



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2017 Senate Bill 48

**Senate Substitute Amendment 2
and Assembly Amendment 2**

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Contact: Zach Ramirez, Staff Attorney

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

Assembly Amendment 2 modifies the conditions under which the Public Service Commission (PSC) may approve a water public utility to provide financial assistance.

GRANTS AND LOANS PROVIDED BY A WATER PUBLIC UTILITY

Requirements

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

1. The city, town, or village in which the water public utility provides utility service to the property has enacted an ordinance that: (1) permits the water public utility to provide a grant, a loan, or both; and (2) requires each owner of a premises located in the city, town, or village that is serviced by a customer-side water service line containing lead to replace that water service line.
2. The portion of the water service line pipe that is owned by the public utility and the water main pipe that are connected to the property either do not contain lead or are replaced at the same time as the portion that is owned by the property owner.

3. The PSC has granted its approval.

PSC Approval

The Substitute Amendment

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

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

The PSC must grant its approval if it finds that a public utility's proposal is not unjust, unreasonable, or unfairly discriminatory; and the proposal satisfies all of the following conditions:

1. The amount of any grant provided to a property owner does not exceed **two-thirds** of the total cost of replacing the owner's portion of the water service line.
2. Any loan provided may not be forgiven by the water public utility or the municipality.
3. If a water public utility intends to provide **grants** as a percentage of the cost of replacing the property owner's portion of a water service line, the percentage is the same for each owner in a class of customers.
4. If a water public utility intends to provide **grants** as a specified dollar amount, the dollar amount is the same for each owner in a class of customers.

Assembly Amendment 2

Assembly Amendment 2 modifies item 1., above by instead providing that the amount of any grant provided to a property owner may not exceed **one-half** (rather than two-thirds) of the total cost of replacing the owner's portion of the water service line.

Assembly Amendment 2 also modifies items 3. and 4., above by applying their requirements to "financial assistance," which is defined as "a grant, loan, or combination thereof." Specifically, Assembly Amendment 2 provides that if a water public utility intends to provide "**financial assistance**" as a percentage of the cost of replacing the property owner's portion of a water service line, the percentage must be the same for each owner in a class of customers; and, if a water public utility intends to provide "**financial assistance**" as a specified dollar amount, the dollar amount must be the same for each owner in a class of customers.

Use of Revenue Collected From Public Utility Charges

The substitute amendment provides that a water public utility may fund all or a portion of the cost of providing grants and loans using revenue collected from charges applied to retail customers receiving service from the water public utility in the same city, village, or town in which the property receiving the grant or loan is located. It also provides that the revenue collected from charges applied to a class of customers to fund grants and loans may not exceed an amount equal to the financial assistance received by the class.

Method for Collecting Loan Payments That are in Arrears

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

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

The **substitute amendment** provides that the provisions described above apply, respectively to each type of water public utility with regard to payments owing on loans for the purpose of assisting a property owner in replacing the portion of a lead-containing water service line that is owned by the property owner.

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

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

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

The **substitute amendment** expands the purposes for which a political subdivision may provide a loan or enter into a loan repayment agreement, to include the purpose of replacing the portion of a lead-containing water service line that is owned by the property owner. It also provides that, if a political subdivision makes such a loan, the political subdivision must require each owner of a premises located in the political subdivision that is serviced by a customer-side water service line containing lead to replace the water service line.

Method for Collecting Loan Repayments

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

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

Private Construction Work by Political Subdivisions and Municipal Public Utilities

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

The **substitute amendment** creates an exception for work incidental to replacing a utility-side water service line containing lead that is performed with the consent of a private property owner and that does not involve replacing the customer-side water service line.

BILL HISTORY

Senator Cowles introduced Senate Substitute Amendment 1 to Senate Bill 48 on March 28, 2017. On March 29, 2017, the Senate Committee on Natural Resources and Energy voted to recommend adoption of the substitute amendment on a vote of Ayes, 5; Noes, 0. On the same day, the committee voted to recommend passage of the bill, as amended, on a vote of Ayes, 5; Noes, 0. On October 31, 2017, the Senate adopted Senate Substitute Amendment 2, and passed the bill, as amended, on a vote of Ayes, 33; Noes, 0.

On November 8, 2017, Representatives Thiesfeldt and Petersen offered Assembly Amendment 2 to Senate Bill 48, as amended by Senate Substitute Amendment 2. On November 9, 2017, the Assembly adopted Assembly Amendment 2 and concurred in the bill, as amended, on voice votes.

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