

State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0613/PM
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Monday AM
1-13-14

you cut

1 AN ACT *to repeal* 62.69 (2) (e) to (g); *to renumber* 71.935 (2); *to renumber and*
2 *amend* 66.0809 (3), 66.0809 (5) (b) 1. and 71.935 (1) (a); *to consolidate,*
3 *renumber and amend* 66.0809 (5) (b) (intro.) and 2.; *to amend* 66.0809 (5) (c),
4 66.0809 (5) (d), 66.0821 (2) (b), 66.0821 (4) (d), 71.93 (3) (a) 6., 71.935 (1) (b),
5 71.935 (3) (a), 71.935 (3) (b), 71.935 (4) and 200.55 (5) (d) 2.; and *to create*
6 66.0809 (3m), 66.0809 (5) (ag), 66.0809 (5) (bm), 66.0809 (7), 66.0809 (8),
7 66.0809 (9), 66.0809 (10), 71.935 (1) (a) 2., 71.935 (2) (b), 73.03 (72) and 196.37
8 (5) of the statutes; **relating to:** collection of certain utility arrearages by a
9 municipal utility and the provision 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 has a lien on the property and may 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, the municipality has a lien on the property of a tenant who is responsible for the arrearage. The utility or treasurer must then certify and file with the clerk of courts a list of those tenants. Also under this bill, if the owner pays the arrearage, the municipality must transfer the lien to the owner.

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 where the possibility exists for unpaid bills of a tenant to become a 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 the bill, if a municipality or owner of a rental dwelling unit has a lien against a tenant for unpaid utility services, the municipality or property owner may

certify that debt to DOR so that DOR may collect the debt by subtracting the lien amount from any tax refund owed to the tenant. Prior to taking a lien, the municipality must try to collect the debt by other means. Under the bill, DOR may use the same methods for collecting unpaid utility services as it uses for collecting unpaid taxes.

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.** 62.69 (2) (e) to (g) of the statutes are repealed.

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

4 66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each year
5 notice shall be given to the owner or occupant of all the lots or parcels of real estate
6 to which utility service has been furnished prior to October 1 by a public utility
7 operated by a town, city, or village, including a public utility under s. 62.69, and
8 payment for which is owing and in arrears at the time of giving the notice. The
9 department in charge of the utility shall furnish the treasurer with a list of the lots
10 or parcels of real estate for which utility service charges are in arrears, and the notice
11 shall be given by the treasurer, unless the governing body of the city, village, or town
12 authorizes notice to be given directly by the department. The notice shall be in
13 writing and shall state the amount of arrears, including any penalty assessed
14 pursuant to the rules of the utility; that unless the amount is paid by November 1
15 a penalty of 10 percent of the amount of arrears will be added; and that unless the
16 arrears, with any added penalty, are paid by November 15, the arrears and penalty
17 will be levied as a tax against the lot or parcel of real estate to which utility service
18 was furnished and for which payment is delinquent. The notice may be served by

1 delivery to either the owner or occupant personally, or by letter addressed to the
2 owner or occupant at the post-office address of the lot or parcel of real estate.

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

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

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

22 (e) This subsection does not apply to arrearages collected using the procedure
23 under s. 66.0627.

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

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

2 66.0809 (3m) (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is
3 given, on the date the notice of arrears is given, the officer or department shall certify
4 and file with the clerk of courts a list of tenants of rental dwelling units responsible
5 for arrears. The municipality has a lien upon the assets of each tenant listed under
6 this paragraph in the amount of the arrears for which the tenant is responsible.

7 (b) If par. (a) applies and the owner of the rental dwelling unit has paid the
8 municipality the amount provided in the notice of arrears given under sub. (3) (a) or
9 the amount placed as tax against the real estate under sub. (3) (b), the municipality
10 shall transfer the lien under par. (a) to the owner.

11 (c) Prior to taking a lien under par. (a), and prior to October 15, the municipality
12 shall certify the amount of the arrears to the department of revenue for collection
13 under s. 71.91 or attempt to collect the amount by another method. For purposes of
14 this paragraph, methods for collecting unpaid taxes under s. 71.91, as they apply to
15 collecting unpaid income and franchise taxes, apply to collecting arrears certified
16 under this paragraph. When the municipality certifies the arrears to the
17 department for collection, it shall also notify the tenant of the certification.

18 **SECTION 4.** 66.0809 (5) (ag) of the statutes is created to read:

19 66.0809 (5) (ag) The owner of a rental dwelling unit shall provide to each tenant
20 to whom this subsection applies a notice about the process for collecting arrears
21 under sub. (3m) and ss. 71.91 and 71.935 (2) (b), including the information provided
22 to the owner under s. 73.03 (72).

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

1 66.0809 (5) (b) ~~If this subsection applies, a~~ A municipal public utility may use
2 sub. (3) to collect arrearages incurred after the owner of a rental dwelling unit has
3 provided the utility with written notice under par. (a) ~~only if the municipality~~
4 ~~complies with at least one of the following:~~ ~~2. In order to comply with this~~
5 ~~subdivision, if a customer who is a tenant has charges for water or electric service~~
6 ~~provided by the utility that are past due, the municipal public utility shall serve~~
7 ~~serves~~ notice of the past-due charges on the owner of the rental dwelling unit within
8 14 days of the date on which the tenant's charges became past due. The municipal
9 public utility shall serve notice in the manner provided in s. 801.14 (2).

10 **SECTION 6.** 66.0809 (5) (b) 1. of the statutes is renumbered 66.0809 (5) (am) and
11 amended to read:

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

25 **SECTION 7.** 66.0809 (5) (bm) of the statutes is created to read:

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 certain periods and subject to the procedural requirements
11 under those rules, unless all past-due charges are paid, the municipal utility shall
12 terminate electric service to the rental dwelling unit within 14 days after serving the
13 notice under subd. 2.

14 **SECTION 8.** 66.0809 (5) (c) of the statutes is amended to read:

15 66.0809 (5) (c) A municipal public utility may demonstrate compliance with the
16 notice requirements of par. (b) ~~1.~~ or ~~2.~~ (bm) by providing evidence of having sent the
17 notice by U.S. mail or, if the person receiving the notice has consented to receive
18 notice in an electronic format, by providing evidence of having sent the notice in an
19 electronic format.

