously to test patients, provide public information, and set traps and testing procedures for mosquitos. During the Elizabethkinga outbreak, the government acted swiftly to treat and contain the outbreak while working to find the source. I live less than a half a mile from the Fox River, which was at one time one of the most polluted bodies of water in the United States. Thanks to the work of our state government and the cooperation with other actors, progress is being made to restore the Fox River. Even now, in this State Legislature, the Governor has called a Special Session, and the Legislature has striven to enact the HOPE agenda to address the opioid epidemic. Public health crises sometimes require government assistance to reduce their overall societal impact, and with lead leaching into the drinking water of tens of thousands of Wisconsinites, it's an undeniable fact that this is a significant public health problem.

In a nationwide study conducted in 2015 by the Center for Disease Control (CDC), the CDC tested the blood lead levels in 2.4 million children under the age of 6 nationwide, 84,539 of which were tested in WI. While the study concluded that blood lead levels in children were declining nationwide, the blood lead level findings for children tested in Wisconsin exceeded the nationwide average by almost 65%. The study also confirmed that nearly 700 children had Blood Lead Levels double what the Environmental Protection Agency (EPA) recommends for public health action to be initiated. (5 micrograms of lead per deciliter of blood). While Wisconsin represents only 1.8% of the total US population, we accounted for 8% of the children that had blood lead levels five times higher than the EPA threshold for public health action. These numbers are cause for significant concern. The upside of this issue is that we know the solution: remove lead exposure.

Funding:

Federally, Safe Drinking Water funds are used primarily to provide assistance to local government for eligible projects to plan, design, construct or modify public water systems. This would include water mains and the utility help portion of the lead service lateral but not the private portion of the lateral. However, after the crisis in Flint, Michigan, for the first time ever, EPA has allowed the states to utilize a portion of the Safe Drinking Water Loan Program funding to be used for the removal of private lead service lines. In 2017 Wisconsin DNR has allocated \$11.8 million to be available to municipalities to help remove old lead service lines that bring drinking water into homes. Funding caps will be established in the 2018 Safe Drinking Water Loan Program Intended Use Plan, anticipated to be published in April, 2017. Beyond 2018, it is unclear how long the federal government will allow Safe

Drinking Water Funds to be available for private lead lateral replacement. Even with federal funding, the amount of lead laterals far exceeds the amount available for Safe Drinking Water grants.

The EPA compiled information from reports submitted by public water utilities to the PSC for December 2014. The EPA's estimate included a statewide total of 176,542 lead service laterals in the state in 111 municipalities. These statistics are not complete because not all municipalities submitted lead lateral statistics.

Leading on Lead:

In an effort to move more quickly to rid the state of lead service lines and protect the health and well-being of our communities and children, Rep. Theisfeldt and I are joined by 52 Co-Sponsors in introducing this bill, the Leading on Lead Act.

The Substitute Amendment, which has been crafted with significant input from stakeholders, more clearly provides a process for a public water utility to provide financial assistance to a customer for replacing their lead service line. The financial assistance must be permitted and defined through local ordinance. This amendment to the bill is a much more comprehensive process to tackle this public health issue.

Under the amendment, municipalities and water utilities can either provide grants or loans, which are clearly defined under two processes, to customers for lead service lateral replacement. The municipalities are required to pass a municipal ordinance to permit the water utility to submit an application to the Public Service Commission for approval. The utility, in its application, is required to provide a description of the proposed financial assistance, a description of the method for funding the financial assistance, and ANY other information relevant to the action requested by the Commission.

Within this process, the Commission has broad authority to alter, change, or deny an application. The process defined in section 9 of the substitute amendment, is identical in implementation to the current process that utilities are required undergo when applying for a certificate of approval for a construction project. This process allows any affected party to intervene in the application or subsequent rate case on two separate occasions.

I believe that some misconceptions about the process that the Commission will use to approve a financial assistance program for lead service lateral replacement have been raised. I wish to address these today.

First and foremost, this legislation provides a municipality by municipality voluntary option. In no way is this a statewide mandated program. There are several options that municipalities can currently use to

abate lead service laterals, each municipality will have to choose for themselves if they wish to remove these pipes, and the manner in which they will use to do so.

This legislation specifically provides that financial assistance is to be provided to the customer solely for the purpose of replacing the customer's privately owned portion of the lead service lateral. Under the language of the bill, the financial assistance approved by local ordinance and the Commission may not be utilized to provide any other municipal services beyond replacement of the customer's lateral.

Additionally, there are questions as to how this bill changes the PSC's rate making process. Let me be clear, this legislation does not usurp the over 100 year history of PSC ratemaking. The Legislature has long recognized and respected the Commission's authority to use its experience and expertise to determine just and reasonable utility rates for all customer classes. The Commission's core authority to determine rates through rate cases remains fully intact.

Another issue that has been mentioned, is that this program will only benefit those who have lead service lines. In truth, this program can benefit all ratepayers. Obviously, as stated before, a benefit to all ratepayers is the removal of lead service lines that provides public health benefits, which will also reduce health care costs. However, ratepayers will also benefit from the reduced costs that will be achieved through the elimination of corrosion control chemicals added to our water systems, as well as, reduced costs of wastewater treatment to remove the phosphorus based chemical in effluent. These costs, both adding and removing chemicals, are born by all ratepayers, twice, in both water rates and sewer rates. By removing lead service laterals in the system, ratepayers will assume the associated chemical cost savings, which could be significant.

This bill was developed so communities can advance local solutions for funding the removal of all lead laterals, over a justified period of time, with oversight from Wisconsin's rate making authority. As we continue to build an infrastructure for the 21st century we need to ensure that someone's drinking water is not poisoning them. We have an opportunity to make a significant impact in eliminating the remaining lead from our drinking water systems and providing our communities with safe and lead-free drinking water.

Thank you for hearing me today on Assembly Bill 78, the Leading On Lead Act.



LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

Testimony of State Senator Lena C. Taylor

In favor of Assembly Bill 78

Assembly Committee on Energy and Utilities

April 18, 2017

Chairman Kuglitsch and members of the committee, thank you for allowing me the opportunity register my support of Assembly Bill 78, related to lead service line replacements. I especially want to thank Sen. Cowles for reaching across the aisle this statewide public health crisis was met with a bipartisan solution. I apologize for my absence, but today I am in Spooner at a Joint Committee on Finance Listening Session.

No one on this committee needs to be told that lead is toxic and should not be in our drinking water. But what you might not know is how long-lasting and wide-ranging the effects of lead poisoning are. Even low levels of lead in children can cause lifetime issues such as lowered IQ, developmental delays, learning disabilities, and behavioral problems. An increase in blood lead levels in children of only 10 $\mu\text{g}/\text{dL}$ can cause a permanent drop in IQ as high as 7 points. Increased lead exposure has also been linked to increases in ADHD, teen pregnancy, substance abuse, and criminal activity. Additionally, more than 90% of lead accumulates in the bones. It can then be released into the blood, which exposes organ systems to lead long after the original exposure. This is why long-term lead exposure causes lasting damage to the cardiovascular system, increased blood pressure, decreased kidney function, and reproductive problems in adults.

