

Kovach, Robert

From: Lawrie J. Kobza <lkobza@boardmanclark.com>
Sent: Friday, November 08, 2013 2:30 PM
To: Kovach, Robert
Subject: Suggested language for Section 10

Categories: Action needed

*use this
for sub (8)*

SECTION 10. 66.0809 (8) of the statutes is created to read:

66.0809 (8)(a) A municipal public utility shall disclose to the owner of a rental dwelling unit, upon the owner's request, whether a new tenant has outstanding past-due utility service charges to that municipal public utility in that tenant's name at a different address.

(b) A municipal electric utility shall refuse to establish utility service in a tenant's name until the outstanding past-due service charges in the tenant's name to that municipal public utility have been paid.



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Murray, Joe - Director of Political and Governmental Affairs

From: Larson, Tom
Sent: Thursday, November 07, 2013 7:17 PM
To: Cori M. Lamont
Cc: Murray, Joe - Director of Political and Governmental Affairs
Subject: Municipal Utilities

Here are my notes on Section 14 of the bill draft

Change language to -- If a tenant owes a debt to a landlord, the landlord shall notify the municipal utility of this debt and the m
debt to the department

*Page 8
line 9*

7/1



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0613/P5
EVM:sac:rs

1910

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RME

INSERT

11/18/13

Today

repeal

1 **AN ACT** *to repeal* 66.0809 (5) (b) 1.; *to renumber* 71.935 (2); *to renumber and*
 2 *amend* 66.0809 (3); *to consolidate, renumber and amend* 66.0809 (5) (b)
 3 (intro.) and 2.; *to amend* 66.0809 (5) (c), 66.0809 (5) (d) and 196.137 (2) (cm);
 4 and *to create* 66.0809 (3m), 66.0809 (5) (bm), 66.0809 (6), 66.0809 (7), 66.0809
 5 (8), 66.0809 (9), 66.0809 (10) and 71.935 (2) (b) of the statutes; **relating to:**
 6 collection of certain utility arrearages by a municipal utility and the provision
 7 of municipal utility service to tenants.

Analysis by the Legislative Reference Bureau

Under current law, if a municipal utility provides utility service to a property and payment for the service is in arrears, the utility may impose a lien on the property and have arrearages inserted as a tax on the property if the following procedure is followed. On October 15, the utility or county treasurer must provide the owner or occupant of the property with a written notice of payment due. The notice must specify the amount of the arrearage and any penalty and must state that: 1) if payment is not received by November 1, an additional penalty will be assessed; and 2) if payment is not received by November 15, the arrearage amount and any penalties will become a lien on the property that will be collected as a tax on the property. On November 16, the utility or treasurer must certify and file with the county clerk a list of all properties for which a notice of arrears was given and for

which arrears remain unpaid. The delinquent amount then becomes a lien upon the property and the clerk must insert the delinquent amount and any penalties as a tax against the property.

and the
arrears
is not
paid by
November
15

* This bill provides that, if the municipal utility uses the arrearage collection procedure for a rental dwelling unit and provides a notice of arrearage to the owner, the clerk of courts must indicate in the lien docket that the tenant is a person who has not satisfied a municipal utility lien. The clerk of courts must indicate in the lien docket that the tenant has satisfied the lien if the municipality receives payments from the tenant in an amount equal to the amount paid by the owner to satisfy the arrearage and the municipality provides a statement to that effect to the clerk of courts.

Also under current law, if a municipal utility provides electric or water service to a rental dwelling unit and the owner of the rental property provides the utility with certain information, including the name and address of the tenant who is responsible for paying for utility service, the utility may use the arrearage collection procedure described above only if the utility follows certain additional procedures for notifying both the owner and the tenant about any payments that are past due.

This bill allows an owner of a rental unit to request that a municipal utility terminate electric service to a rental dwelling unit if the tenant's utility charges are past due and the tenant has received certain notices.

This bill also permits or requires certain actions of a municipal utility, including the following:

* 1) A municipal utility must refuse to ~~provide~~ ^{establish} utility service ~~to~~ ^{in the name of} a person if that person is a tenant and the person has outstanding past-due charges for utility service from the municipal utility, and must inform the owner of the rental unit of the past-due charges. ^{upon the owner's request}

* 2) A municipal utility is not required to offer a customer ^{who is a tenant at a rental dwelling unit} a deferred payment agreement.

3) A municipal utility may collect a deposit from a tenant as a condition of receiving utility service.

* 3) A municipal utility may adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer is an owner or a lessee of the property receiving utility service.

Under current law, if any person owes a debt of at least \$20 to a county or municipality, and if the debt has been reduced to a judgment or the county or municipality has provided the debtor reasonable notice and an opportunity to be heard with regard to the debt, the county or municipality may certify the debt to the Department of Revenue (DOR) so that DOR may collect the debt by subtracting the debt amount from any tax refund owed to the debtor. Under current law, for purposes of certifying debt to DOR, a "municipality" means any city, village, or town, and includes any entity providing consolidated services among cities, villages, and towns.

Under this bill, for purposes of collecting debts from tax refunds, a "municipality" includes a municipal utility. Under the bill, if a tenant owes a debt to a municipal utility, the municipal utility must certify the debt to DOR so that DOR

and whether
it is the
property is subject
to a municipal utility
rule

may collect the debt by subtracting the debt amount from any tax refund owed to the tenant.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 66.0809 (3) of the statutes is renumbered 66.0809 (3) (a) and
2 amended to read:

3 66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each year
4 notice shall be given to the owner or occupant of all the lots or parcels of real estate
5 to which utility service has been furnished prior to October 1 by a public utility
6 operated by a town, city, or village and payment for which is owing and in arrears at
7 the time of giving the notice. The department in charge of the utility shall furnish
8 the treasurer with a list of the lots or parcels of real estate for which utility service
9 charges are in arrears, and the notice shall be given by the treasurer, unless the
10 governing body of the city, village, or town authorizes notice to be given directly by
11 the department. The notice shall be in writing and shall state the amount of arrears,
12 including any penalty assessed pursuant to the rules of the utility; that unless the
13 amount is paid by November 1 a penalty of 10 percent of the amount of arrears will
14 be added; and that unless the arrears, with any added penalty, are paid by November
15 15, the arrears and penalty will be levied as a tax against the lot or parcel of real
16 estate to which utility service was furnished and for which payment is delinquent.
17 The notice may be served by delivery to either the owner or occupant personally, or
18 by letter addressed to the owner or occupant at the post-office address of the lot or
19 parcel of real estate.

1 **(b)** On November 16, the officer or department issuing the notice shall certify
2 and file with the clerk a list of all lots or parcels of real estate, giving the legal
3 description, for which notice of arrears was given under par. (a) and for which arrears
4 remain unpaid, stating the amount of arrears and penalty. Each delinquent amount,
5 including the penalty, becomes a lien upon the lot or parcel of real estate to which the
6 utility service was furnished and payment for which is delinquent, and the clerk
7 shall insert the delinquent amount and penalty as a tax against the lot or parcel of
8 real estate.

9 **(c)** All proceedings in relation to the collection of general property taxes and to
10 the return and sale of property for delinquent taxes apply to the tax under par. (b)
11 if it is not paid within the time required by law for payment of taxes upon real estate.

12 **(d)** Under this subsection, if an arrearage is for utility service furnished and
13 metered by the utility directly to a manufactured home or mobile home unit in a
14 licensed manufactured and mobile home community, the notice shall be given to the
15 owner of the manufactured home or mobile home unit and the delinquent amount
16 becomes a lien on the manufactured home or mobile home unit rather than a lien on
17 the parcel of real estate on which the manufactured home or mobile home unit is
18 located. A lien on a manufactured home or mobile home unit may be enforced using
19 the procedures under s. 779.48 (2).

20 **(e)** This subsection does not apply to arrearages collected using the procedure
21 under s. 66.0627.

22 **(f)** In this subsection, “metered” means the use of any method to ascertain the
23 amount of service used or the use of a flat rate billing method.