20 **SECTION 9.** 66.0809 (5) (d) of the statutes is amended to read:

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

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

1 66.0809 (7) A municipal utility may require a prospective customer to submit
2 an application for water or electric service.

3 **SECTION 11.** 66.0809 (8) of the statutes is created to read:

4 66.0809 (8) (a) A municipal public utility shall disclose to the owner of a rental
5 dwelling unit, upon the owner's request, whether a new tenant has outstanding
6 past-due charges for utility service to that municipal public utility in that tenant's
7 name at a different address.

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

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

12 66.0809 (9) A municipal utility is not required to offer a customer who is a
13 tenant at a rental dwelling unit a deferred payment agreement.

14 **SECTION 13.** 66.0809 (10) of the statutes is created to read:

15 66.0809 (10) A municipal utility may adopt application, deposit, disconnection,
16 or collection rules and practices that distinguish between customers based upon
17 whether the customer owns or leases the property that is receiving utility service
18 where the possibility exists for any unpaid bills of a tenant to become a lien on the
19 property that is receiving utility service.

20 **SECTION 14.** 66.0821 (2) (b) of the statutes is amended to read:

21 66.0821 (2) (b) The governing body of a municipality, and the officials in charge
22 of the management of the sewerage system as well as other officers of the
23 municipality, are governed in the discharge of their powers and duties under this
24 section by ss. 66.0809 to 66.0813 or ~~62.69 (2) (f)~~, to the extent consistent with this

1 section, or, in the case of a metropolitan sewerage district created under ss. 200.21
2 to 200.65, by ss. 200.55 and 200.59.

3 **SECTION 15.** 66.0821 (4) (d) of the statutes is amended to read:

4 66.0821 (4) (d) Sewerage service charges shall be collected and taxed and shall
5 be a lien upon the property served in the same manner as water rates are taxed and
6 collected under s. ~~62.69 (2) (f)~~ or 66.0809 to the extent applicable, except that charges
7 of a metropolitan sewerage district created under ss. 200.21 to 200.65 shall be
8 assessed and collected as provided in s. 200.55 (5).

9 **SECTION 16.** 71.93 (3) (a) 6. of the statutes, as created by 2013 Wisconsin Act
10 20, is amended to read:

11 71.93 (3) (a) 6. Debt certified under s. 71.935 (2) (a) and then s. 71.935 (2) (b).

12 **SECTION 17.** 71.935 (1) (a) of the statutes is renumbered 71.935 (1) (a) (intro.)
13 and amended to read:

14 71.935 (1) (a) (intro.) “Debt” means ~~a~~ the following:

15 1. A parking citation of at least \$20 that is unpaid and for which there has been
16 no court appearance by the date specified in the citation or, if no date is specified, that
17 is unpaid for at least 28 days; an unpaid fine, fee, restitution or forfeiture of at least
18 \$20; and any other debt that is at least \$20, including debt related to property taxes,
19 if the debt has been reduced to a judgment or the municipality or county to which the
20 debt is owed has provided the debtor reasonable notice and an opportunity to be
21 heard with regard to the debt.

22 **SECTION 18.** 71.935 (1) (a) 2. of the statutes is created to read:

23 71.935 (1) (a) 2. A lien under s. 66.0809 (3m).

24 **SECTION 19.** 71.935 (1) (b) of the statutes is amended to read:

1 71.935 (1) (b) “Debtor” means a person who owes a debt to a municipality or
2 county or to the owner of a rental dwelling unit for arrears, as described under s.
3 66.0809 (3m).

4 **SECTION 20.** 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

5 **SECTION 21.** 71.935 (2) (b) of the statutes is created to read:

6 71.935 (2) (b) If a municipality or property owner has a lien against a tenant
7 under s. 66.0809 (3m), the municipality shall, or property owner may, certify that
8 debt to the department so that the department may set off the debt against any
9 refund owed to the tenant. The municipality shall certify the debt to the department
10 as provided in par. (a). The property owner shall certify the debt to the department
11 in the manner prescribed by the department.

12 **SECTION 22.** 71.935 (3) (a) of the statutes is amended to read:

13 71.935 (3) (a) If the debt remains uncollected and, in the case of a parking
14 citation, if the debtor has not contested the citation within 20 days after the notice
15 under sub. (2), the department shall set off the debt against any refund that is owed
16 to the debtor after the setoff under s. 71.93. Any legal action contesting a setoff shall
17 be brought against the municipality ~~or~~, county, or property owner that certified the
18 debt under sub. (2).

19 **SECTION 23.** 71.935 (3) (b) of the statutes is amended to read:

20 71.935 (3) (b) The department shall provide the information obtained under
21 sub. (2) to the department of administration. Before reducing any disbursement as
22 provided under this paragraph, the department of administration shall contact the
23 department to verify whether a certified debt that is the basis of the reduction has
24 been collected by other means and, in the case of a parking citation, whether the
25 debtor has contested the citation within 20 days after the notice under sub. (2). If

1 the certified debt remains uncollected and, in the case of a parking citation, the
2 citation has not been contested within 20 days after the notice under sub. (2), the
3 department of administration shall, after any reduction under s. 71.93, reduce the
4 disbursement by the amount of the debtor's certified debt under sub. (2), notify the
5 department of such reduction and disbursement, and remit the amount of the
6 reduction to the department in the manner prescribed by the department. If more
7 than one debt certified under sub. (2) exists for any debtor, the disbursement shall
8 be reduced first by the earliest debt certified. Any legal action contesting a reduction
9 under this paragraph shall be brought against the municipality ~~or~~, county, or
10 property owner that certified the debt under sub. (2).

11 **SECTION 24.** 71.935 (4) of the statutes is amended to read:

12 71.935 (4) Within 30 days after the end of each calendar quarter, the
13 department shall settle with each municipality ~~and, county, and property owner~~ for
14 the amounts set off or reduced against certified debts for the municipality ~~or~~, county,
15 or property owner during that calendar quarter.