Lead poisoning has affected citizens across the state, specifically children. According to current CDC guidelines there is no safe level of lead exposure for children. However in 2015, a statewide test showed lead contamination levels over 5 $\mu\text{g}/\text{dL}$ in 1.9% of children under one, 4% in one-year olds, 5.6% in two year olds, and 4.6% in three to five year old tested. While these percentages may not seem high, this adds up to thousands of kids whose health is being put in danger by lead contamination. In 2014, Milwaukee specifically accounted for 60% of the 4,000 children who tested positive for elevated lead. Additionally, 8.6% of children in Milwaukee had levels above which children were known to suffer significant health problems, compared to 4.9% of children at this level in Flint, Michigan.



These are scary numbers, but the good news is that these problems are preventable if we replace the lead services lines that deliver our water. There are around 200,000 lead service lines in the state, and 70,000 residential lines are in Milwaukee alone. The only way to protect completely from lead contamination is to remove and replace all lead service lines. The challenge that many municipalities have faced in replacing these pipes is that the last section of pipe leading into the home is owned and controlled by the homeowner, not the city. If the city replaced only the lead service lines they own, that would actually make the lead problem worse, by causing more lead to leach into the water at the joints where the lead and non-lead pipes connect. In other words, in order to replace any lead service lines, we have to replace the entire lead service line. However, under current law, water utilities can only use rate-payer revenue to replace publicly owned service lines. This bill addresses this issue by allowing municipalities to authorize their water utility to fund the replacement of both the private and public sections of the lead service lines.

Thank you again for hearing this bill, I look forward to continuing to work with this committee to help get the lead out.



Tod Ohnstad

STATE REPRESENTATIVE

To: Assembly Committee on Energy and Utilities
From: Representative Tod Ohnstad
Date: April 18, 2017
RE: Assembly Bill 78

Chairman Kuglitsch and Committee members:

As a proud co-sponsor of Assembly Bill 78, thank you for the opportunity to provide testimony today.

Blood lead poisoning is a public health issue which is completely preventable. The U.S. Environmental Protection Agency estimates that at least 176,000 lead service lines connect Wisconsin homes to their municipal water supply. Milwaukee, Racine, Manitowoc, Kenosha, and Marathon counties are the top five counties with lead service lines.

Even more troubling, according to Wisconsin Department of Health Services (DHS), in 2015, 4.6% of tested children under 6 years old statewide had elevated blood lead levels. This is higher than the national average. Lead poisoning in children can lead to delayed brain and nervous system development, liver and kidney damage, and hearing loss. There is also a correlation between lead poisoning in children and learning or behavior problems, higher high school dropout rates, and delinquent behavior by juveniles.

Prevention is the most impactful way to reduce blood lead poisoning levels. This bill is one major step in tackling this very dire public health issue. It provides stakeholders with a mechanism to provide and receive financial assistance that can *only* be used to change out a property's lead laterals. Furthermore, before a property's lead service lines can be changed the water utility's portion of the municipal lines must also be lead free. This provides for significant financial savings.

This bi-partisan legislation is sound public policy and a win for Wisconsin's families. The effects of lead exposure cannot be corrected, so it is imperative that lead exposure, especially to young children, be prevented before it occurs.

Thank you for your time and consideration of Assembly Bill 78.

65th ASSEMBLY DISTRICT



Peter W.
BARCA



Minority Leader – Wisconsin State Assembly

April 18, 2017

Representative Mike Kuglitsch, Chair
Assembly Committee on Energy and Utilities
Room 129 West
State Capitol
Madison, WI 53708

Chairman Kuglitsch and Members of the Committee:

Thank you for the opportunity to testify before the Assembly Committee on Energy and Utilities in support of Assembly Bill 78 (AB 78). Eradicating lead contamination from water infrastructure has long been a priority of the Kenosha community and I join constituents and local officials in my community in the belief that this approach from the state will help greatly in these efforts.

I appreciate Senator Cowles' good faith effort to work with Kenosha Mayor John Antaramian in collaborating on this legislation as this policy has garnered strong support in the Kenosha community and with our elected officials on the Kenosha City Council. Mayor Antaramian made the trip to Madison to testify in support of this policy when it was before the Senate Committee on Natural Resources and Energy and would have liked to be here himself today, though a visit from President Trump to Kenosha unfortunately prevented him from visiting.

This policy is a common sense approach that gives utilities the ability to help bridge the finance gap of cost as we continue to overhaul antiquated and dangerous water infrastructure. I support this approach as many utilities have expressed a willingness to undertake this effort. The issue of eradicating lead-contaminated water infrastructure is one of the most important public health issues of our time, and I appreciate the opportunity to support this policy.

Thank you for considering my testimony in support of AB 78. Please do not hesitate to contact me with any questions or if you need any further information.

Sincerely,

A handwritten signature in cursive script that reads "Peter W. Barca".

PETER W. BARCA
Assembly Minority Leader
64th Assembly District

PWB/amf





To: Members, Assembly Committee on Energy and Utilities
From: Cori Lamont, Director of Corporate and Regulatory Affairs
Tom Larson, Senior Vice President of Legal and Public Affairs
Date: April 18, 2017
RE: SB 48/AB 78 – Replacement of Lead Laterals

The Wisconsin REALTORS® Association (WRA) supports SB 48/AB 78, which provides municipalities with the option to finance the replacement of water laterals containing lead by authorizing public water utilities to provide financial assistance for such replacement.

Background

Lead service laterals are the equivalent of cancer for home prices and property values in a neighborhood. Because of the potential health risks associated with consuming lead, most prospective homebuyers will not consider purchasing a home if the water is contaminated with lead or if the home has a high risk of lead contamination. As a result, the value of those homes will significantly decrease.

Moreover, if several homes in a neighborhood are known to have contaminated water or have a high risk of contaminated water, the entire neighborhood can be stigmatized, causing all of the homes to significantly decrease in value.

Like cancer, once a water supply is determined to be contaminated or the risk is high due to lead water laterals, the only choice is to remove the risk of lead, which generally means replacing the water laterals. Yes, it's expensive. However, the costs of not removing the source of lead contamination is even more expensive, both in terms of the potential health risks to the homeowners and the potential impact on property values within the community. While it is difficult to measure the exact amount of any decrease in property values, the fundamental question to ask is, "How much would you be willing to pay for a home that has a water supply contaminated by lead?"

The WRA supports SB 48/AB 78 because the bill provides local communities with another option to make drinking water, homeowners, and neighborhoods lead safe.



Wisconsin Rural Water Association
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To: Members, Assembly Committee on Energy and Utilities
From: David Lawrence, Executive Director, Wisconsin Rural Water Association
Date: April 18, 2017
Subject: **Testimony on AB 78 – Leading on Lead Act**

The Wisconsin Rural Water Association (WRWA) is a nonprofit organization representing 676 community water and wastewater systems in Wisconsin providing services to over four million Wisconsin residents. We also have close to 200 businesses that are members of our organization, and are the leading provider of training and technical assistance to water and wastewater system operators, managers and administrative personnel in the state of Wisconsin.

WRWA supports AB 78. This bill addresses this critical issue by allowing water utilities the ability to provide much-needed financial assistance to remove private laterals.

In Wisconsin, the Environmental Protection Agency (EPA) estimates that **at least 176,000 lead service lines** connect homes to the municipal water mains. This does not include the undocumented number of lead water tap or interior water pipes in Wisconsin's older homes. In many cases, these homes are inhabited by elderly and lower income families.

AB 78 requires a municipality to pass an ordinance allowing the water utility to provide financial assistance. WRWA supports this concept and communities that pass ordinances that mandate the replacement of lead pipe. Green Bay, Waterloo, Fond du Lac, Madison and Milwaukee have all incorporated a type of mandate and requirements into their local ordinances.