24 **SECTION 2.** 66.0809 (3m) of the statutes is created to read:

1 66.0809 (3m) (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is
2 given, ^{and the arrears, with any added penalty, are not paid by November 15} the clerk of courts shall indicate in the lien docket the tenant of the rental
3 dwelling unit as a person who has not satisfied a lien under sub. (3) (b).

4 (b) ^{if par. (a) applies, +c} The municipality may accept from the tenant payment toward the amount
5 of the arrears and penalty. If the owner has paid the amount provided in the notice
6 of arrears given under sub. (3) (a), the utility shall reimburse the owner the amounts
7 it receives from the tenant.

8 (c) The clerk of courts shall indicate in the lien docket that the tenant has
9 satisfied the lien if the tenant has paid the municipality under par. (b) an amount
10 equal to the amount paid by the owner, in which case the municipality shall provide
11 ^{certification} a statement to the clerk of courts that the tenant has satisfied the lien.

12 SECTION 3. 66.0809 (5) (b) (intro.) and 2. of the statutes are consolidated,
13 renumbered 66.0809 (5) (b) and amended to read:

14 66.0809 (5) (b) ~~If this subsection applies, a~~ A municipal public utility may use
15 sub. (3) to collect arrearages incurred after the owner of a rental dwelling unit has
16 provided the utility with written notice under par. (a) ~~only if the municipality~~
17 ~~complies with at least one of the following: 2. In order to comply with this~~
18 ~~subdivision, if a customer who is a tenant has charges for water or electric service~~
19 ~~provided by the utility that are past due, the municipal public utility shall serve~~
20 serve notice of the past-due charges on the owner of the rental dwelling unit within
21 14 days of the date on which the tenant's charges became past due. The municipal
22 public utility shall serve notice in the manner provided in s. 801.14 (2).

23 SECTION 4. 66.0809 (5) (b) 1. of the statutes is repealed.

24 SECTION 5. 66.0809 (5) (bm) of the statutes is created to read:

INS
5 23

1 66.0809 (5) (bm) 1. No earlier than 14 days after receiving a notice under sub.
2 (5) (b) of a tenant's past-due charges for electric service, the owner of a rental unit
3 may request that the municipal public utility terminate electric service to the rental
4 dwelling unit.

5 2. Upon receipt of a request under subd. 1., the municipal public utility shall
6 serve notice on the tenant that unless all past-due charges are paid within 10 days,
7 electric service to the rental dwelling unit will be terminated. The municipal public
8 utility shall serve notice in the manner provided in s. 801.14 (2).

9 3. Except as provided under rules of the public service commission prohibiting
10 disconnections during cold weather ^{certain} periods, unless all past-due charges are paid,
11 the municipal utility shall terminate electric service to the rental dwelling unit
12 within 14 days after serving the notice under subd. 2.

13 **SECTION 6.** 66.0809 (5) (c) of the statutes is amended to read:

14 66.0809 (5) (c) A municipal public utility may demonstrate compliance with the
15 notice requirements of par. (b) ~~1.~~ or ~~2.~~ (bm) by providing evidence of having sent the
16 notice by U.S. mail.

17 **SECTION 7.** 66.0809 (5) (d) of the statutes is amended to read:

18 66.0809 (5) (d) If this subsection applies and a municipal public utility is
19 permitted to collect arrearages under sub. (3), the municipal public utility shall
20 provide all notices under sub. (3) to the tenant and to the owner of the property or
21 a person designated by the owner.

22 **SECTION 8.** 66.0809 (6) of the statutes is created to read:

23 66.0809 (6) (a) A municipal utility that provides water or electric service to a
24 customer who is a tenant of a rental dwelling unit may require the customer to pay
25 and maintain a deposit equal to a reasonable estimate of the cost of water or electric

1 service for the unit for two billing periods as a condition of receiving the service. A
2 municipal utility shall place any deposit received under this subsection into a
3 separate segregated account. A municipal utility is not required to pay interest on
4 deposits received under this subsection. When the customer terminates water or
5 electric service to the rental dwelling unit, the utility shall return the deposit, less
6 any deduction for unpaid water or electric utility bills, to the customer within 21 days
7 after the date that service in the customer's name is terminated to the dwelling unit.

8 (b) Except as provided under rules of the public service commission prohibiting
9 disconnections during cold weather periods, a municipal utility may discontinue
10 water or electric service to a customer who fails to maintain with the municipal
11 utility a deposit in the amount required under par. (a).

12 **SECTION 9.** 66.0809 (7) of the statutes is created to read:

13 66.0809 (7) A municipal utility may require a customer or prospective customer
14 to submit an application for water or electric service.

15 **SECTION 10.** 66.0809 (8) of the statutes is created to read:

16 66.0809 (8) If a person who has outstanding past-due charges for utility service
17 from a municipal public utility requests utility service as a tenant at a rental
18 dwelling unit from that utility, the municipal public utility shall do all of the
19 following:

20 (a) Refuse to provide utility service to the person until the outstanding
21 past-due service charges are paid.

22 (b) Inform the owner of the rental dwelling unit that the person has
23 outstanding past-due utility service charges.

24 **SECTION 11.** 66.0809 (9) of the statutes is created to read:

1 66.0809 (9) A municipal utility is not required to offer a customer a deferred
2 payment agreement. *who is a tenant at a rental dwelling unit*

3 SECTION 12. 66.0809 (10) of the statutes is created to read:

4 66.0809 (10) A municipal utility may adopt application, deposit, disconnection,
5 or collection rules and practices that distinguish between customers based upon
6 whether the customer owns or leases the property receiving utility service. *what is subject to a lien under sub (9)*

7 SECTION 13. 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

8 SECTION 14. 71.935 (2) (b) of the statutes is created to read:

9 71.935 (2) (b) If a tenant owes a debt to a municipal public utility that is subject
10 to s. 66.0809 (3) and (5), *collection under* the municipal public utility shall certify the debt to the
11 department as provided in par. (a) so that the department may set off the debt against *the landlord shall notify the municipal public utility and*
12 any refund owed to the tenant.

13 SECTION 15. 196.137 (2) (cm) of the statutes, as created by 2013 Wisconsin Act
14 25, is amended to read:

15 196.137 (2) (cm) An owner of a rental dwelling unit to whom the municipal
16 utility provides notice of past-due charges pursuant to customer information under
17 s. 66.0809 (5).

18 SECTION 16. Initial applicability.

19 (1) The treatment of section 66.0809 (3) and (5) (b) (intro.), 1., and 2. of the
20 statutes first applies to arrearages incurred on the effective date of this subsection.

21 (2) The treatment of section 66.0809 (3m) of the statutes first applies to liens *as notice of arrears given*
22 filed on the effective date of this subsection.

23 (3) The treatment of section 66.0809 (8) ^(b) of the statutes first applies to a request
24 for utility service made on the effective date of this subsection.

25 SECTION 17. Effective date.

Very important

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(1) The treatment of section 66.0809 (3) and (5) (b) (intro.), 1., and 2. of the statutes and SECTION 16 (1) of this act take effect on the 1st day of the 6th month beginning after publication.

takes

(END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0613/P6ins
EVM:sac:rs

1 INS 5-22

2

3 **SECTION 1.** 66.0809 (5) (b) 1. of the statutes is renumbered 66.0809 (5) (am) and
4 amended to read:

5 66.0809 (5) (am) ~~In order to comply with this subdivision, a~~ A municipal public
6 utility shall send bills for water or electric service to a customer who is a tenant in
7 the tenant's own name. ~~Each time that a municipal public utility notifies a customer~~
8 ~~who is a tenant that charges for water or electric service provided by the utility to~~
9 ~~the customer are past due for more than one billing cycle, the utility shall also serve~~
10 ~~a copy of the notice on the owner of the rental dwelling unit in the manner provided~~
11 ~~in s. 801.14 (2).~~ If a customer who is a tenant vacates his or her rental dwelling unit,
12 and the owner of the rental dwelling unit provides the municipal public utility, no
13 later than 21 days after the date on which the tenant vacates the rental dwelling
14 unit, with a written notice that contains a forwarding address for the tenant and the
15 date that the tenant vacated the rental dwelling unit, the utility shall continue to
16 send past-due notices to the customer at his or her forwarding address until the
17 past-due charges are paid or until notice has been provided under sub. (3).