16 **SECTION 25.** 73.03 (72) of the statutes is created to read:

17 73.03 (72) To prepare and distribute to landlords information about the process
18 for collecting arrears under ss. 66.0809 (3m), 71.91, and 71.935 (2) (b) so that the
19 landlords may provide the information to tenants.

20 **SECTION 26.** 196.37 (5) of the statutes is created to read:

21 196.37 (5) It is not unreasonable or unjustly discriminatory for a municipal
22 public utility to adopt application, deposit, disconnection, or collection rules and
23 practices that distinguish between customers based upon whether the customer
24 owns or leases the property that is receiving utility service where the possibility

1 exists for any unpaid bills of a tenant to become a lien on the property that is
2 receiving utility service.

3 **SECTION 27.** 200.55 (5) (d) 2. of the statutes is amended to read:

4 200.55 (5) (d) 2. Any city, town, or village may collect and tax charges made by
5 it to users in the same manner as water rates are taxed and collected under s. ~~62.69~~
6 ~~(2)(f)~~ or 66.0809. Charges taxed under this subdivision are a lien upon the property
7 served, as provided in s. ~~62.69 (2)(f)~~ or 66.0809.

8 **SECTION 28. Initial applicability.**

9 (1) The treatment of sections 62.69 (2) (e) to (g), 66.0809 (3) and (5) (b) (intro.),
10 1., and 2., 66.0821 (2) (b) and (4) (d), and 200.55 (5) (d) 2. of the statutes first applies
11 to arrearages incurred on the effective date of this subsection.

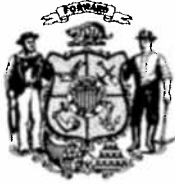
12 (2) The treatment of section 66.0809 (3m) of the statutes first applies to a notice
13 of arrears given on the effective date of this subsection.

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

16 **SECTION 29. Effective date.**

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

19 (END)



State of Wisconsin
2013 - 2014 LEGISLATURE



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EVM&JK:sac/jm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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9 municipal utility and the provision of municipal utility service to tenants.

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Under current law, if a municipal utility provides utility service to a property and payment for the service is in arrears, the utility has a lien on the property and may 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, the municipality has a lien on the property of a tenant who is responsible for the arrearage. The utility or treasurer must then certify and file with the clerk of courts a list of those tenants. Also under this bill, if the owner pays the arrearage, the municipality must transfer the lien to the owner.

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 where the possibility exists for unpaid bills of a tenant to become a 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 the bill, if a municipality or owner of a rental dwelling unit has a lien against a tenant for unpaid utility services, the municipality or property owner may

certify that debt to DOR so that DOR may collect the debt by subtracting the lien 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.

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1 SECTION 1. 62.69 (2) ~~(e) to~~ (g) of the statutes ~~are~~^{g is} repealed.

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

4 66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each year
5 notice shall be given to the owner or occupant of all the lots or parcels of real estate
6 to which utility service has been furnished prior to October 1 by a public utility
7 operated by a town, city, or village including a public utility under s. 62.69 and
8 payment for which is owing and in arrears at the time of giving the notice. The
9 department in charge of the utility shall furnish the treasurer with a list of the lots
10 or parcels of real estate for which utility service charges are in arrears, and the notice
11 shall be given by the treasurer, unless the governing body of the city, village, or town
12 authorizes notice to be given directly by the department. The notice shall be in
13 writing and shall state the amount of arrears, including any penalty assessed
14 pursuant to the rules of the utility; that unless the amount is paid by November 1
15 a penalty of 10 percent of the amount of arrears will be added; and that unless the
16 arrears, with any added penalty, are paid by November 15, the arrears and penalty
17 will be levied as a tax against the lot or parcel of real estate to which utility service
18 was furnished and for which payment is delinquent. The notice may be served by
19 delivery to either the owner or occupant personally, or by letter addressed to the
20 owner or occupant at the post-office address of the lot or 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 3.** 66.0809 (3m) of the statutes is created to read:

or the past-due charges are certified under s. 62.69(2)(f)

charges or past-due charges are certified to the comptroller under s. 62.69(2)(f)

1 66.0809-(3m) (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is
2 given, on the date the notice of arrears is given, the officer or department shall certify
3 and file with the clerk of courts a list of tenants of rental dwelling units responsible
4 for arrears. The municipality has a lien upon the assets of each tenant listed under
5 this paragraph in the amount of the arrears for which the tenant is responsible.

6 (b) If par. (a) applies and the owner of the rental dwelling unit has paid the
7 municipality the amount provided in the notice of arrears given under sub. (3) (a) or
8 the amount placed as tax against the real estate under sub. (3) (b), the municipality
9 shall transfer the lien under par. (a) to the owner ^{and shall file a notice of the transfer of lien with the clerk of courts}

10 SECTION 4. 66.0809 (5) (ag) of the statutes is created to read:

11 66.0809 (5) (ag) The owner of a rental dwelling unit shall provide to each tenant
12 to whom this subsection applies a notice about the process for collecting arrears
13 under sub. (3m) and ss. 71.91 and 71.935 (2) (b), including the information provided
14 to the owner under s. 73.03 (72).

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

17 66.0809 (5) (b) ^{s.} If this subsection applies, a municipal public utility may use
18 sub. (3) to collect arrearages incurred after the owner of a rental dwelling unit has
19 provided the utility with written notice under par. (a) only if the municipality
20 complies with at least one of the following: 2. In order to comply with this
21 subdivision, if a customer who is a tenant has charges for water or electric service
22 provided by the utility that are past due, the municipal public utility shall serve
23 serves notice of the past-due charges on the owner of the rental dwelling unit within
24 14 days of the date on which the tenant's charges became past due. The municipal
25 public utility shall serve notice in the manner provided in s. 801.14 (2).

(c) Within 7 days after a lien established under this subsection is satisfied, the lienholder shall file with the clerk of courts a notice of lien satisfaction.