We have heard concerns raised about allocating the costs of lead reduction efforts across other customers who may not have lead laterals on their properties. These concerns ignore the fact that in communities with elevated lead levels in drinking water, **all** customers are currently paying for all the costs of lead mitigation efforts.

Costs to control lead levels in water are many times higher in the long run than those involved in eliminating lead laterals and plumbing. That is because treatment costs continue forever as opposed to providing financial assistance to remove lead laterals which is a onetime cost. In addition, for those communities adding phosphate-based corrosion inhibitors, costs are significantly higher to customers for wastewater treatment. The bottom-line is there are shared costs associated with controlling lead levels, and WRWA believes the best and most cost-effective solution is removal of the lead laterals and plumbing.

WRWA would like to thank the Wisconsin Department of Natural Resources, Governor Walker, the Wisconsin Realtors Association, other utility organizations and the members of the Wisconsin legislature that have supported legislative efforts to reduce lead in drinking water in Wisconsin. These will efforts help protect the health of thousands of children across our state. There is a lot of work to be done to remove all lead pipes in Wisconsin. However, WRWA believes AB 78 is an important step towards addressing this issue and ask for the committee's support of this legislation.

Thank you for your time and consideration.



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To: Assembly Committee on Energy and Utilities
From: Curt Witynski, J.D., Assistant Director, League of Wisconsin Municipalities
Date: April 18, 2017
Re: **AB 78, Enabling Municipalities to Create Financial Assistance Programs to help Property Owners Replace Lead Water Service Laterals**

The League of Wisconsin Municipalities strongly supports Substitute Amendment 1 to AB 78, enabling municipalities and their water utilities to create financial assistance programs to assist property owners needing to replace their lead service lines.

With the national spotlight on Flint, Michigan the last two years, the detrimental long term health impacts of lead in drinking water has become abundantly clear. Communities around the country are implementing long term plans to replace lead water mains and requiring property owners to replace lead water service lines. The Environmental Protection Agency (EPA) estimates that in Wisconsin at least 176,000 lead service lines connect homes to the municipal water mains. Many cities and villages in Wisconsin have lead service laterals connecting mains to customers. (The back of this memo lists some Wisconsin cities with lead water service pipes.)

The Department of Natural Resources strongly recommends that private water service laterals containing lead be replaced at the same time that municipal water utilities replace their lead water mains. This is also the most efficient and cost effective way for municipalities, private property owners, and contractors to completely remove lead from the municipal water delivery system.

Replacement and maintenance of water service laterals are the responsibility of the owners of the property they serve. Generally, property constructed prior to 1952 is connected to water mains by lead service laterals. According to City of Milwaukee staff, the average cost of service lateral replacement is \$3,600 with a range of \$2,000 to \$7,200. Many home owners with lead water services have limited income and may find it difficult to afford the full cost of replacement.

The Wisconsin Public Service Commission interprets current law as disallowing utilities from using rate payer revenue to assist some private property owners with the cost of replacing lead service pipes. At the same time, levy limits constrain municipalities from using property taxes to fund a financial assistance program to aid property owners in covering the cost of replacing lead laterals.

AB 78 makes it clear that a municipal water utility, if authorized by the municipal governing body, may establish and fund a financial assistance program to help private property owners

YOUR VOICE. YOUR WISCONSIN.

finance the replacement of lead service laterals. The substitute amendment adds a further layer of oversight by specifying that a utility's proposed financial assistance program must be reviewed and approved by the PSC before it can be implemented.

Many municipalities and their water utilities would like the option of being able to assist property owners with the replacement of their private lead service lines by providing a loan, grant, or partial rebate. AB 78 makes that option possible.

Some have raised the concern that AB 78 allows utilities to use revenue collected from all ratepayers to benefit a relatively few residential property owners. While it is true that providing financial assistance for lead service line replacement will provide a private benefit to some homeowners, such a program will also have utility-wide and municipality-wide benefits. These broader public benefits include cost savings to the utility resulting from reduced corrosion chemical use, reduced safe drinking water compliance issues, and reduced municipal wastewater treatment costs associated with phosphorus removal.

We urge the Committee to recommend passage of substitute amendment 1 to AB 78. Thanks for considering our comments.

Some Wisconsin Communities with Lead Services

Municipality	Lead	%	Total
Milwaukee	70,000	43.1%	162,405
Racine	11,603	33.9%	34,237
Kenosha	9,052	30.5%	29,642
Wauwatosa	8,655	51.7%	16,728
Wausau	7,178	45.0%	15,957
West Allis	6,689	34.2%	19,581
Manitowoc	6,570	43.8%	15,002
Beloit	3,210	18.6%	17,296
Whitefish Bay	3,000	61.7%	4,865
Green Bay	2,337	6.6%	35,624
Two Rivers	2,326	44.3%	5,253
South Milwaukee	1,905	32.1%	5,935
Janesville	1,834	9.1%	20,262
Eau Claire	1,431	5.7%	25,087
Neenah	1,364	14.1%	9,658
Cudahy	1,244	22.8%	5,457
Watertown	1,114	14.5%	7,701
Beaver Dam	1,017	17.4%	5,846
Ashland	720	21.5%	3,348
Platteville	645	19.9%	3,238
Monroe	603	12.6%	4,786
Fort Atkinson	307	6.9%	4,435
Appleton	252	0.9%	29,152
Sun Prairie	145	1.7%	8,668
Marshfield	86	1.1%	7,757

WMC

WISCONSIN MANUFACTURERS & COMMERCE

TESTIMONY BEFORE THE ASSEMBLY COMMITTEE ON ENERGY AND UTILITIES IN OPPOSITION TO ASSEMBLY BILL 78

Chairman Kuglitsch and Committee Members:

Good afternoon and thank you for the opportunity to testify today. My name is Lucas Vebber and I am the General Counsel and Director of Environmental and Energy Policy at Wisconsin Manufacturers and Commerce (WMC). WMC is the state's chamber of commerce and manufacturers' association. With approximately 3,800 members, we are the largest business trade association in Wisconsin. WMC represents members from all over Wisconsin of all sizes and in every sector of the state's economy. I am here today to testify in opposition to Assembly Bill 78. This legislation, while certainly a well-intentioned effort to help solve a serious problem in our state, is both unfair and unnecessary.

This legislation fundamentally alters private property rights in our state, and overturns longstanding precedent by forcing water utility rate payers to subsidize a new social welfare program to fund private property improvements. Further, under current law, municipalities are already able to establish the type of financial assistance programs envisioned by this bill without any additional burdens on rate payers, and the state already has a grant program at the Department of Natural Resources (DNR) in place to provide more funding to municipalities to help with lead pipe replacement. For these reasons, WMC does not currently support this proposal neither as introduced nor as proposed to be amended by Assembly Substitute Amendment 1.

I. Lead service lines are a serious problem in Wisconsin and it will take significant resources to address this issue.

It is undisputed that lead is a dangerous substance to human health and that there is a need to remove lead service lines throughout Wisconsin. It is equally undisputed that the cost of such replacements is considerable. Media reports indicate there are more than 200,000 lead service lines throughout the state that need to be replaced, with about 70,000 of those in the City of Milwaukee alone.¹

The average cost of a lead service line replacement is around \$3,000.² Using this estimate, to replace all the lead service lines in the state would cost approximately \$600 million, and this does not include the cost of replacing the water mains and the utility-side of the service lines, which the legislation requires must either be already replaced or replaced simultaneously with the lead service line replacements funded under the bill. That is a substantial number, and since we really have incomplete information on the lead service line inventory in our state, it is likely a significant under estimate of the real cost to solve this problem.