18 History: 1999 a. 150 ss. 184, 186; 2007 a. 11.

19

20 INS 7-23

21

22 66.0809 (8) (a) A municipal public utility shall disclose to the owner of a rental
dwelling unit, upon the owner's request, whether a new tenant has outstanding

1 past-due charges for utility service to that municipal public utility in that tenant's
2 name at a different address.

3 (b) A municipal public utility shall refuse to establish utility service in a
4 tenant's name unless any outstanding past-due charges for utility service in the
5 tenant's name to that municipal public utility are paid.

6
7 INS 8-17

8
9 **SECTION 2.** 196.37^x (5) of the statutes is created to read:

10 196.37 (5) It is not unreasonable or unjustly discriminatory for a municipal
11 public utility to adopt application, deposit, disconnection, or collection rules and
12 practices that distinguish between customers based upon whether the customer
13 owns or leases the property that is receiving utility service and whether the customer
14 is subject to lien under s. 66.809 (3).

Comments from Lawrie Kobza - 11/21/13

LRB Analysis needs to be revised. References some provisions that have been changed since the Analysis was first prepared.

SECTION 1. No comments.

SECTION 2. 66.0809 (3m) of the statutes is created to read:

66.0809 (3m) (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is given and the arrears, with any added penalty, are not paid by November 15, the officer or department shall certify and file with the clerk of courts a list of tenants responsible for the arrears and penalties which become a lien upon real estate under sub. (3)(b). The clerk of courts shall indicate in the lien docket the tenant of the rental dwelling unit as a person who has not satisfied a lien under sub. (3) (b).

Fix analysis

→ munic utility ←

use flvs not WRA

Comment [LJK1]: Language comparable to (3)(b). Shows how clerk of courts gets information.

(b) If par. (a) applies, the municipality shall ~~accept from the tenant payment toward the amount of the~~ from the tenant responsible for the arrears and penalty even if. If the owner of the rental dwelling unit has previously paid the municipality the amount provided in the notice of arrears given under sub. (3) (a) or the amount placed as a tax against the real estate under sub. (3)(b). If the owner has previously paid the municipality, the municipality, ~~the utility~~ shall reimburse the owner the amounts it receives from the tenant.

Comment [LJK2]: Shouldn't acceptance of payment be mandatory?

Comment [LJK3]: This should apply regardless of whether the owner pays under (3)(a) or (3)(b).

(c) The clerk of courts shall indicate in the lien docket that the tenant has satisfied the lien if the tenant has paid the municipality under par. (b) an amount equal to the amount paid by the owner, in which case the municipality shall provide certification to the clerk of courts that the tenant has satisfied the lien

SECTION 3. No comments.

SECTION 4. No comments.

SECTION 5. No comments.

SECTION 6. No comments.

SECTION 7. No comments.

SECTION 8. No comments.

SECTION 9. 66.0809 (8) of the statutes is created to read:

~~66.0809 (8) (a) A municipal public utility shall disclose to the owner of a rental dwelling unit, upon the owner's request, whether a new tenant has outstanding past-due charges for utility service to that municipal public utility in that tenant's name at a different address.~~

~~(b) A municipal public utility shall refuse to establish utility service in a tenant's name unless any outstanding past-due charges for utility service in the tenant's name to that municipal public utility are paid.~~

SECTION 10. No comments.

SECTION 11. No comments.

SECTION 12. No comments.

SECTION 13. 71.935 (2) (b) of the statutes is created to read:

71.935 (2) (b) If a tenant owes a debt to a landlord for delinquent utility charges owed by the tenant and paid by the landlord that is subject to collection under s. 66.0809 (3) and (5), the landlord shall request the municipal public utility certify, and the municipal public utility shall certify, the debt to the department as provided in par. (a) so that the department may set off the debt against any refund owed to the tenant. Upon request, the landlord shall provide the municipal public utility with information necessary to certify the debt and provide the tenant notice as provided in par. (a).

See this

Comment [LJK4]: Sec. 71.935 (2) requires the municipality to provide the department with the social security number or federal employer identification number for a debtor. A utility may not have this information. It also requires a municipality to notify the debtor in writing. If a debtor has moving, a municipality may not have a forwarding address. If a municipality does not have this information, a landlord needs to provide it in order for the debt to be certified.

SECTION 14. 196.37 (5) of the statutes is created to read:

196.37 (5) It is not unreasonable or unjustly discriminatory for a municipal public 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 ~~whether the customer is~~ subject to lien under s. 66.809 (B).

Comment [LJK5]: Property is what is subject to lien. Issue is that property subject to lien is not owned by tenant customer.

SECTION 15. No comment.

SECTION 16. No comment.

- plus change to (8)(b)
- only electric
- any unit leased to tenants

Kreye, Joseph

From: Kovach, Robert
Sent: Friday, January 10, 2014 6:03 PM
To: Mueller, Eric; Kreye, Joseph
Subject: section 3 sub c

Section 3 sub c. caused huge problems in the draft. Can you guys please delete it and give me a p/12 on Monday morning?

Thanks!

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

Kreye, Joseph

From: Kovach, Robert
Sent: Friday, January 10, 2014 12:00 PM
To: Kreye, Joseph
Subject: Call me when you get in?

Dear Joe,

The change on page 5 line 12 is too harsh. It creates a mandate for SDC but doesn't allow for any other methods. The coalition is freaking out and we need to make it softer ASAP.

Call me!

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

Kreye, Joseph

From: Kovach, Robert
Sent: Friday, January 10, 2014 10:19 AM
To: Mueller, Eric; Kreye, Joseph
Subject: FW: Draft review: LRB -0613/P10 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Dear Eric and Joe,

Look at Brenda Wood's email below. It all looks like whining except for the bit about our draft not addressing the process in a first class city.

Joe, is page 5 starting at line 11 the part where we tell utilities that they are supposed to attempt collection before we get to the lien stage? We might have to soften that up—I am guessing I will have to settle for "or other collection method". I don't think the utilities will like this new mandate and I don't want to destroy the coalition.

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Wood, Brenda [mailto:bwood@milwaukee.gov]
Sent: Thursday, January 09, 2014 5:10 PM
To: Kovach, Robert
Subject: Fwd: Draft review: LRB -0613/P10 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Rob--

Please see email below from our city attorney. I have not had an opportunity to discuss with them yet but wanted to give you their feedback as soon as possible.

Let's talk soon. Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Miller, Thomas" <TMiller@milwaukee.gov>
Date: January 9, 2014 4:26:54 PM CST
To: "Wood, Brenda" <bwood@milwaukee.gov>, "Lewis, Carrie" <Carrie.M.Lewis@milwaukee.gov>
Cc: "Burke, Linda Attorney" <lburke@milwaukee.gov>
Subject: RE: Draft review: LRB -0613/P10 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Brenda - here are some quick observations on the latest draft (P10).

1) Latest draft doesn't address any of our previous concerns with P9:

- We're concerned with any measures that may weaken City's ability to use tax roll collection, resulting in higher rates for other ratepayers.
- 66.0809 procedure doesn't reflect tax roll process in city of the first class; City treasurer, not clerk, places delinquent amounts on tax roll.
- How will lien against tenant work? What does the clerk of courts do with the list on tenants? What "assets" does the municipality get to collect against? What will other creditors (banks, credit cards) think of this lien on tenant "assets"?
- Municipal utilities will use the tax roll process (most efficient for ratepayers) and not the questionable lien against the tenant, so why add this additional burden to utility and circuit court clerks?
- Why not just give the landlord the lien/claim upon payment of the arrearages or payment of the tax?

2) P10 contains some new provisions. The new 66.0809(3m)(c) (Sec. 3, page 5) is unclear but concerning. It provides: "(c) A municipality may not take a lien under par. (a) unless the municipality has certified the amount of the arrears to the department of revenue for collection and the department has been unable to collect the amount."