1 SECTION 6. 66.0809 (5) (b) 1. of the statutes is renumbered 66.0809 (5) (am) and
2 amended to read:

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

16 SECTION 7. 66.0809 (5) (bm) of the statutes is created to read:

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

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

*charges have been
or the past-due charges have been
certified to the comptroller
S. 62.69(2)(f)*

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 12.** 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 13.** 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
11 where the possibility exists for any unpaid bills of a tenant to become a lien on the
12 property that is receiving utility service.

13 **SECTION 14.** 66.0821 (2) (b) of the statutes is amended to read:

14 ~~66.0821 (2) (b) The governing body of a municipality, and the officials in charge
15 of the management of the sewerage system as well as other officers of the
16 municipality, are governed in the discharge of their powers and duties under this
17 section by ss. 66.0809 to 66.0813 or 62.69 (2) (f), to the extent consistent with this
18 section, or, in the case of a metropolitan sewerage district created under ss. 200.21
19 to 200.65, by ss. 200.55 and 200.59.~~

20 **SECTION 15.** 66.0821 (4) (d) of the statutes is amended to read:

21 66.0821 (4) (d) Sewerage service charges shall be collected and taxed and shall
22 be a lien upon the property served in the same manner as water rates are taxed and
23 collected under s. ~~62.69 (2) (f)~~ or 66.0809 to the extent applicable, except that charges
24 of a metropolitan sewerage district created under ss. 200.21 to 200.65 shall be
25 assessed and collected as provided in s. 200.55 (5).

1 **SECTION 16.** 71.93 (3) (a) 6. of the statutes, as created by 2013 Wisconsin Act
2 20, is amended to read:

3 71.93 (3) (a) 6. Debt certified under s. 71.935 (2) (a) and then s. 71.935 (2) (b).

4 **SECTION 17.** 71.935 (1) (a) of the statutes is renumbered 71.935 (1) (a) (intro.)
5 and amended to read:

6 71.935 (1) (a) (intro.) “Debt” means ~~a~~ the following:

7 1. A parking citation of at least \$20 that is unpaid and for which there has been
8 no court appearance by the date specified in the citation or, if no date is specified, that
9 is unpaid for at least 28 days; an unpaid fine, fee, restitution or forfeiture of at least
10 \$20; and any other debt that is at least \$20, including debt related to property taxes,
11 if the debt has been reduced to a judgment or the municipality or county to which the
12 debt is owed has provided the debtor reasonable notice and an opportunity to be
13 heard with regard to the debt.

14 **SECTION 18.** 71.935 (1) (a) 2. of the statutes is created to read:

15 71.935 (1) (a) 2. A lien under s. 66.0809 (3m).

16 **SECTION 19.** 71.935 (1) (b) of the statutes is amended to read:

17 71.935 (1) (b) “Debtor” means a person who owes a debt to a municipality or
18 county or to the owner of a rental dwelling unit for arrears, as described under s.
19 66.0809 (3m).

20 **SECTION 20.** 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

21 **SECTION 21.** 71.935 (2) (b) of the statutes is created to read:

22 71.935 (2) (b) If a municipality or property owner has a lien against a tenant
23 under s. 66.0809 (3m), the municipality shall, or property owner may, certify that
24 debt to the department so that the department may set off the debt against any
25 refund owed to the tenant. The municipality shall certify the debt to the department

1 as provided in par. (a). The property owner shall certify the debt to the department
2 in the manner prescribed by the department.

3 **SECTION 22.** 71.935 (3) (a) of the statutes is amended to read:

4 71.935 (3) (a) If the debt remains uncollected and, in the case of a parking
5 citation, if the debtor has not contested the citation within 20 days after the notice
6 under sub. (2), the department shall set off the debt against any refund that is owed
7 to the debtor after the setoff under s. 71.93. Any legal action contesting a setoff shall
8 be brought against the municipality ~~or~~, county, or property owner that certified the
9 debt under sub. (2).

10 **SECTION 23.** 71.935 (3) (b) of the statutes is amended to read:

11 71.935 (3) (b) The department shall provide the information obtained under
12 sub. (2) to the department of administration. Before reducing any disbursement as
13 provided under this paragraph, the department of administration shall contact the
14 department to verify whether a certified debt that is the basis of the reduction has
15 been collected by other means and, in the case of a parking citation, whether the
16 debtor has contested the citation within 20 days after the notice under sub. (2). If
17 the certified debt remains uncollected and, in the case of a parking citation, the
18 citation has not been contested within 20 days after the notice under sub. (2), the
19 department of administration shall, after any reduction under s. 71.93, reduce the
20 disbursement by the amount of the debtor's certified debt under sub. (2), notify the
21 department of such reduction and disbursement, and remit the amount of the
22 reduction to the department in the manner prescribed by the department. If more
23 than one debt certified under sub. (2) exists for any debtor, the disbursement shall
24 be reduced first by the earliest debt certified. Any legal action contesting a reduction

1 under this paragraph shall be brought against the municipality ~~or~~, county, or
2 property owner that certified the debt under sub. (2).

3 **SECTION 24.** 71.935 (4) of the statutes is amended to read:

4 71.935 (4) Within 30 days after the end of each calendar quarter, the
5 department shall settle with each municipality ~~and~~, county, and property owner for
6 the amounts set off or reduced against certified debts for the municipality ~~or~~, county,
7 or property owner during that calendar quarter.

8 **SECTION 25.** 73.03 (72) of the statutes is created to read:

9 73.03 (72) To prepare and distribute to landlords information about the process
10 for collecting arrears under ss. 66.0809 (3m), 71.91, and 71.935 (2) (b) so that the
11 landlords may provide the information to tenants.

12 **SECTION 26.** 196.37 (5) of the statutes is created to read:

13 196.37 (5) It is not unreasonable or unjustly discriminatory for a municipal
14 public utility to adopt application, deposit, disconnection, or collection rules and
15 practices that distinguish between customers based upon whether the customer
16 owns or leases the property that is receiving utility service where the possibility
17 exists for any unpaid bills of a tenant to become a lien on the property that is
18 receiving utility service.