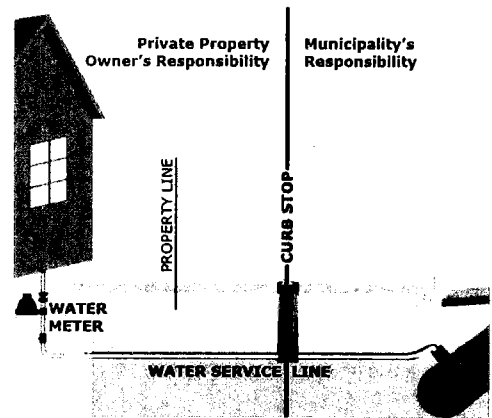
¹ "Bill to give Milwaukee and other cities options for replacing lead pipes," Milwaukee Journal Sentinel, available at: <http://www.jsonline.com/story/news/politics/2017/02/02/bill-give-milwaukee-and-other-cities-options-replacing-lead-pipes/97393942/>

² "Innovative DNR program to aid lead service line replacement," Wisconsin DNR, available at: <http://dnr.wi.gov/news/releases/article/?id=3940>

This legislation makes replacing the lead service line the only solution to this problem that financial assistance is provided for. There are many other solutions in the market that would do more to protect the public than simply replacing a lead service line, and can often do so at far less cost. While replacing a lead service line will help, there may very well still be lead pipes or lead fixtures throughout the building that continue to pose a risk.

II. This legislation fundamentally alters private property rights in our state.

Property owners in Wisconsin own all the pipes inside their home as well as the service line that runs from the home to the curb stop. The utility owns all of the pipe on the other side of the curb stop, including the water mains. It is a long standing tenet of private property rights and common knowledge that homeowners are responsible for the maintenance, repair and ultimate replacement of their own home's plumbing, including water service lines. Many responsible property owners around Wisconsin have already, at their own expense, taken on the significant cost of replacing their service lines to improve their own private property.



*Image from Wisconsin Department of Natural Resources:
<http://dnr.wi.gov/Aid/documents/EIF/leadServiceLineFunding.html>*

This legislation seeks to change that. Assembly Bill 78 would allow water utilities to use revenue generated from retail customers to pay for some or all of the cost of replacing lead service lines owned by other private property owners. In so doing, the state would force property owners, including those who already replaced their lead service line, at their own expense, or built their home without a lead service line, to also pay for the cost to replace someone else's service line on that person's private property.

III. This legislation overturns long-standing, court-affirmed precedent and forces water utility rate payers to subsidize the cost of the private property improvements of their neighbors.

More than fifteen years ago, the City of Madison attempted to use water rate revenue to pay for the cost of lead service line replacements for private property owners. Their request was denied by the PSC, and that denial was upheld in the courts. As the Court of Appeals noted back then, "the PSC concluded that it would be unreasonable and unjustly discriminatory if public dollars generated through utility rates were used to subsidize a direct benefit to an exclusive group of private property owners."³

Importantly, despite not being able to use rate payer revenue, the City of Madison was still able to implement a financial assistance program to assist private property owners with lead service line replacements. Nothing in state law prohibits municipalities from providing financial assistance to homeowners to replace their lead service lines or any other private property improvements, they just cannot use dollars generated from water utility rate payers to fund it.

³ City of Madison v. Public Service Commission of Wisconsin, 253 Wis. 2d 846 (WI Ct. App., 2001)

Madison's program has been a success. In fact, it is touted by the City as being a "model nationwide to other cities."⁴ The City of Madison's program is proof positive that municipalities in Wisconsin are already able to successfully implement a type of financial assistance program contemplated by this legislation – they just need to manage their finances properly.

IV. Not only can municipalities in Wisconsin already create the types of financial assistance programs envisioned by this legislation, but they already have a funding mechanism in place.

Customers of municipally-owned water utilities in Wisconsin are already sending a significant portion of their water rates to their local municipality. A recent report of the Public Service Commission (PSC) found that, on average, municipally-owned water utilities are forced to send 15% of their total revenues to the municipality as what is called a "Payment in Lieu of Taxes" or "PILOT."⁵

As a brief history of this tax, the PSC notes: "This tax was introduced as a part of the revenue requirement back in 1956 to ensure that the revenue requirements for municipally-owned utilities were established on a parallel basis to their investor-owned counterparts. The tax equivalent concept was developed to prevent municipal utility ownership from gaining an unfair advantage over the investor-owned model."⁶ Unfortunately, these payments are no longer about ensuring fairness in the marketplace and have simply become a boon for municipalities who use them to pad their bottom lines at the expense of water utility rate payers.

These PILOT payments are a sweet deal for municipalities, but a terrible bargain for rate payers. PILOT payments are calculated using a formula. This formula takes into account the value of the water utility infrastructure. As water utilities replace lead mains with new ones, the value of that infrastructure goes up, and so does the PILOT payment they are required to make to the municipality. Since utilities need more and more revenue under this system as they replace more and more mains, they need to be continuously seeking rate increases while pumping more and more money into the bottom line of municipalities. For example, the City of Milwaukee generated \$12.1 million from their water utility in 2013, the same year the utility sought a 3% water rate increase.⁷ From 2007-2014, the Madison water utility's PILOT payment they were required to make to the City of Madison doubled.⁸ From 2006 to 2013 Milwaukee's PILOT payment went up by \$4.64 million.⁷

It is fitting that we are here today discussing this legislation on tax day. The total PILOT payments that municipalities take from rate payers amounts to around \$100 million statewide. The average rate of 15% is one of the highest, if not the highest, tax rates we have here in the state. Municipalities are free to use

⁴ "Madison Water Utility Completes Successful Lead Pipe Replacement Project," City of Madison Website, available at: <https://www.cityofmadison.com/news/madison-water-utility-completes-successful-lead-pipe-replacement-project>

⁵ See "INVESTIGATION INTO MUNICIPAL UTILITY PAYMENT IN LIEU OF TAXES (PILOT)", PSC Staff Report, Docket 5-GF-215, dated January 30, 2013, available at: <http://apps.psc.wi.gov/pages/viewdoc.htm?docid=180955>

⁶ See "What are the Components of a Reasonable Revenue Requirement of a Municipally-Owned Water Utility" available at: <http://psc.wi.gov/utilityInfo/water/utilityTraining/rateMaking/rrComponents.html>

⁷ "Milwaukee siphons water revenue to general fund," Milwaukee Journal Sentinel, available at: <http://archive.jsonline.com/news/milwaukee/milwaukee-siphons-water-works-revenue-to-citys-general-fund-s791nrh-196380041.html>

⁸ "Paying for Progress," City of Madison Website, available at: <https://www.cityofmadison.com/water/insidemwu/paying-for-progress>

this PILOT money for whatever purpose they want, and could easily use this revenue to help fund the cost of lead service line replacements. Municipalities already have the funding to implement the types of financial assistance programs envisioned by this legislation. Kudos to the City of Madison for implementing a financial assistance program without tapping into additional rate payer dollars. Shame on every other municipality in the state that has been taking money from rate payers for decades while knowing of the lead problem and doing very little about it. It is a fair question to ask what exactly is being done with the \$100 million that's being sent to municipalities every year by water utility rate payers.