- Does the "lien under par. (a)" refer to the lien on tenant's assets or lien on landlord's real property? If it refers to the lien on tenant's assets, we don't really care; but if the latter, then it would be concerning.
- How can a municipality be barred from "taking" a lien if the lien arises automatically if conditions are satisfied (e.g. under (3m)(a) the municipality "has a lien upon the assets of each tenant listed under this paragraph in the amount of the arrears for which the tenant is responsible.")
- How long does the Dept of Revenue have to attempt collection until the "department has been unable to collect the amount" and thereby permit the municipality to "take the lien under par. (a)"? What attempts by DOR are necessary?

As Carrie has stated before, the bill is better than the 2011 proposal (2011 AB 182), which would have eliminated the ability to collect on the tax roll against the landlord. MEG-Water worked to soften the blow for utilities and to preserve the tax roll collection authority while minimizing the additional hoops required for the utility.

Tom

Thomas D. Miller

Assistant City Attorney

City of Milwaukee

200 East Wells Street, Room 800

Milwaukee, WI 53202-3551

414-286-2601

Fax:414-286-8550

From: Wood, Brenda

Sent: Thursday, January 09, 2014 2:05 PM

To: Miller, Thomas; Lewis, Carrie

Subject: Fwd: Draft review: LRB -0613/P10 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

It looks like this may be introduced tomorrow. Can you give me some feedback on the process outlined?

Sent from my iPhone

Begin forwarded message:

From: "Kovach, Robert" <Robert.Kovach@legis.wisconsin.gov>

Date: January 9, 2014 12:49:45 PM CST

To: "Kovach, Robert" <Robert.Kovach@legis.wisconsin.gov>,

"Julian, Jamie" <Jamie.Julian@legis.wisconsin.gov>,

"Larson, Tom (tlarson@wra.org)" <tlarson@wra.org>, Joe Murray

<jmurray@wra.org>, "hb@thekammergroup.com"

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(zbloom@meuw.org)" <zbloom@meuw.org>, Curt Witynski

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<lkobza@boardmanclark.com>, "Wood, Brenda

(bwood@milwaukee.gov)" <bwood@milwaukee.gov>

Subject: FW: Draft review: LRB -0613/P10 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Dear Team,

Included in this draft are some technical changes that were recommended by Leg. Council, and some cross references so this bill also applies in Milwaukee. (their public utility is covered under a different chapter in statute).

The progression of events as I figure it should read:

1. Tenant doesn't pay their bill
2. Municipal utility notifies landowner
3. Landowner notifies tenant that their name is being reported to the utility for collection under new lien/trip system
4. Landowner notifies the utility the name of the responsible utility customer
5. ****New Provision**** during this draft we learned from Heather Berlinski that some Municipal Utilities are having great success using DOR's "State Debt Collection System" to collect arrearages through pay garnishment *before* the Oct 15 deadline, so we created a provision that "requires" municipal utilities to attempt collection before transferring to a property owner. I intentionally left that provision soft enough so whatever collection method is used is compliant—even if it's just a postcard or collections letter. The new provision just keeps it clear that even with the other changes, the Utilities are still expected to attempt collection from the responsible party.
6. On the October 15th deadline, the responsible customer is notified that a lien will be placed in CCAP on their name/"assets" (instead of the word "property"). The municipal utility is required to file this lien.
7. If the landowner satisfies the lien by paying the arrearage to the Municipal Utility, the Utility must transfer the lien to be payable to the property owner who paid, and file a tax intercept to the DOR for the amount of the arrearage.

I think the rest of the provisions will look pretty much the same as before.

Let me know ASAP if there are any problems that need to be changed. Frank has directed me to introduce the bill on

Tuesday morning. If we don't introduce by then I'm afraid the bill will not have time to make it through the process.

Thanks everyone!

Rob Kovach

Policy Advisor/Committee Clerk

Office of Senator Frank Lasee

(608) 266-3512

From: LRB.Legal

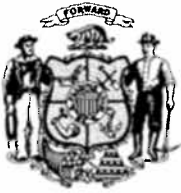
Sent: Thursday, January 09, 2014 9:58 AM

To: Sen.Lasee

Subject: Draft review: LRB -0613/P10 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Following is the PDF version of draft LRB -0613/P10.

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

12/15/13

Today

gen act

1 **AN ACT** *to renumber* 71.935 (2); *to renumber and amend* 66.0809 (3) and
 2 66.0809 (5) (b) 1.; *to consolidate, renumber and amend* 66.0809 (5) (b)
 3 (intro.) and 2.; *to amend* 66.0809 (5) (c) and 66.0809 (5) (d); and *to create*
 4 66.0809 (3m), 66.0809 (5) (bm), 66.0809 (7), 66.0809 (8), 66.0809 (9), 66.0809
 5 (10), 71.935 (2) (b) and 196.37 (5) of the statutes; **relating to:** collection of
 6 certain utility arrearages by a municipal utility and the provision of municipal
 7 utility service to tenants.

Analysis by the Legislative Reference Bureau

Under current law, if a municipal utility provides utility service to a property and payment for the service is in arrears, the utility may impose a lien on the property and have arrearages inserted as a tax on the property if the following procedure is followed. On October 15, the utility or county treasurer must provide the owner or occupant of the property with a written notice of payment due. The notice must specify the amount of the arrearage and any penalty and must state that: 1) if payment is not received by November 1, an additional penalty will be assessed; and 2) if payment is not received by November 15, the arrearage amount and any penalties will become a lien on the property that will be collected as a tax on the property. On November 16, the utility or treasurer must certify and file with the county clerk a list of all properties for which a notice of arrears was given and for

the utility of treasurers ^{must certify} and file a list of ^{file with the clerk of courts} terms responsible for ^{arrears} and penalties and

which arrears remain unpaid. The delinquent amount then becomes a lien upon the property and the clerk must insert the delinquent amount and any penalties as a tax against the property.

This bill provides that, if the municipal utility uses the arrearage collection procedure for a rental dwelling unit and provides a notice of arrearage to the owner and the arrearage is not paid by November 15, the clerk of courts must indicate in the lien docket ~~that the tenant is~~ a person who has not satisfied a municipal utility lien. The clerk of courts must indicate in the lien docket that the tenant has satisfied the lien if the municipality receives payments from the tenant in an amount equal to the amount paid by the owner to satisfy the arrearage and the municipality provides a statement to that effect to the clerk of courts.

Also under current law, if a municipal utility provides electric or water service to a rental dwelling unit and the owner of the rental property provides the utility with certain information, including the name and address of the tenant who is responsible for paying for utility service, the utility may use the arrearage collection procedure described above only if the utility follows certain additional procedures for notifying both the owner and the tenant about any payments that are past due.

This bill allows an owner of a rental unit to request that a municipal utility terminate electric service to a rental dwelling unit if the tenant's utility charges are past due and the tenant has received certain notices.

This bill also permits or requires certain actions of a municipal utility, including the following:

1) A municipal utility must refuse to ^{electric} establish utility service ^{at a rental dwelling unit rented by a tenant if the tenant} in the name of a ~~person if that person is a tenant and the person~~ has outstanding past-due charges for utility service from the municipal utility, and must inform the owner of the rental unit of the past-due charges upon the owner's request.

2) A municipal utility is not required to offer a customer who is a tenant at a rental dwelling unit a deferred payment agreement.

3) A municipal utility may adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer is an owner or a lessee of the property receiving utility service and whether the property is subject to a municipal utility lien.

Under current law, if any person owes a debt of at least \$20 to a county or municipality, and if the debt has been reduced to a judgment or the county or municipality has provided the debtor reasonable notice and an opportunity to be heard with regard to the debt, the county or municipality may certify the debt to the Department of Revenue (DOR) so that DOR may collect the debt by subtracting the debt amount from any tax refund owed to the debtor. Under current law, for purposes of certifying debt to DOR, a "municipality" means any city, village, or town, and includes any entity providing consolidated services among cities, villages, and towns.