19 **SECTION 27.** ~~200.55 (5) (d) 2. of the statutes is amended to read:~~

20 ~~200.55 (5) (d) 2. Any city, town, or village may collect and tax charges made by~~
21 ~~it to users in the same manner as water rates are taxed and collected under s. 62.69~~
22 ~~(2) (f) or 66.0809. Charges taxed under this subdivision are a lien upon the property~~
23 ~~served, as provided in s. 62.69 (2) (f) or 66.0809.~~

24 **SECTION 28. Initial applicability.**

① (1) The treatment of sections 62.69 (2) (e) to (g) ^{g and} 66.0809 (3) and (5) (b) (intro.),
② 1., and 2., 66.0821 (2) (b) and (4) (d), and 200.55 (5) (d) 2 of the statutes first applies
3 to arrearages incurred on the effective date of this subsection.

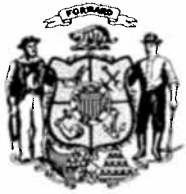
4 (2) The treatment of section 66.0809 (3m) of the statutes first applies to a notice
5 of arrears given on the effective date of this subsection.

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

8 **SECTION 29. Effective date.**

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

11 (END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0613/P13
EVM&JK:sac:fm

11
RMR

9
PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Today

1-16-14

gen cat

1 AN ACT *to repeal* 62.69 (2) (g); *to renumber* 71.935 (2); *to renumber and*
2 *amend* 66.0809 (3), 66.0809 (5) (b) 1. and 71.935 (1) (a); *to consolidate,*
3 *renumber and amend* 66.0809 (5) (b) (intro.) and 2.; *to amend* 66.0809 (5) (c),
4 66.0809 (5) (d), 71.93 (3) (a) 6., 71.935 (1) (b), 71.935 (3) (a), 71.935 (3) (b) and
5 71.935 (4); and *to create* 66.0809 (3m), 66.0809 (5) (ag), 66.0809 (5) (bm),
6 66.0809 (7), 66.0809 (8), 66.0809 (9), 66.0809 (10), 71.935 (1) (a) 2., 71.935 (2)
7 (b), 73.03 (72) and 196.37 (5) of the statutes; **relating to:** collection of certain
8 utility arrearages by a municipal utility and the provision of municipal utility
9 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 has a lien on the property and may 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, the municipality has a lien on the property of a tenant who is responsible for the arrearage. The utility or treasurer must then certify and file with the clerk of courts a list of those tenants. Also under this bill, if the owner pays the arrearage, the municipality must transfer the lien to the owner.

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 where the possibility exists for unpaid bills of a tenant to become a 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 the bill, if a municipality or owner of a rental dwelling unit has a lien against a tenant for unpaid utility services, the municipality or property owner may

certify that debt to DOR so that DOR may collect the debt by subtracting the lien 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.** 62.69 (2) (g) of the statutes is repealed.

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

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

SECTION 2

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 3.** 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 or past-due charges are certified to the comptroller under s. 62.69 (2) (f), on the
3 date the notice of arrears is given, or the past-due charges are certified under s. 62.69
4 (2) (f), the officer or department shall certify and file with the clerk of courts a list of
5 tenants of rental dwelling units responsible for arrears. The municipality has a lien
6 upon the assets of each tenant listed under this paragraph in the amount of the
7 arrears for which the tenant is responsible.

8 (b) If par. (a) applies and the owner of the rental dwelling unit has paid the
9 municipality the amount provided in the notice of arrears given under sub. (3) (a),
10 or certified to the comptroller under s. 62.69 (2) (f), or the amount placed as tax
11 against the real estate under sub. (3) (b) or s. 62.69 (2) (f), the municipality shall
12 transfer the lien under par. (a) to the owner and shall file a notice of the transfer of
13 lien with the clerk of courts.

14 (c) Within 7 days after a lien established under this subsection is satisfied, the
15 lienholder shall file with the clerk of courts a notice of lien satisfaction.

16 **SECTION 4.** 66.0809 (5) (ag) of the statutes is created to read:

17 66.0809 (5) (ag) The owner of a rental dwelling unit shall provide to each tenant
18 to whom this subsection applies a notice about the process for collecting arrears
19 under sub. (3m) and ss. 71.91 and 71.935 (2) (b), including the information provided
20 to the owner under s. 73.03 (72).

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

23 66.0809 (5) (b) ~~If this subsection applies, a~~ A municipal public utility may use
24 sub. (3) or, if s. 62.69 applies, s. 62.69 (2) (f), to collect arrearages incurred after the
25 owner of a rental dwelling unit has provided the utility with written notice under par.

SECTION 5

1 (a) ~~only if the municipality complies with at least one of the following:~~ 2. ~~In order to~~
2 ~~comply with this subdivision, if a customer who is a tenant has charges for water or~~
3 ~~electric service provided by the utility that are past due, the municipal public utility~~
4 ~~shall serve~~ erves notice of the past-due charges on the owner of the rental dwelling
5 unit within 14 days of the date on which the tenant's charges became past due. The
6 municipal public utility shall serve notice in the manner provided in s. 801.14 (2).

7 **SECTION 6.** 66.0809 (5) (b) 1. of the statutes is renumbered 66.0809 (5) (am) and
8 amended to read:

9 66.0809 (5) (am) ~~In order to comply with this subdivision, a~~ A municipal public
10 utility shall send bills for water or electric service to a customer who is a tenant in
11 the tenant's own name. ~~Each time that a municipal public utility notifies a customer~~
12 ~~who is a tenant that charges for water or electric service provided by the utility to~~
13 ~~the customer are past due for more than one billing cycle, the utility shall also serve~~
14 ~~a copy of the notice on the owner of the rental dwelling unit in the manner provided~~
15 ~~in s. 801.14 (2).~~ If a customer who is a tenant vacates his or her rental dwelling unit,
16 and the owner of the rental dwelling unit provides the municipal public utility, no
17 later than 21 days after the date on which the tenant vacates the rental dwelling
18 unit, with a written notice that contains a forwarding address for the tenant and the
19 date that the tenant vacated the rental dwelling unit, the utility shall continue to
20 send past-due notices to the customer at his or her forwarding address until the
21 past-due charges are paid or until notice has been provided under sub. (3) (a) or the
22 past-due charges have been certified to the comptroller under s. 62.69 (2) (f).