In addition to the PILOT money, municipalities have other options available to them under current law to fund service line replacements. In Madison, for example, they were able to raise revenue to help fund their program by renting space on water towers to cell phone companies for antennas.⁹

V. This legislation will increase expenses for water utilities and will increase rates throughout Wisconsin.

Under this proposed legislation, water utilities are required to replace the main lines at the same time that the private laterals are replaced. This means ratepayer revenue will be required to pay for replacing the main lines and the financial assistance to cover some or all of the cost of the private service line replacement, and once they have completed that work, they will be forced to pay an increased PILOT payment to the municipality.

PILOT payments do little more than raise the cost of water utility bills to increase the municipality's bottom line. As the aforementioned PSC report notes: "The cost of PILOT payments is passed on to ratepayers in the form of higher rates. PILOT payments can be a significant component of a municipal water utility's revenue requirement, meaning a large portion of a customer's water bill is actually being paid to support local government operations rather than water production and distribution."⁵

This legislation will drive up water rates as utilities will be required to take on added expenses to fund the financial assistance and pay the ever-growing PILOT payments. Given the potential significant size of these programs statewide, those rate increases could be substantial.

Water rates, like electric rates, are a cost of doing business. As those costs go up, businesses become less competitive. As Wisconsin's economy continues to grow and improve month-by-month, now is not the time to burden rate payers with the cost of paying for a new government program. Especially given that there are ways to accomplish the goals of this legislation without tapping into water rate payers.

VI. The State of Wisconsin has a program in place to provide even more financial assistance to municipalities to replace lead service lines.

The State of Wisconsin already has a funding program in place at the DNR to provide municipalities with funding to help alleviate the cost of private lateral replacement. Funding under this program is available

⁹ "Information for utilities on lead service replacements," City of Madison Website, available at: <https://www.cityofmadison.com/water/water-quality/information-for-utilities-on-lead-service-replacement>

in fiscal years 2017 and 2018 to provide municipalities with an additional revenue stream to help fund lead service line replacements.¹⁰

If the legislature wishes to allocate more state resources to this program, they are free to do so. This funding, along with the \$100 million that municipalities already take from rate payers through PILOT payments, and creative approaches to generate new revenue like the City of Madison implemented are all options available to municipalities that do not require increased burdens on water utility rate payers.

VII. Conclusion

The goal of this legislation – increased lead service line replacement throughout Wisconsin – is something we all share. The approach taken in this legislation, however, is flawed. This legislation would socialize the costs of lead service line replacements over all of the utility's rate payers, driving up costs even on those who already paid, out of their own pocket, to replace their own lead service lines. That is unfair, and is why the PSC has denied such an approach in the past.

For the reasons I explained, under current law, municipalities have the authority to implement financial assistance programs and ample existing funding and opportunities for additional funding to pay for them. Rate payers should not be punished for the past fiscal mismanagement of municipalities in our state.

If the legislature does seek to move forward with this proposal to overturn past precedent and allow rate payer revenue to fund private lead service line replacements, it should, at the very least: (1) make sure that financial assistance programs are paid for by those who benefit from them and not unfairly punish those who have already replaced their lead service line; (2) cap future PILOT payment increases so that municipalities do not continue to receive windfall increases as water main pipes and utility infrastructure is upgraded; (3) require municipalities to exhaust the revenue they are already receiving from rate payers under PILOT payments before taking any additional revenue from rate payers to fund these programs; and (4) recognize that there are other ways to protect individuals in Wisconsin than a costly lead service line replacement, and make financial assistance available for those as well.

Thank you for the time, I would be happy to take any questions that committee members may have.

¹⁰ "Private Lead Service Line (LSL) Replacement Funding Program," Wisconsin DNR, available at: <http://dnr.wi.gov/Aid/documents/EIF/leadServiceLineFunding.html>



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Intergovernmental Relations Division

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Mayor

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Jennifer Gonda
Director of Intergovernmental Relations

**City of Milwaukee Testimony on AB 78
Senate Committee on Natural Resources and Energy
April 18, 2017**

My name is Jennifer Gonda and I am the City of Milwaukee's Superintendent of Water Works. The City of Milwaukee supports AB 78, relating to lead service line replacements. I want to thank Representative Thiesfeldt and Senator Cowles for authoring the bill and Chairman Kuglitsch for holding this public hearing today. I also want to thank those committee members who coauthored this important legislation. I appreciate the opportunity to share the City of Milwaukee's perspective on this issue.

As you know, lead service lines (LSLs) have been an issue for any community in the State that has pre-1951 housing. According to the PSC, there are approximately 170,000 LSLs throughout the State of Wisconsin. Milwaukee has about 70,000 of them, or about 40% of the statewide total. Having said that, it's important to state that lead is not found in Milwaukee's treated source water and that drinking water provided by the Milwaukee Water Works meets all federal standards for safety and quality.

AB 78 would provide greater flexibility to water utilities in financing LSL replacement by allowing the use of water utility ratepayer revenues to provide financial assistance to private property owners for replacement costs. It would require the PSC to include in the determination of water rates the cost of providing that financial assistance.

We need this legislation because the PSC determined in a 2000 Madison Water Utility rate case that the use of ratepayer funds for private lead service line replacements would be an unreasonable and discriminatory rate practice. Under that ruling, municipal water utilities are currently prohibited from using funds generated from ratepayers to pay for lead service replacement costs on the private side.

Additionally, in a 2014 rate case, the PSC ruled that the Milwaukee Water Works must increase its water main replacement cycle to 15 miles of mains annually, increasing to 20 miles per year by the year 2020. After this ruling, the Milwaukee Water Works, in early 2015, began proactively testing water samples related to main replacement work where there was a connection to lead services. Concerning levels of lead were found in some of the samples, so we placed a voluntary moratorium on replacing water mains connected to LSLs until we could determine a course of action that protected the health of our water customers.

We informed the PSC, DHS, and the DNR of our decision, as we had a competing order from the PSC to complete the main replacements. We felt we could not put the public at risk due to the temporary elevated lead levels found in water samples caused by the disruption of the partial replacement. In the meantime, we completed only those 2015 scheduled projects where copper was present. Furthermore, in 2016 we made an adjustment to our program and relayed 15 miles of water mains that are connected to copper services, which is consistent with the PSC ruling.

Concurrently, an EPA advisory and studies conducted nationally were indicating that partial LSL replacements were no longer advisable. In order to address the need for full LSL replacement, the City of Milwaukee passed an ordinance effective January 1, 2017 that mandates full LSL replacement when leaks or failures are discovered as well as when Milwaukee Water Works replaces the utility-owned portion of the LSL for any reason. Upon passage of the ordinance, Milwaukee Water Works resumed replacement of its water mains as required by the PSC. We are limiting the 2017 program to water mains connected to copper service lines, with only one exception affecting 12 property owners. The 2018 program will be a combination of water mains with both copper and lead services.

Since the beginning of 2017, 113 leaks have occurred and 84 have been replaced to date— we estimate up to 350 will occur this year. An additional 12 LSLs were replaced last week due to a main replacement project. We are in the process of bidding out 300 daycare LSL replacements. We are learning a lot about the costs and replacement methodology, as well as the difficulty of breaking down the costs that are a utility responsibility vs. private responsibility.