Under this bill, for purposes of collecting debts from tax refunds, a "municipality" includes a municipal utility. Under the bill, if a tenant owes a debt to a municipal utility, the municipal utility must certify the debt to DOR so that DOR

landlord for delinquent utility charges owed by the tenant and paid by the landlord, the landlord may request that the municipal utility certify the debt to DOR.

each listed

- 45

may collect the debt by subtracting the debt amount from any tax refund owed to the tenant.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 66.0809 (3) of the statutes is renumbered 66.0809 (3) (a) and
2 amended to read:

3 66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each year
4 notice shall be given to the owner or occupant of all the lots or parcels of real estate
5 to which utility service has been furnished prior to October 1 by a public utility
6 operated by a town, city, or village and payment for which is owing and in arrears at
7 the time of giving the notice. The department in charge of the utility shall furnish
8 the treasurer with a list of the lots or parcels of real estate for which utility service
9 charges are in arrears, and the notice shall be given by the treasurer, unless the
10 governing body of the city, village, or town authorizes notice to be given directly by
11 the department. The notice shall be in writing and shall state the amount of arrears,
12 including any penalty assessed pursuant to the rules of the utility; that unless the
13 amount is paid by November 1 a penalty of 10 percent of the amount of arrears will
14 be added; and that unless the arrears, with any added penalty, are paid by November
15 15, the arrears and penalty will be levied as a tax against the lot or parcel of real
16 estate to which utility service was furnished and for which payment is delinquent.
17 The notice may be served by delivery to either the owner or occupant personally, or
18 by letter addressed to the owner or occupant at the post-office address of the lot or
19 parcel of real estate.

1 **(b)** On November 16, the officer or department issuing the notice shall certify
2 and file with the clerk a list of all lots or parcels of real estate, giving the legal
3 description, for which notice of arrears was given under par. (a) and for which arrears
4 remain unpaid, stating the amount of arrears and penalty. Each delinquent amount,
5 including the penalty, becomes a lien upon the lot or parcel of real estate to which the
6 utility service was furnished and payment for which is delinquent, and the clerk
7 shall insert the delinquent amount and penalty as a tax against the lot or parcel of
8 real estate.

9 **(c)** All proceedings in relation to the collection of general property taxes and to
10 the return and sale of property for delinquent taxes apply to the tax under par. (b)
11 if it is not paid within the time required by law for payment of taxes upon real estate.

12 **(d)** Under this subsection, if an arrearage is for utility service furnished and
13 metered by the utility directly to a manufactured home or mobile home unit in a
14 licensed manufactured and mobile home community, the notice shall be given to the
15 owner of the manufactured home or mobile home unit and the delinquent amount
16 becomes a lien on the manufactured home or mobile home unit rather than a lien on
17 the parcel of real estate on which the manufactured home or mobile home unit is
18 located. A lien on a manufactured home or mobile home unit may be enforced using
19 the procedures under s. 779.48 (2).

20 **(e)** This subsection does not apply to arrearages collected using the procedure
21 under s. 66.0627.

22 **(f)** In this subsection, “metered” means the use of any method to ascertain the
23 amount of service used or the use of a flat rate billing method.

24 **SECTION 2.** 66.0809 (3m) of the statutes is created to read:

officer or officer or department shall certify and file with the clerk of courts a list of tenants responsible for arrears and penalties that become a lien under sub. (3) (b). The

1 66.0809 (3m) (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is
2 given and the arrears, with any added penalty, are not paid by November 15, the

3 clerk of courts shall indicate in the lien docket, the tenant of the rental dwelling unit
4 as a person who has not satisfied a lien under sub. (3) (b). *each* *payment* *responsible for the arrears and penalties*

5 (b) If par. (a) applies, the municipality may accept from the tenant *shall* *payment*

6 toward the amount of the arrears and penalty. If the owner has paid the amount
7 provided in the notice of arrears given under sub. (3) (a), the utility shall reimburse
8 the owner the amounts it receives from the tenant. *of the rental dwelling unit* *municipality* *the* *whether or not*

9 (c) The clerk of courts shall indicate in the lien docket that the tenant has
10 satisfied the lien if the tenant has paid the municipality under par. (b) an amount
11 equal to the amount *provided in the notice of arrears given under sub. (3)* paid by the owner in which case the municipality shall provide
12 certification to the clerk of courts that the tenant has satisfied the lien.

13 SECTION 3. 66.0809 (5) (b) (intro.) and 2. of the statutes are consolidated,
14 renumbered 66.0809 (5) (b) and amended to read:

15 66.0809 (5) (b) ~~If this subsection applies, a~~ A municipal public utility may use
16 sub. (3) to collect arrearages incurred after the owner of a rental dwelling unit has
17 provided the utility with written notice under par. (a) ~~only if the municipality~~
18 ~~complies with at least one of the following:~~ 2. ~~In order to comply with this~~
19 ~~subdivision, if a customer who is a tenant has charges for water or electric service~~
20 ~~provided by the utility that are past due, the municipal public utility shall serve~~
21 serves notice of the past-due charges on the owner of the rental dwelling unit within
22 14 days of the date on which the tenant's charges became past due. The municipal
23 public utility shall serve notice in the manner provided in s. 801.14 (2).

24 SECTION 4. 66.0809 (5) (b) 1. of the statutes is renumbered 66.0809 (5) (am) and
25 amended to read:

or the amount placed as tax against the real estate under
sub (3) (b). If the owner has paid the municipality, the municipality

1 66.0809 (5) (am) ~~In order to comply with this subdivision, a~~ A municipal public
2 utility shall send bills for water or electric service to a customer who is a tenant in
3 the tenant's own name. ~~Each time that a municipal public utility notifies a customer~~
4 ~~who is a tenant that charges for water or electric service provided by the utility to~~
5 ~~the customer are past due for more than one billing cycle, the utility shall also serve~~
6 ~~a copy of the notice on the owner of the rental dwelling unit in the manner provided~~
7 ~~in s. 801.14(2).~~ If a customer who is a tenant vacates his or her rental dwelling unit,
8 and the owner of the rental dwelling unit provides the municipal public utility, no
9 later than 21 days after the date on which the tenant vacates the rental dwelling
10 unit, with a written notice that contains a forwarding address for the tenant and the
11 date that the tenant vacated the rental dwelling unit, the utility shall continue to
12 send past-due notices to the customer at his or her forwarding address until the
13 past-due charges are paid or until notice has been provided under sub. (3).

14 **SECTION 5.** 66.0809 (5) (bm) of the statutes is created to read:

15 66.0809 (5) (bm) 1. No earlier than 14 days after receiving a notice under sub.
16 (5) (b) of a tenant's past-due charges for electric service, the owner of a rental unit
17 may request that the municipal public utility terminate electric service to the rental
18 dwelling unit.

19 2. Upon receipt of a request under subd. 1., the municipal public utility shall
20 serve notice on the tenant that unless all past-due charges are paid within 10 days,
21 electric service to the rental dwelling unit will be terminated. The municipal public
22 utility shall serve notice in the manner provided in s. 801.14 (2).

23 3. Except as provided under rules of the public service commission prohibiting
24 disconnections during certain periods, unless all past-due charges are paid, the

1 municipal utility shall terminate electric service to the rental dwelling unit within
2 14 days after serving the notice under subd. 2.

3 **SECTION 6.** 66.0809 (5) (c) of the statutes is amended to read:

4 66.0809 (5) (c) A municipal public utility may demonstrate compliance with the
5 notice requirements of par. (b) ~~1.~~ or ~~2.~~ (bm) by providing evidence of having sent the
6 notice by U.S. mail.

7 **SECTION 7.** 66.0809 (5) (d) of the statutes is amended to read:

8 66.0809 (5) (d) If this subsection applies and a municipal public utility is
9 permitted to collect arrearages under sub. (3), the municipal public utility shall
10 provide all notices under sub. (3) to the tenant and to the owner of the property or
11 a person designated by the owner.

12 **SECTION 8.** 66.0809 (7) of the statutes is created to read:

13 66.0809 (7) A municipal utility may require a customer or prospective customer
14 to submit an application for water or electric service.

15 **SECTION 9.** 66.0809 (8) of the statutes is created to read:

16 66.0809 (8) (a) A municipal public utility shall disclose to the owner of a rental
17 dwelling unit, upon the owner's request, whether a new tenant has outstanding
18 past-due charges for utility service to that municipal public utility in that tenant's
19 name at a different address.