23 **SECTION 7.** 66.0809 (5) (bm) of the statutes is created to read:

24 66.0809 (5) (bm) 1. No earlier than 14 days after receiving a notice under sub.
25 (5) (b) of a tenant's past-due charges for electric service, the owner of a rental unit

1 may request that the municipal public utility terminate electric service to the rental
2 dwelling unit.

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

7 3. Except as provided under rules of the public service commission prohibiting
8 disconnections during certain periods and subject to the procedural requirements
9 under those rules, unless all past-due charges are paid, the municipal utility shall
10 terminate electric service to the rental dwelling unit within 14 days after serving the
11 notice under subd. 2.

12 **SECTION 8.** 66.0809 (5) (c) of the statutes is amended to read:

13 66.0809 (5) (c) A municipal public utility may demonstrate compliance with the
14 notice requirements of par. (b) ~~1.~~ or ~~2.~~ (bm) by providing evidence of having sent the
15 notice by U.S. mail or, if the person receiving the notice has consented to receive
16 notice in an electronic format, by providing evidence of having sent the notice in an
17 electronic format.

18 **SECTION 9.** 66.0809 (5) (d) of the statutes is amended to read:

19 66.0809 (5) (d) If this subsection applies and a municipal public utility is
20 permitted to collect arrearages under sub. (3) or s. 62.69 (2) (f), the municipal public
21 utility shall provide all notices under sub. (3) or s. 62.69 (2) (f) to the tenant and to
22 the owner of the property or a person designated by the owner.

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

24 66.0809 (7) A municipal utility may require a prospective customer to submit
25 an application for water or electric service.

1 **SECTION 11.** 66.0809 (8) of the statutes is created to read:

2 66.0809 (8) (a) A municipal public utility shall disclose to the owner of a rental
3 dwelling unit, upon the owner's request, whether a new or prospective tenant has
4 outstanding past-due charges for utility service to that municipal public utility in
5 that tenant's name at a different address.

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

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

10 66.0809 (9) A municipal utility is not required to offer a customer who is a
11 tenant at a rental dwelling unit a deferred payment agreement.

12 **SECTION 13.** 66.0809 (10) of the statutes is created to read:

13 66.0809 (10) A municipal utility may adopt application, deposit, disconnection,
14 or collection rules and practices that distinguish between customers based upon
15 whether the customer owns or leases the property that is receiving utility service
16 where the possibility exists for any unpaid bills of a tenant to become a lien on the
17 property that is receiving utility service.

18 **SECTION 14.** 71.93 (3) (a) 6. of the statutes, as created by 2013 Wisconsin Act
19 20, is amended to read:

20 71.93 (3) (a) 6. Debt certified under s. 71.935 (2) (a) and then s. 71.935 (2) (b).

21 **SECTION 15.** 71.935 (1) (a) of the statutes is renumbered 71.935 (1) (a) (intro.)
22 and amended to read:

23 71.935 (1) (a) (intro.) "Debt" means ~~a~~ the following:

24 1. A parking citation of at least \$20 that is unpaid and for which there has been
25 no court appearance by the date specified in the citation or, if no date is specified, that

1 is unpaid for at least 28 days; an unpaid fine, fee, restitution or forfeiture of at least
2 \$20; and any other debt that is at least \$20, including debt related to property taxes,
3 if the debt has been reduced to a judgment or the municipality or county to which the
4 debt is owed has provided the debtor reasonable notice and an opportunity to be
5 heard with regard to the debt.

6 **SECTION 16.** 71.935 (1) (a) 2. of the statutes is created to read:

7 71.935 (1) (a) 2. A lien under s. 66.0809 (3m).

8 **SECTION 17.** 71.935 (1) (b) of the statutes is amended to read:

9 71.935 (1) (b) “Debtor” means a person who owes a debt to a municipality or
10 county or to the owner of a rental dwelling unit for arrears, as described under s.
11 66.0809 (3m).

12 **SECTION 18.** 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

13 **SECTION 19.** 71.935 (2) (b) of the statutes is created to read:

14 71.935 (2) (b) If a municipality or property owner has a lien against a tenant
15 under s. 66.0809 (3m), the municipality shall, or property owner may, certify that
16 debt to the department so that the department may set off the debt against any
17 refund owed to the tenant. The municipality shall certify the debt to the department
18 as provided in par. (a). The property owner shall certify the debt to the department
19 in the manner prescribed by the department.

20 **SECTION 20.** 71.935 (3) (a) of the statutes is amended to read:

21 71.935 (3) (a) If the debt remains uncollected and, in the case of a parking
22 citation, if the debtor has not contested the citation within 20 days after the notice
23 under sub. (2), the department shall set off the debt against any refund that is owed
24 to the debtor after the setoff under s. 71.93. Any legal action contesting a setoff shall

1 be brought against the municipality ~~or~~, county, or property owner that certified the
2 debt under sub. (2).

3 **SECTION 21.** 71.935 (3) (b) of the statutes is amended to read:

4 71.935 (3) (b) The department shall provide the information obtained under
5 sub. (2) to the department of administration. Before reducing any disbursement as
6 provided under this paragraph, the department of administration shall contact the
7 department to verify whether a certified debt that is the basis of the reduction has
8 been collected by other means and, in the case of a parking citation, whether the
9 debtor has contested the citation within 20 days after the notice under sub. (2). If
10 the certified debt remains uncollected and, in the case of a parking citation, the
11 citation has not been contested within 20 days after the notice under sub. (2), the
12 department of administration shall, after any reduction under s. 71.93, reduce the
13 disbursement by the amount of the debtor's certified debt under sub. (2), notify the
14 department of such reduction and disbursement, and remit the amount of the
15 reduction to the department in the manner prescribed by the department. If more
16 than one debt certified under sub. (2) exists for any debtor, the disbursement shall
17 be reduced first by the earliest debt certified. Any legal action contesting a reduction
18 under this paragraph shall be brought against the municipality ~~or~~, county, or
19 property owner that certified the debt under sub. (2).