Recent bids indicate the cost for the next 100 LSL replacements will be around \$11,000. About 55% is public cost and 45% is private cost. In order to encourage our residents to comply with replacing the private side of their LSL, the City's ordinance provides a subsidy or "financial assistance" to the property owner. It requires the property owner to pay for 1/3 of the replacement cost, or \$1,600, whichever is less, and can be assessed as payable over ten years. The remaining private cost (currently about \$3,400) is being subsidized with federal funds we were awarded by the DNR through the Drinking Water State Revolving Loan Fund.

There is a practical implication of this bill that I think it is important to note. We are finding it is nearly impossible to equitably break down the proportion of cost between the public and private portion of the full LSL replacement. Recent bids for the work indicate different contractors have different approaches to each line item of cost in the bid, making it difficult to account for each section as a separate project.

I should also note that we are currently assessing promising new technologies that would allow for the lining or coating of the interior of the LSL, rather than a full replacement. Recent research indicates there may be options on the horizon that may reduce cost without increasing risks to public health. It would be helpful for the language in this bill to accommodate that by including the word "rehabilitation" in addition to "replacement." There are some scenarios where a rehabilitation may be a more practical or economical option.

In addition to AB 78, it would also be helpful to have a continued commitment from the State of Wisconsin to help fund LSL replacements. We would like to see a continued dedication of 30% of the EPA's capitalization grant to the Safe Drinking Water Loan Program to LSL replacement, as was done in 2017, until all LSLs in Wisconsin have been replaced. We have been advocating for that commitment with members of the Joint Committee on Finance. We have also communicated with our Congressional delegation, the White House and the EPA regarding our need for further funding.

Obviously, there has been a greater discussion and focus on LSLs stemming from the Flint water crisis, new scientific research, and updated guidelines from the EPA. It is going to take a federal, state, and local commitment to address the replacement of this critical infrastructure. Currently, we estimate the total cost to replace both the public and private side will near \$800 million and our current ordinance requires the homeowners to pay \$112 million of that cost.

While this year we plan to replace about 650 LSLs, we are scaling up to a plan that will replace 1,400 LSLs per year. Over 50 years, this will enable us to replace all 70,000 residential LSLs, requiring at least \$12.5 million in annual investments.

At full scale and at current cost, a decision by the Milwaukee Water Works to implement this bill would add nearly \$5 million in cost to our retail rate structure, which currently generates about \$63 million per year. A combination of modest rate increase in the next couple years, additional borrowing and revisiting the structure and priorities of our capital improvement plan will be necessary to achieve this. We intend to spread the cost out and reprioritize in a way that will not cause rate shock to our customers.

Homeowners and businesses can be assured that the PSC will maintain their authority and will assure fair rates amongst retail customer classes to address the problem fairly and equitably. We intend to strike a responsible balance to deal with the issue over time and continue to provide a quality affordable product for our residents and businesses. Therefore, we will continue to focus on reducing the average replacement cost and finding external sources of funding to resolve this pressing challenge.

Thank you for your time and attention. The City of Milwaukee supports AB 78 and we respectfully ask you to support its passage.

For more information please contact:

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Park Watch

of Fond du Lac

Chairman: Laura DeGolier

c/o Laura DeGolier, Chairman ~ 114 S Main St. PMB 301 ~ Fond du Lac, WI
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To the Members of the Energy and Utilities Committee

Re: Substitute Amendment 1 to AB 78

Since our government is aware of the damages of lead into the body of humans especially children, we have determined that pipes with lead in them should be replaced, in fact it is expected that a future ruling by EPA will require replacement. And common sense tells us that it is important to take action on this identified problem.

The areas where lead is found in the municipal pipes are in the oldest part of our municipalities with the lowest property values and the poorest of our residents.

No one benefits if members of our community suffer from damaged brains or bodies so that it is in the best interests of an entire community to replace pipes which contain lead. Some of our residents are not in a position to pay the necessary replacement costs at one time or possibly ever. It is incumbent upon the community to provide assistance.

Providing flexibility for water utilities to offer assistance when lateral pipes are replaced at the same time that the city municipal pipes are replaced is an option municipalities need to have as they grapple with the problem of aging infrastructure that contains hazardous metals.

Therefore, ParkWatch of Fond du Lac asks that you support the Substitute Amendment 1 to AB 78.



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Assembly Committee on Energy and Utilities
Testimony presented by Elizabeth J. Neary, MD, MS, FAAP
Health Effects of Lead
April 18, 2017

Dear Chairman Kuglitsch and Members of the Committee:

I appear before you today in support of Assembly Bill 78 related to lead service line replacements. As a researcher and physician, I am very concerned about public exposure to lead and the health effects. I commend Representative Thiesfeldt and Senator Cowles for their leadership on legislation to address lead in drinking water.

Lead is toxic to all cells and its damage is long lasting. The health effects are seen in all age groups, but are particularly devastating to pregnant women, the developing fetus, young children and individuals with underlying medical conditions. New research continues to provide evidence of health effects of lead at very low blood levels. The CDC acknowledges that there is no safe level of lead, but uses 5 ug/dl as a reference value in children. The EPA set a level of 15 ppb in water, based upon corrosion control in pipes. It is NOT a health based number.

Allow me to explain how lead is absorbed, transported, and stored in the body and how metabolism varies at different ages (fetus, infant, young child, adult).

- 1) Lead in a liquid form is more easily absorbed than in a solid form.
- 2) Young children can absorb lead more easily than adults. (50% vs. 10%). Formula fed infants are at the highest risk of lead poisoning because of their small size, their rapid brain development and the fact that their entire diet consists of formula made with contaminated water. Even at lead levels that meet EPA tolerance (15 ppb), as many as ¼ of formula fed infants can be poisoned by lead. Because children are tested for lead poisoning at age 1 and 2, we are underestimating infants poisoned by lead from water.
- 3) Lead is carried by the blood to all cells and adversely affects all organs and tissues. At extremely high levels, lead can result in death. (See back for details.) In adults, even at low levels of exposure over time, lead can damage the heart, kidneys and brain, resulting in elevated blood pressure and age related cognitive decline. In children, the most devastating effect is on the brain.
- 4) Lead is stored in the bones. This reservoir of lead in the bones can be released back to the blood. So, lead can cause damage long after the exposure. Two specific times that lead is known to be released back to the blood is during pregnancy and in patients with osteoporosis.

The effects of lead are most severe in young children and the developing fetus because they are in a rapid state of growth and development. In pregnant women, lead can lead to miscarriage and lower birth weight infants. In the first years of life, brain cells known as neurons connect with each other at an astonishing rate of 700-1000 connections per second. Lead exposure has a greater opportunity for damaging the brain and the effects are permanent. Lead poisoning results in lower IQ scores, as well as behavioral issues like hyperactivity, aggressiveness, impulsivity and learning problems. These are the critical skills that children need to learn. The cascading effects of lower academic achievement, decreased high school graduation rates, increased incarceration rate, poorer job prospects and future mental health issues are the legacy of early exposure to lead.

In terms of the economic impact, one conservative economic assessment performed by the Economic Policy Institute in 2009 calculated that for every dollar spent on controlling lead hazards, there would be a \$17–\$221 ROI of health benefits, increased IQ, higher lifetime earnings, tax revenue, reduced spending on special education, and reduced criminal activity. (Also, view the cited YouTube video for an excellent visual presentation of the impact of a change of 5 IQ points on a population.)

With all of the above in mind, I encourage you to support AB-78. I would be happy to take questions at this time.