20 (b) A municipal public utility shall refuse to establish utility service ^{electric} in a
21 tenant's name ^{to a rental dwelling unit leased by a tenant} unless any outstanding past-due charges for utility service in the
22 tenant's name to that municipal public utility are paid.

23 **SECTION 10.** 66.0809 (9) of the statutes is created to read:

24 66.0809 (9) A municipal utility is not required to offer a customer who is a
25 tenant at a rental dwelling unit a deferred payment agreement.

for delinquent utility charges owed by the tenant and paid by the landlord

1 SECTION 11. 66.0809 (10) of the statutes is created to read:

2 66.0809 (10) A municipal utility may adopt application, deposit, disconnection,
3 or collection rules and practices that distinguish between customers based upon
4 whether the customer owns or leases the property that is receiving utility service and
5 subject to a lien under sub. (3).

6 SECTION 12. 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

7 SECTION 13. 71.935 (2) (b) of the statutes is created to read:

8 71.935 (2) (b) If a tenant owes a debt to a landlord that is subject to collection
9 under s. 66.0809 (3) and (5), the landlord shall notify ^{the tenant} the municipal public utility and
10 the municipal public utility shall certify the debt to the department as provided in
11 par. (a) so that the department may set off the debt against any refund owed to the
12 tenant.

to certify the debt to the department

will make a request to

not

13 SECTION 14. 196.37 (5) of the statutes is created to read:

14 196.37 (5) It is not unreasonable or unjustly discriminatory for a municipal
15 public utility to adopt application, deposit, disconnection, or collection rules and
16 practices that distinguish between customers based upon whether the customer
17 owns or leases the property that is receiving utility service and whether the customer
18 is subject to lien under s. 66.809 (3).

prop 4

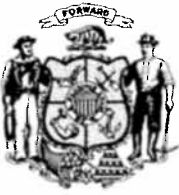
19 SECTION 15. Initial applicability.

20 (1) The treatment of section 66.0809 (3) and (5) (b) (intro.), 1., and 2. of the
21 statutes first applies to arrearages incurred on the effective date of this subsection.

22 (2) The treatment of section 66.0809 (3m) of the statutes first applies to a notice
23 of arrears given on the effective date of this subsection.

24 (3) The treatment of section 66.0809 (8) (b) of the statutes first applies to a
25 request for utility service made on the effective date of this subsection.

upon request, the landlord shall provide the municipal public utility with the information necessary to certify the debt and to notify the tenant as provided under par. (a).



RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in mon 12-9
due w/ef
12-11

gen act

1 AN ACT *to renumber* 71.935 (2); *to renumber and amend* 66.0809 (3) and
2 66.0809 (5) (b) 1.; *to consolidate, renumber and amend* 66.0809 (5) (b)
3 (intro.) and 2.; *to amend* 66.0809 (5) (c) and 66.0809 (5) (d); and *to create*
4 66.0809 (3m), 66.0809 (5) (bm), 66.0809 (7), 66.0809 (8), 66.0809 (9), 66.0809
5 (10), 71.935 (2) (b) and 196.37 (5) of the statutes; **relating to:** collection of
6 certain utility arrearages by a municipal utility and the provision of municipal
7 utility service to tenants.

Analysis by the Legislative Reference Bureau

Under current law, if a municipal utility provides utility service to a property and payment for the service is in arrears, the utility may impose a lien on the property and have arrearages inserted as a tax on the property if the following procedure is followed. On October 15, the utility or county treasurer must provide the owner or occupant of the property with a written notice of payment due. The notice must specify the amount of the arrearage and any penalty and must state that: 1) if payment is not received by November 1, an additional penalty will be assessed; and 2) if payment is not received by November 15, the arrearage amount and any penalties will become a lien on the property that will be collected as a tax on the property. On November 16, the utility or treasurer must certify and file with the county clerk a list of all properties for which a notice of arrears was given and for

which arrears remain unpaid. The delinquent amount then becomes a lien upon the property and the clerk must insert the delinquent amount and any penalties as a tax against the property.

This bill provides that, if the municipal utility uses the arrearage collection procedure for a rental dwelling unit and provides a notice of arrearage to the owner and the arrearage is not paid by November 15, the utility or treasurer must certify and file with the clerk of courts a list of tenants responsible for arrears and penalties and the clerk of courts must indicate in the lien docket each listed tenant as a person who has not satisfied a municipal utility lien. The clerk of courts must indicate in the lien docket that the tenant has satisfied the lien if the municipality receives payments from the tenant in an amount equal to the amount paid by the owner to satisfy the arrearage and the municipality provides a statement to that effect to the clerk of courts.

Also under current law, if a municipal utility provides electric or water service to a rental dwelling unit and the owner of the rental property provides the utility with certain information, including the name and address of the tenant who is responsible for paying for utility service, the utility may use the arrearage collection procedure described above only if the utility follows certain additional procedures for notifying both the owner and the tenant about any payments that are past due.

This bill allows an owner of a rental unit to request that a municipal utility terminate electric service to a rental dwelling unit if the tenant's utility charges are past due and the tenant has received certain notices.

This bill also permits or requires certain actions of a municipal utility, including the following:

- 1) A municipal utility must refuse to establish electric utility service at a rental dwelling unit rented by a tenant if the tenant has outstanding past-due charges for utility service from the municipal utility, and must inform the owner of the rental unit of the past-due charges upon the owner's request.

- 2) A municipal utility is not required to offer a customer who is a tenant at a rental dwelling unit a deferred payment agreement.

- 3) A municipal utility may adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer is an owner or a lessee of the property receiving utility service and whether the property is subject to a municipal utility lien.

Under current law, if any person owes a debt of at least \$20 to a county or municipality, and if the debt has been reduced to a judgment or the county or municipality has provided the debtor reasonable notice and an opportunity to be heard with regard to the debt, the county or municipality may certify the debt to the Department of Revenue (DOR) so that DOR may collect the debt by subtracting the debt amount from any tax refund owed to the debtor. Under current law, for purposes of certifying debt to DOR, a "municipality" means any city, village, or town, and includes any entity providing consolidated services among cities, villages, and towns.

Under this bill, for purposes of collecting debts from tax refunds, a "municipality" includes a municipal utility. Under the bill, if a tenant owes a debt

to a landlord for delinquent utility charges owed by the tenant and paid by the landlord, the landlord may request that the municipal utility certify the debt to DOR. The municipal utility must certify the debt to DOR so that DOR may collect the debt by subtracting the debt amount from any tax refund owed to the tenant.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0809 (3) of the statutes is renumbered 66.0809 (3) (a) and
2 amended to read:

3 66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each year
4 notice shall be given to the owner or occupant of ~~all~~ the lots or parcels of real estate
5 to which utility service has been furnished prior to October 1 by a public utility
6 operated by a town, city, or village and payment for which is owing and in arrears at
7 the time of giving the notice. The department in charge of the utility shall furnish
8 the treasurer with a list of the lots or parcels of real estate for which utility service
9 charges are in arrears, and the notice shall be given by the treasurer, unless the
10 governing body of the city, village, or town authorizes notice to be given directly by
11 the department. The notice shall be in writing and shall state the amount of arrears,
12 including any penalty assessed pursuant to the rules of the utility; that unless the
13 amount is paid by November 1 a penalty of 10 percent of the amount of arrears will
14 be added; and that unless the arrears, with any added penalty, are paid by November
15 15, the arrears and penalty will be levied as a tax against the lot or parcel of real
16 estate to which utility service was furnished and for which payment is delinquent.
17 The notice may be served by delivery to either the owner or occupant personally, or
18 by letter addressed to the owner or occupant at the post-office address of the lot or
19 parcel of real estate.

1 **(b)** On November 16, the officer or department issuing the notice shall certify
2 and file with the clerk a list of all lots or parcels of real estate, giving the legal
3 description, for which notice of arrears was given under par. (a) and for which arrears
4 remain unpaid, stating the amount of arrears and penalty. Each delinquent amount,
5 including the penalty, becomes a lien upon the lot or parcel of real estate to which the
6 utility service was furnished and payment for which is delinquent, and the clerk
7 shall insert the delinquent amount and penalty as a tax against the lot or parcel of
8 real estate.