20 **SECTION 22.** 71.935 (4) of the statutes is amended to read:

21 71.935 (4) Within 30 days after the end of each calendar quarter, the
22 department shall settle with each municipality ~~and~~, county, and property owner for
23 the amounts set off or reduced against certified debts for the municipality ~~or~~, county,
24 or property owner during that calendar quarter.

25 **SECTION 23.** 73.03 (72) of the statutes is created to read:



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0613/1
EVM&JK:sac

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2013 BILL

great
1-17
Leah
one change, on pg. 5

1 AN ACT *to repeal* 62.69 (2) (g); *to renumber* 71.935 (2); *to renumber and*
2 *amend* 66.0809 (3), 66.0809 (5) (b) 1. and 71.935 (1) (a); *to consolidate,*
3 *renumber and amend* 66.0809 (5) (b) (intro.) and 2.; *to amend* 66.0809 (5) (c),
4 66.0809 (5) (d), 71.93 (3) (a) 6., 71.935 (1) (b), 71.935 (3) (a), 71.935 (3) (b) and
5 71.935 (4); and *to create* 66.0809 (3m), 66.0809 (5) (ag), 66.0809 (5) (bm),
6 66.0809 (7), 66.0809 (8), 66.0809 (9), 66.0809 (10), 71.935 (1) (a) 2., 71.935 (2)
7 (b), 73.03 (72) and 196.37 (5) of the statutes; **relating to:** collection of certain
8 utility arrearages by a municipal utility and the provision of municipal utility
9 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 has a lien on the property and may 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

BILL

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, the municipality has a lien on the property of a tenant who is responsible for the arrearage. The utility or treasurer must then certify and file with the clerk of courts a list of those tenants. Also under this bill, if the owner pays the arrearage, the municipality must transfer the lien to the owner.

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 where the possibility exists for unpaid bills of a tenant to become a 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 the bill, if a municipality or owner of a rental dwelling unit has a lien against a tenant for unpaid utility services, the municipality or property owner may

BILL

certify that debt to DOR so that DOR may collect the debt by subtracting the lien 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.** 62.69 (2) (g) of the statutes is repealed.

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

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

BILL**SECTION 2**

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

BILL

1 66.0809 (3m) (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is
2 given or past-due charges are certified to the comptroller under s. 62.69 (2) (f), on the
3 date the notice of arrears is given, or the past-due charges are certified under s. 62.69
4 (2) (f), the officer or department shall certify and file with the clerk of courts a list of
5 tenants of rental dwelling units responsible for arrears. The municipality has a lien
6 upon the assets of each tenant listed under this paragraph in the amount of the
7 arrears for which the tenant is responsible.

8 (b) If par. (a) applies and the owner of the rental dwelling unit has paid the
9 municipality the amount provided in the notice of arrears given under sub. (3) (a),
10 or certified to the comptroller under s. 62.69 (2) (f), or the amount placed as tax
11 against the real estate under sub. (3) (b) or s. 62.69 (2) (f), the municipality shall
12 transfer the lien under par. (a) to the owner and shall file a notice of the transfer of
13 lien with the clerk of courts.

14 (c) Within 7 days after a lien established under this subsection is satisfied, the
15 lienholder shall file with the clerk of courts a notice of lien satisfaction.

16 **SECTION 4.** 66.0809 (5) (ag) of the statutes is created to read:

17 66.0809 (5) (ag) The owner of a rental dwelling unit shall provide to each tenant
18 to whom this subsection applies the information provided to the owner under s. 73.03
19 (72).

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

22 66.0809 (5) (b) ~~If this subsection applies, a~~ A municipal public utility may use
23 sub. (3) ~~or, if s. 62.69 applies, s. 62.69 (2) (f),~~ to collect arrearages incurred after the
24 owner of a rental dwelling unit has provided the utility with written notice under par.
25 (a) ~~only if the municipality complies with at least one of the following: 2. In order to~~

BILL**SECTION 5**

1 ~~comply with this subdivision, if a customer who is a tenant has charges for water or~~
2 ~~electric service provided by the utility that are past due, the municipal public utility~~
3 ~~shall serve~~ serve notice of the past-due charges on the owner of the rental dwelling
4 unit within 14 days of the date on which the tenant's charges became past due. The
5 municipal public utility shall serve notice in the manner provided in s. 801.14 (2).

6 **SECTION 6.** 66.0809 (5) (b) 1. of the statutes is renumbered 66.0809 (5) (am) and
7 amended to read:

8 66.0809 (5) (am) ~~In order to comply with this subdivision, a~~ A municipal public
9 utility shall send bills for water or electric service to a customer who is a tenant in
10 the tenant's own name. ~~Each time that a municipal public utility notifies a customer~~
11 ~~who is a tenant that charges for water or electric service provided by the utility to~~
12 ~~the customer are past due for more than one billing cycle, the utility shall also serve~~
13 ~~a copy of the notice on the owner of the rental dwelling unit in the manner provided~~
14 ~~in s. 801.14 (2).~~ If a customer who is a tenant vacates his or her rental dwelling unit,
15 and the owner of the rental dwelling unit provides the municipal public utility, no
16 later than 21 days after the date on which the tenant vacates the rental dwelling
17 unit, with a written notice that contains a forwarding address for the tenant and the
18 date that the tenant vacated the rental dwelling unit, the utility shall continue to
19 send past-due notices to the customer at his or her forwarding address until the
20 past-due charges are paid or until notice has been provided under sub. (3) (a) or the
21 past-due charges have been certified to the comptroller under s. 62.69 (2) (f).

22 **SECTION 7.** 66.0809 (5) (bm) of the statutes is created to read:

23 66.0809 (5) (bm) 1. No earlier than 14 days after receiving a notice under sub.
24 (5) (b) of a tenant's past-due charges for electric service, the owner of a rental unit

BILL

1 may request that the municipal public utility terminate electric service to the rental
2 dwelling unit.

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

7 3. Except as provided under rules of the public service commission prohibiting
8 disconnections during certain periods and subject to the procedural requirements
9 under those rules, unless all past-due charges are paid, the municipal utility shall
10 terminate electric service to the rental dwelling unit within 14 days after serving the
11 notice under subd. 2.