Selected References:

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Gould, Elise. Childhood Lead Poisoning: Conservative Estimates of the Social and Economic Benefits of Lead Hazard Control. Environ. Health Perspect. 2009;117(17): 1162-1167.

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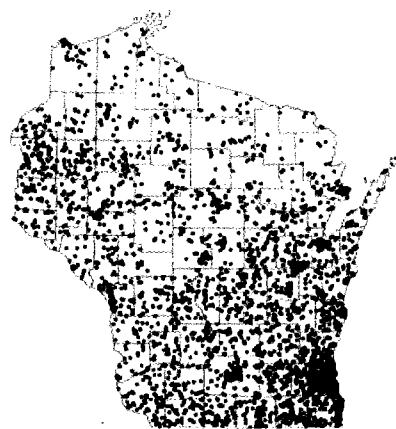
Lanphear BP et al. Low-level environmental lead exposure and children's intellectual function: an international pooled analysis Environ Health Perspect. 2005 Jul;113(7):894-9. PMID: 16002379

NTP Monograph on Health Effects of Low-Level Lead (USDHHS, 2012)

Spivey, Angela The Weight of Lead: Effects Add Up In Adults Environ Health Perspect. 2007 Jan; 115(1): A30–A36

Youtube video entitled "Little Things Matter: The Impact of Toxins on the Developing Brain." Start at 3 minutes for section on lead.

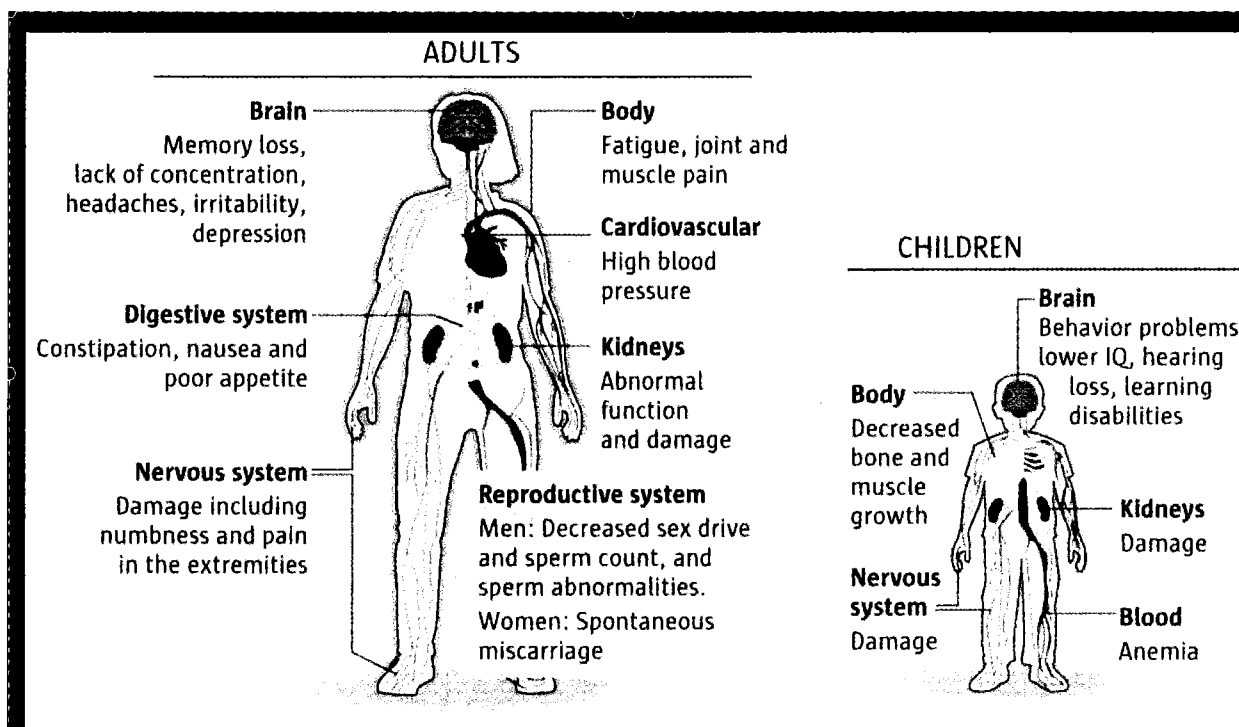
Lead Poisoning is a Statewide Problem



Each red dot represents an address associated with a lead-poisoned child. Since 1996, over 200,000 children under age six had blood lead levels of five micrograms per deciliter or higher.

Source: Wisconsin Blood Lead Testing Data

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From Kitty and Phil Hauck ...

April 14, 2017

TO: Members of the Wisconsin Assembly

We are writing in support of Substitute Amendment 1 to Assembly Bill 78, offered by Representative Thiesfeldt on April 12.

We reside at 1039 S. Jackson St. near downtown Green Bay in a house built in 1923, and which was found to still possess lead pipes carrying water from the City's street service into the house to the cut-off handle. Our water was analyzed recently to be at 20 parts of lead per billion, above the threshold limit of 15; we have for some time, as a precaution, been doing additional filtration of our drinking water in the kitchen. As a result of the metric, we received good communication from the Green Bay Water Utility urging us to expedite our replacement of the private side pipes and telling us of the process for utilizing the city's grant monies to pay for cost of the removal and replacement with plastic pipe. We appreciated that information and it was an obvious incentive we should take advantage of to put in motion what we needed to do to create the replacement.

The process involved getting bids from three of six recommended excavators recommended by the City after their vetting of the six to ensure they would do quality work, obtaining the Water Utility's approval of the least expensive vendor and then committing for the work, which we did with Degroot Excavating. They did the work within two weeks, and were excellent to work with; they were very communicative with us, good coordinators of the code inspectors and cleaned up well. The cost for our private side lead replacement was \$6,200, to be paid for by the grant.

I know that we expedited the replacement and removal of the toxic lead flow on our private side water material because of the underwriting opportunity. Otherwise, we would have left the project until we were required by city directives to do it, or when we sell the house.

We are aware of the risk and the importance of replacement. I know that many others of the 1,700 potentially affected aren't aware, and aren't moving ... because we've talked to several of them.

If the Amendment is approved and the Water Utility can underwrite the cost, put it in their rates, and spread it to all rate holders, that will be a major service to many homeowners who can't afford the average \$4,700 cost because of their financial straits, and there are lots of them based on the neighborhood maps of affected households that we have seen.



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Public Service Commission of Wisconsin

Ellen Nowak, Chairperson
Mike Huebsch, Commissioner
Lon Roberts, Commissioner

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Assembly
PUBLIC HEARING
Assembly Committee on Energy and Utilities
April 18, 2017

Testimony of Chairperson Ellen Nowak
Public Service Commission of Wisconsin

Chairperson Kuglitsch, and members of the Assembly Committee on Energy and Utilities, good afternoon and thank you for allowing me to testify regarding Assembly Bill 78.

I've had the opportunity to meet with almost all of you, but for those who I have not yet met, I am Ellen Nowak. I am the Chair of the Public Service Commission. The Commission is responsible for regulating all of Wisconsin's 1,100 public utilities, which can provide electric, gas, or water services. I'm here to testify on AB 78, which if enacted will affect Wisconsin's public water utilities and their customers. With me is Cynthia Smith, the PSC's Chief Legal Counsel, Cindy has been involved in discussing the changes that went into the substitute amendment to AB 78 that you have before you today. I want to note that the PSC worked with Senator Cowles on Senate Substitute Amendment 1 to this bill's companion, Senate Bill 48, which was adopted by the Senate committee on a 5-0 vote. As I understand it the Assembly substitute is the same as the Senate substitute, and I will be focusing my comments on the language in the substitute amendment.