9 **(c)** All proceedings in relation to the collection of general property taxes and to
10 the return and sale of property for delinquent taxes apply to the tax under par. (b)
11 if it is not paid within the time required by law for payment of taxes upon real estate.

12 **(d)** Under this subsection, if an arrearage is for utility service furnished and
13 metered by the utility directly to a manufactured home or mobile home unit in a
14 licensed manufactured and mobile home community, the notice shall be given to the
15 owner of the manufactured home or mobile home unit and the delinquent amount
16 becomes a lien on the manufactured home or mobile home unit rather than a lien on
17 the parcel of real estate on which the manufactured home or mobile home unit is
18 located. A lien on a manufactured home or mobile home unit may be enforced using
19 the procedures under s. 779.48 (2).

20 **(e)** This subsection does not apply to arrearages collected using the procedure
21 under s. 66.0627.

22 **(f)** In this subsection, “metered” means the use of any method to ascertain the
23 amount of service used or the use of a flat rate billing method.

24 **SECTION 2.** 66.0809 (3m) of the statutes is created to read:

1 66.0809 (3m) (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is
2 given and the arrears, with any added penalty, are not paid by November 15, the
3 officer or department shall certify and file with the clerk of courts a list of tenants
4 of rental dwelling units responsible for arrears and penalties that become a lien
5 under sub. (3) (b). The clerk of courts shall indicate in the lien docket each tenant
6 as a person who has not satisfied a lien under sub. (3) (b).

7 (b) If par. (a) applies, the municipality shall accept payment from the tenant
8 responsible for the arrears and penalties whether or not the owner of the rental
9 dwelling unit has paid the municipality the amount provided in the notice of arrears
10 given under sub. (3) (a) or the amount placed as tax against the real estate under sub.
11 (3) (b). If the owner has paid the municipality, the municipality shall reimburse the
12 owner the amounts it receives from the tenant.

13 (c) The clerk of courts shall indicate in the lien docket that the tenant has
14 satisfied the lien if the tenant has paid the municipality under par. (b) an amount
15 equal to the amount provided in the notice of arrears given under sub. (3), in which
16 case the municipality shall provide certification to the clerk of courts that the tenant
17 has satisfied the lien.

18 **SECTION 3.** 66.0809(5) (b) (intro.) and 2. of the statutes are consolidated,
19 renumbered 66.0809 (5) (b) and amended to read:

20 66.0809 (5) (b) ~~If this subsection applies, a~~ A municipal public utility may use
21 sub. (3) to collect arrearages incurred after the owner of a rental dwelling unit has
22 provided the utility with written notice under par. (a) ~~only if the municipality~~
23 ~~complies with at least one of the following:~~ 2. ~~In order to comply with this~~
24 ~~subdivision, if a customer who is a tenant has charges for water or electric service~~
25 ~~provided by the utility that are past due, the municipal public utility shall serve~~

1 serves notice of the past-due charges on the owner of the rental dwelling unit within
2 14 days of the date on which the tenant's charges became past due. The municipal
3 public utility shall serve notice in the manner provided in s. 801.14 (2).

4 **SECTION 4.** 66.0809 (5) (b) 1. of the statutes is renumbered 66.0809 (5) (am) and
5 amended to read:

6 66.0809 (5) (am) ~~In order to comply with this subdivision, a~~ A municipal public
7 utility shall send bills for water or electric service to a customer who is a tenant in
8 the tenant's own name. ~~Each time that a municipal public utility notifies a customer~~
9 ~~who is a tenant that charges for water or electric service provided by the utility to~~
10 ~~the customer are past due for more than one billing cycle, the utility shall also serve~~
11 ~~a copy of the notice on the owner of the rental dwelling unit in the manner provided~~
12 ~~in s. 801.14 (2).~~ If a customer who is a tenant vacates his or her rental dwelling unit,
13 and the owner of the rental dwelling unit provides the municipal public utility, no
14 later than 21 days after the date on which the tenant vacates the rental dwelling
15 unit, with a written notice that contains a forwarding address for the tenant and the
16 date that the tenant vacated the rental dwelling unit, the utility shall continue to
17 send past-due notices to the customer at his or her forwarding address until the
18 past-due charges are paid or until notice has been provided under sub. (3).

19 **SECTION 5.** 66.0809 (5) (bm) of the statutes is created to read:

20 66.0809 (5) (bm) 1. No earlier than 14 days after receiving a notice under sub.
21 (5) (b) of a tenant's past-due charges for electric service, the owner of a rental unit
22 may request that the municipal public utility terminate electric service to the rental
23 dwelling unit.

24 2. Upon receipt of a request under subd. 1., the municipal public utility shall
25 serve notice on the tenant that unless all past-due charges are paid within 10 days,

1 electric service to the rental dwelling unit will be terminated. The municipal public
2 utility shall serve notice in the manner provided in s. 801.14 (2).

3 3. Except as provided under rules of the public service commission prohibiting
4 disconnections during certain periods, unless all past-due charges are paid, the
5 municipal utility shall terminate electric service to the rental dwelling unit within
6 14 days after serving the notice under subd. 2.

7 **SECTION 6.** 66.0809 (5) (c) of the statutes is amended to read:

8 66.0809 (5) (c) A municipal public utility may demonstrate compliance with the
9 notice requirements of par. (b) ~~1.~~ or ~~2.~~ (bm) by providing evidence of having sent the
10 notice by U.S. mail.

11 **SECTION 7.** 66.0809 (5) (d) of the statutes is amended to read:

12 66.0809 (5) (d) If this subsection applies and a municipal public utility is
13 permitted to collect arrearages under sub. (3), the municipal public utility shall
14 provide all notices under sub. (3) to the tenant and to the owner of the property or
15 a person designated by the owner.

16 **SECTION 8.** 66.0809 (7) of the statutes is created to read:

17 66.0809 (7) A municipal utility may require a customer or prospective customer
18 to submit an application for water or electric service.

19 **SECTION 9.** 66.0809 (8) of the statutes is created to read:

20 66.0809 (8) (a) A municipal public utility shall disclose to the owner of a rental
21 dwelling unit, upon the owner's request, whether a new tenant has outstanding
22 past-due charges for utility service to that municipal public utility in that tenant's
23 name at a different address.

1 (b) A municipal public utility shall refuse to establish electric utility service to
2 a rental dwelling unit leased by a tenant unless any outstanding past-due charges
3 for utility service in the tenant's name to that municipal public utility are paid.

4 **SECTION 10.** 66.0809 (9) of the statutes is created to read:

5 66.0809 (9) A municipal utility is not required to offer a customer who is a
6 tenant at a rental dwelling unit a deferred payment agreement.

7 **SECTION 11.** 66.0809 (10) of the statutes is created to read:

8 66.0809 (10) A municipal utility may adopt application, deposit, disconnection,
9 or collection rules and practices that distinguish between customers based upon
10 whether the customer owns or leases the property that is receiving utility service and
11 subject to a lien under sub. (3). *or described under s. 66.0809(5)*

12 **SECTION 12.** 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

13 **SECTION 13.** 71.935 (2) (b) of the statutes is created to read:

14 71.935 (2) (b) If a tenant owes a debt to a landlord for delinquent utility charges
15 owed by the tenant and paid by the landlord, the landlord may make a request to the
16 municipal public utility to certify the debt to the department. The municipal public
17 utility shall certify the debt to the department as provided in par. (a) so that the
18 department may set off the debt against any refund owed to the tenant. Upon
19 request, the landlord shall provide the municipal public utility with the information
20 necessary to certify the debt and to notify the tenant as provided under par. (a).

21 **SECTION 14.** 196.37 (5) of the statutes is created to read:

22 196.37 (5) It is not unreasonable or unjustly discriminatory for a municipal
23 public utility to adopt application, deposit, disconnection, or collection rules and
24 practices that distinguish between customers based upon whether the customer

1 owns or leases the property that is receiving utility service and whether the property
2 is subject to lien under s. 66.809 (3).