12 **SECTION 8.** 66.0809 (5) (c) of the statutes is amended to read:

13 66.0809 (5) (c) A municipal public utility may demonstrate compliance with the
14 notice requirements of par. (b) ~~1.~~ or ~~2.~~ (bm) by providing evidence of having sent the
15 notice by U.S. mail or, if the person receiving the notice has consented to receive
16 notice in an electronic format, by providing evidence of having sent the notice in an
17 electronic format.

18 **SECTION 9.** 66.0809 (5) (d) of the statutes is amended to read:

19 66.0809 (5) (d) If this subsection applies and a municipal public utility is
20 permitted to collect arrearages under sub. (3) or s. 62.69 (2) (f), the municipal public
21 utility shall provide all notices under sub. (3) or s. 62.69 (2) (f) to the tenant and to
22 the owner of the property or a person designated by the owner.

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

24 66.0809 (7) A municipal utility may require a prospective customer to submit
25 an application for water or electric service.

BILL**SECTION 11**

1 **SECTION 11.** 66.0809 (8) of the statutes is created to read:

2 66.0809 (8) (a) A municipal public utility shall disclose to the owner of a rental
3 dwelling unit, upon the owner's request, whether a new or prospective tenant has
4 outstanding past-due charges for utility service to that municipal public utility in
5 that tenant's name at a different address.

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

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

10 66.0809 (9) A municipal utility is not required to offer a customer who is a
11 tenant at a rental dwelling unit a deferred payment agreement.

12 **SECTION 13.** 66.0809 (10) of the statutes is created to read:

13 66.0809 (10) A municipal utility may adopt application, deposit, disconnection,
14 or collection rules and practices that distinguish between customers based upon
15 whether the customer owns or leases the property that is receiving utility service
16 where the possibility exists for any unpaid bills of a tenant to become a lien on the
17 property that is receiving utility service.

18 **SECTION 14.** 71.93 (3) (a) 6. of the statutes, as created by 2013 Wisconsin Act
19 20, is amended to read:

20 71.93 (3) (a) 6. Debt certified under s. 71.935 (2) (a) and then s. 71.935 (2) (b).

21 **SECTION 15.** 71.935 (1) (a) of the statutes is renumbered 71.935 (1) (a) (intro.)
22 and amended to read:

23 71.935 (1) (a) (intro.) "Debt" means ~~a-~~ the following:

24 1. A parking citation of at least \$20 that is unpaid and for which there has been
25 no court appearance by the date specified in the citation or, if no date is specified, that

BILL

1 is unpaid for at least 28 days; an unpaid fine, fee, restitution or forfeiture of at least
2 \$20; and any other debt that is at least \$20, including debt related to property taxes,
3 if the debt has been reduced to a judgment or the municipality or county to which the
4 debt is owed has provided the debtor reasonable notice and an opportunity to be
5 heard with regard to the debt.

6 **SECTION 16.** 71.935 (1) (a) 2. of the statutes is created to read:

7 71.935 (1) (a) 2. A lien under s. 66.0809 (3m).

8 **SECTION 17.** 71.935 (1) (b) of the statutes is amended to read:

9 71.935 (1) (b) "Debtor" means a person who owes a debt to a municipality or
10 county or to the owner of a rental dwelling unit for arrears, as described under s.
11 66.0809 (3m).

12 **SECTION 18.** 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

13 **SECTION 19.** 71.935 (2) (b) of the statutes is created to read:

14 71.935 (2) (b) If a municipality or property owner has a lien against a tenant
15 under s. 66.0809 (3m), the municipality shall, or property owner may, certify that
16 debt to the department so that the department may set off the debt against any
17 refund owed to the tenant. The municipality shall certify the debt to the department
18 as provided in par. (a). The property owner shall certify the debt to the department
19 in the manner prescribed by the department.

20 **SECTION 20.** 71.935 (3) (a) of the statutes is amended to read:

21 71.935 (3) (a) If the debt remains uncollected and, in the case of a parking
22 citation, if the debtor has not contested the citation within 20 days after the notice
23 under sub. (2), the department shall set off the debt against any refund that is owed
24 to the debtor after the setoff under s. 71.93. Any legal action contesting a setoff shall

BILL

1 be brought against the municipality ~~or~~, county, or property owner that certified the
2 debt under sub. (2).

3 **SECTION 21.** 71.935 (3) (b) of the statutes is amended to read:

4 71.935 (3) (b) The department shall provide the information obtained under
5 sub. (2) to the department of administration. Before reducing any disbursement as
6 provided under this paragraph, the department of administration shall contact the
7 department to verify whether a certified debt that is the basis of the reduction has
8 been collected by other means and, in the case of a parking citation, whether the
9 debtor has contested the citation within 20 days after the notice under sub. (2). If
10 the certified debt remains uncollected and, in the case of a parking citation, the
11 citation has not been contested within 20 days after the notice under sub. (2), the
12 department of administration shall, after any reduction under s. 71.93, reduce the
13 disbursement by the amount of the debtor's certified debt under sub. (2), notify the
14 department of such reduction and disbursement, and remit the amount of the
15 reduction to the department in the manner prescribed by the department. If more
16 than one debt certified under sub. (2) exists for any debtor, the disbursement shall
17 be reduced first by the earliest debt certified. Any legal action contesting a reduction
18 under this paragraph shall be brought against the municipality ~~or~~, county, or
19 property owner that certified the debt under sub. (2).

20 **SECTION 22.** 71.935 (4) of the statutes is amended to read:

21 71.935 (4) Within 30 days after the end of each calendar quarter, the
22 department shall settle with each municipality ~~and~~, county, and property owner for
23 the amounts set off or reduced against certified debts for the municipality ~~or~~, county,
24 or property owner during that calendar quarter.

25 **SECTION 23.** 73.03 (72) of the statutes is created to read:

Barman, Mike

From: Kovach, Robert
Sent: Friday, January 17, 2014 12:21 PM
To: LRB.Legal
Subject: Draft Review: LRB -0613/2 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Please Jacket LRB -0613/2 for the SENATE.