As you are all aware, lead abatement is at the forefront of many pressing issues facing Wisconsin's water utilities and PSC staff has worked with many municipalities as they explore ways to "get the lead out." I hope to provide you with an overview of how this legislation affects these existing efforts and how these changes will fit into the PSC's regulation of the State's public water utilities.

Under current law, a water service line is divided into two parts. The utility owns the portion of the service line from the main running under the road to valve at the property line, also referred to as the curb stop. The remainder of the service line, running from the curb stop to the customer's house is owned by the customer. Due to this separation of ownership, fully replacing lead service lines – which is everyone's goal – requires the cooperation of the utility, municipality and customer.

The substitute amendment addresses the replacement of the privately-owned service line, by providing that a water public utility may provide a grant, a loan, or both to a property owner, if all of the following requirements are satisfied:

First, 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. This section remains unchanged from the original version of the bill, but the substitute does define financial assistance as a grant, loan or both.

Second, the bill only allows financial assistance to be accomplished if the replacement is a full replacement, meaning neither the customer-owned nor utility-owned portion will contain lead after replacement. This requirement addresses the practice of partial replacement; which studies have shown results in an increase in lead levels at the tap.

Finally, the bill requires that prior to financial assistance being provided, the PSC must have granted its approval for the construction project. This was an important addition to the original bill and means that all utilities must present the PSC with their replacement plans before it may begin any construction. Many water utilities and municipalities across the State have relatively limited financial resources and do not have experience implementing programs of this nature. Including review by the PSC benefits both the utility and its customers by ensuring the utility's financial and logistical proposals are reasonable. The PSC will make sure that the utility is ready to track each property owner with a lead pipe that is replaced, information that will be important and necessary in subsequent rate cases. It also allows the PSC, through its expertise in

working with utilities across the state, to ensure best practices are being implemented and cost savings are realized – thus lowering the costs to all ratepayers.

The PSC review will also be timely and will not unduly slow lead replacement programs. The bill incorporates PSC review periods identical to those in utility construction statutes and deems the program approved if the PSC fails to take action. The bill, like existing law for other types of utility projects, also recognizes the important distinction between authorizing a lead replacement project, and later seeking recovery of the costs of the project from ratepayers. Cost recovery is determined in a rate case in which any interested person can participate, in a process conducted by the Commission.

The substitute amendment also clarifies applicable provisions that apply to loan payments that are in arrears to reduce the risk of nonpayment and provide a means of recovery if a loan is not repaid. It also expands the purposes for which a political subdivision may provide a loan to include replacing the portion of a lead-containing water service line that is owned by the property owner. This gives the municipality the flexibility to directly provide financial assistance by adopting similar methods already in place under Wisconsin's PACE, Property Assessed Clean Energy, program.

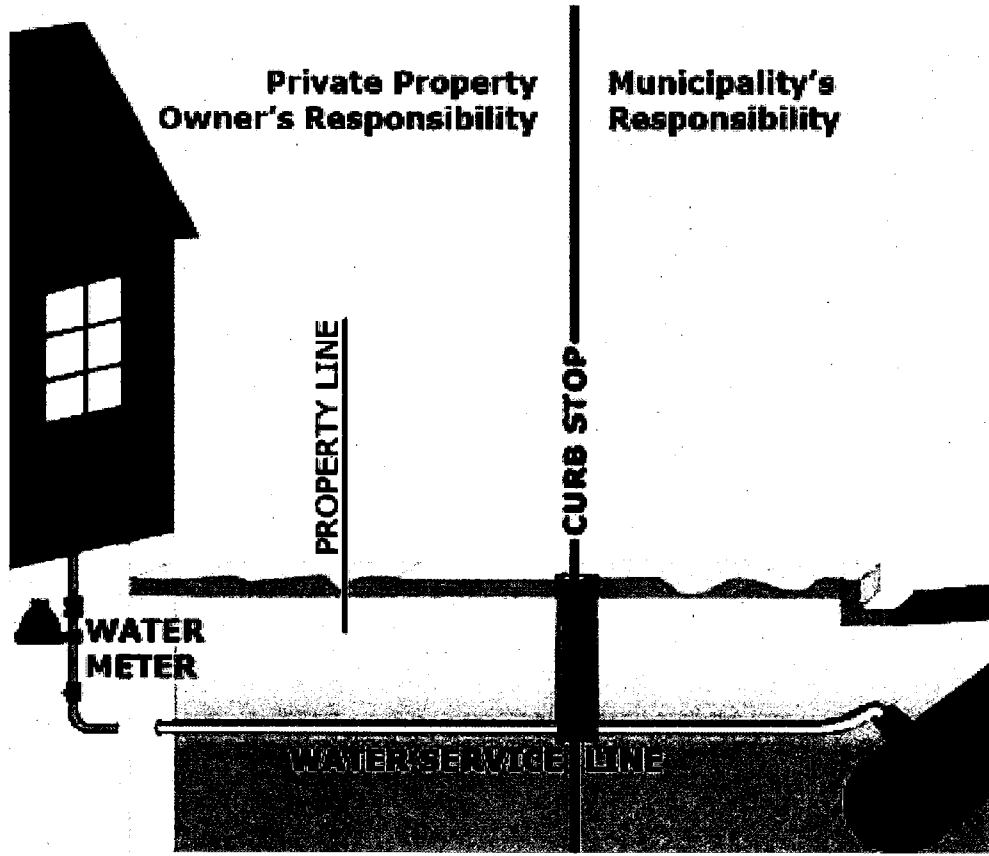
I understand that certain stakeholders have suggested changes to the legislation to tell the PSC how to allocate the costs of the financial assistance in water rates. Frankly, I do not believe these changes to the bill are necessary or warranted. Since 1907, the PSC's primary role has been to use its special expertise to design just and reasonable utility rates that protect ratepayers, while ensuring the utility recovers adequate revenue to build and maintain reliable infrastructure. This expertise in rate setting, to ensure consumer protection, has long been recognized by both the Courts and the Legislature, neither of which has shown any willingness to take on the role of setting utility rates.

A fundamental concept employed by the PSC in utility ratemaking is that customers' rates should reflect the costs that they cause the utility to incur. This is the principle of "cost causation." Application of this principle in commission rate-making involves cost of service

studies resulting in rates designed to be just and reasonable. Addressing the costs associated with the financial assistance provided under this bill will be no different than addressing the various other utility costs in every other utility rate case. While stakeholders may believe that by creating separate standards for programs under this bill will give them extra security, their changes are not necessary and could actually inject additional uncertainty into the ratemaking process.

In addition, it is worth noting that the PSC's rate cases are conducted through an open and transparent process that afford significant rights to any interested person. This means that in a given case, the PSC would have substantial evidence about which ratepayers are benefiting from the financial assistance, and which are not. It would then use this information in determining rates that are just and reasonable.

Again, thank you Chair Kuglitsch and members of the Committee for your time and your consideration of my comments. Cindy and I are available to answer any questions you may have.



The private property owner is responsible for the service line from the curb stop to the home (this includes all plumbing except for the water meter inside the property). The municipality is responsible for the service line from the water main to the curb stop.
(<http://dnr.wi.gov/Aid/documents/EIF/leadServiceLineFunding.html>)

Submitted by the Public Service Commission