3 **SECTION 15. Initial applicability.**

4 (1) The treatment of section 66.0809 (3) and (5) (b) (intro.), 1., and 2. of the
5 statutes first applies to arrearages incurred on the effective date of this subsection.

6 (2) The treatment of section 66.0809 (3m) of the statutes first applies to a notice
7 of arrears given on the effective date of this subsection.

8 (3) The treatment of section 66.0809 (8) (b) of the statutes first applies to a
9 request for utility service made on the effective date of this subsection.

10 **SECTION 16. Effective date.**

11 (1) This act takes effect on the 1st day of the 6th month beginning after
12 publication.

13 (END)

Kreye, Joseph

From: Kovach, Robert
Sent: Friday, December 06, 2013 3:23 PM
To: Kreye, Joseph
Cc: Mueller, Eric
Subject: RE: Draft review: LRB -0613/P7 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Dear Joe,

Go ahead and make the change the way you said. That suggestion was mine and I am a rank amateur.

Do you agree that it is too broad without the cross reference?

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Kreye, Joseph
Sent: Friday, December 06, 2013 2:56 PM
To: Kovach, Robert
Cc: Mueller, Eric
Subject: FW: Draft review: LRB -0613/P7 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Rob,

I think she has a point related to the notice requirement, but I would tweak the language so that it reads "if a tenant owes a landlord a debt **described** under s. 66.0809 (5)...". I don't think it's technically correct to say the tenant owes a debt **under** s. 66.0809 (5) because the obligation to pay does not come from that subsection.

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
608 266 2263

From: Mueller, Eric
Sent: Friday, December 06, 2013 2:42 PM
To: Kreye, Joseph
Subject: FW: Draft review: LRB -0613/P7 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Eric Mueller
Attorney, Legislative Reference Bureau
Phone: (608)261-7032
eric.mueller@legis.wisconsin.gov

From: Kovach, Robert
Sent: Friday, December 06, 2013 2:36 PM
To: Mueller, Eric
Subject: FW: Draft review: LRB -0613/P7 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

On Page 8 Section 13 line 14, Lawrie said we should keep the cross reference to 66.0809(5).. Something like "if a tenant owes a debt to a landlord under 66.0809(5)....

She says that without the cross reference it could apply to any delinquent utility charges even way before the landlord was given notice. Does she have a good point?

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: LRB.Legal
Sent: Thursday, December 05, 2013 4:28 PM
To: Sen.Lasee
Subject: Draft review: LRB -0613/P7 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Following is the PDF version of draft LRB -0613/P7.

Mueller, Eric

From: Kovach, Robert
Sent: Thursday, December 19, 2013 4:07 PM
To: Mueller, Eric
Cc: Lovell, David
Subject: RE: drafting questions

All of those changes are what I want included. I have Nancy Rottier and Peggy on my phone as we speak. Give me a few more minutes....

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Mueller, Eric
Sent: Thursday, December 19, 2013 4:03 PM
To: Kovach, Robert
Cc: Lovell, David
Subject: RE: drafting questions

*lien on tenants
prop + transfer
of lien
to owner*

Can I get a list of the changes that you'd like to see in the /p9? Just the below? Or the lien language revision and the changes to ch. 62, etc.?

Eric Mueller
Attorney, Legislative Reference Bureau
Phone: (608)261-7032
eric.mueller@legis.wisconsin.gov

apply changes to 62.69

From: Kovach, Robert
Sent: Thursday, December 19, 2013 3:56 PM
To: Lovell, David
Cc: Mueller, Eric; lkobza@boardmanclark.com
Subject: RE: drafting questions

I like it. I like it a lot!

Thanks everyone!

Is it possible to get this draft rushed so I can share it with the coalition tomorrow?

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Lovell, David
Sent: Thursday, December 19, 2013 3:54 PM
To: Kovach, Robert
Cc: Mueller, Eric; lkobza@boardmanclark.com
Subject: RE: drafting questions

Rob,

I just spoke with Lawrie, who made two corrections to what I had written (I was running too fast), and then agreed that it works. Here is the final language she and I discussed to replace what is in SECTION 11 of the draft:

66.0809 (10) 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 where the possibility exists for any unpaid bills of a tenant to become a lien on the property that is receiving utility service.

The parallel language in SECTION 14 of the draft would read like this:

196.37 (5) 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 where the possibility exists for any unpaid bills of a tenant to become a lien on the property that is receiving utility service.

So, unless you say otherwise (and recognizing that Eric may have other thoughts on phrasing), Eric should make these two changes to the draft.

In addition, on p. 7, l. 17, "a customer or prospective customer" should be replaced with "a prospective customer".

Finally, you elected to *not* make the revision suggested in the third question of my earlier e-mail, below.

Does that sound right to everyone?

David

David L. Lovell, Principal Analyst
Wisconsin Legislative Council
608-266-1537

From: Lovell, David
Sent: Thursday, December 19, 2013 3:24 PM
To: Kovach, Robert; 'lkobza@boardmanclark.com'
Cc: Mueller, Eric
Subject: RE: drafting questions

Lawrie,

Here's my first shot at alternative language:

A municipal utility may adopted application, deposit, disconnection, or collection rules and practices based upon whether the customer owns or leases the property that is receiving utility service where the possibility exists for any unpaid bills of a tenant to become a lien on the property that is receiving utility service.

I think this works. I am not sure that the repetition of "that is receiving utility service" is necessary, but I will leave that choice to the drafter.

Thoughts?

David

David L. Lovell, Principal Analyst
Wisconsin Legislative Council
608-266-1537

From: Lovell, David
Sent: Thursday, December 19, 2013 2:11 PM
To: Kovach, Robert
Cc: Mueller, Eric
Subject: drafting questions

Rob,

I talked with Eric Mueller this morning about some things I have observed in LRB-0613/P8. I have three questions about potential changes to the draft, which I want to run by you. You, in turn, will probably want to run them by your coalition. I think it would be good to resolve these with this redraft, hoping to avoid another after this.

On p. 7, l. 17, the draft states: "A municipal utility may require a customer or prospective customer to submit an application for water or electric service." As I indicated to you earlier, I do not understand why a utility would require a current customer to submit an application. I think we should ask your coalition members why this is there. If there is a reason for it, I think the draft should be revised to make that intent clear; if not, I think it should be deleted.

On p. 8, l. 8-11, and again at the bottom of that page and continuing onto the next page, the draft says that a municipal utility may adopt certain rules and procedure "that distinguish between customers based on whether the customer owns or leases the property that is receiving utility service and subject to a lien under sub. (3)." The last clause of that sentence, "and subject to a lien ..." does not make sense in context with the rest of the sentence. Is this intended to allow two kinds of distinctions, one based on whether the customer owns or leases the property and one based on whether the property is subject to a lien? If so, more words are needed to make this clear – and the final "and" should be "or." If that is not the intent, we need to figure out what the actual intent is and make sure the language accomplishes it. Again, I think you need to consult with your coalition members on this.

My third question is technical (you could even say "geeky"), and it relates to existing language in the law. Current s. 66.0809 (3) includes the following definition of "metered" (which appears at the bottom of p. 4 in /P8) for purposes of that subsection: "... the use of any method to ascertain the amount of service used or the use of a flat rate billing method." The problem is that "metered" is an adjective, and the definition treats it as a noun. The term is used only once in that subsection (in what the draft renumbers as par. (d)), in reference to "service furnished and metered by the utility directly to a manufactured home or mobile home unit in a licensed manufactured or mobile home community ...". The purpose appears to be to ensure that a municipal utility may use the lien mechanism to recover unpaid utility bills from residents of mobile home parks, regardless of whether service in the park is billed on the basis of metered usage or a flat rate for service – but the definition doesn't really say this.

I think the solution to this is to repeal the definition and to revise par. (d) as follows: "... service furnished and metered directly to a manufactured home ..., including service that is billed on the basis of usage or at a flat rate, ..."

Note that this revision is not by any means *necessary*; it is just a suggestion to clean up some statutory language. If any of the affected parties are uncomfortable with the idea, you should feel free to drop it.

Let me know what you think.

David

David L. Lovell, Principal Analyst
Wisconsin Legislative Council
608-266-1537