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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**Contact:** Brian Larson, Senior Staff Attorney

### 2021 Senate Bill 573

### Senate Substitute Amendment 3 and Assembly Amendment 1

## 2021 SENATE BILL 573

The bill specifies that a person who owns, operates, manages, leases, or controls an electric vehicle charging station is not considered a “public utility” if all of the following are true:

- Any fee charged for use of the charging station is either a flat fee; is a fee based on the amount of time a user parks near or is connected to the charging station; or is a fee based on the amount of electricity the user consumes.
- All of the electricity that a user receives by connecting to the charging station is obtained from the electric provider serving that area.
- The person does not otherwise directly or indirectly provide electricity to the public for a fee.

Also, the bill directs the Public Service Commission (PSC) to prohibit electric providers (including electric utilities and electric cooperatives) from restricting customers from charging a fee for use of the customers’ charging stations in certain cases.

The bill prohibits the Department of Transportation (DOT) from authorizing the installation or operation of an electric vehicle charging station that is available to the public, or that is located at a wayside, unless DOT submits a request to the Joint Committee on Finance (JCF) for approval, and JCF approves the request. The term “wayside” refers to a highway rest area.

Finally, the bill prohibits a political subdivision (i.e., a city, village, town, or county) from owning, operating, managing, leasing, or controlling an electric vehicle charging station that is available to the public unless authorized by the governing body of the political subdivision.

## SENATE SUBSTITUTE AMENDMENT 3

The substitute amendment provides that fees may be based on the cost or rate for the electricity charged by the electric provider—in addition to a flat fee, a fee based on time, or a fee based on electricity consumed—under the circumstances described in the bill. Also, it provides that a person must provide notice of their electric charging station to their electric provider in order to qualify for the exception to the definition of a “public utility” under the bill.

The substitute amendment removes the provisions that are specific to DOT that were included in the bill, as introduced. It provides instead that no state agency may own, operate, manage, or lease an electric vehicle charging station, unless the charging station is not available to the public and the sole purpose is charging vehicles owned or leased by a state agency.

Under the substitute amendment, the term “political subdivision” is replaced with “local governmental unit”—which is broadly defined to include a city, village, town, county, school district, special purpose district, or subunit or combination of any of the foregoing. The substitute amendment removes the provision relating to governing body authorization to own or operate an electric vehicle charging station. Instead, the substitute amendment provides that no local governmental unit may own, operate, manage, lease, or control an electric vehicle charging station, except as follows:

- A local governmental unit may authorize an electric provider or other qualified person to own and operate a charging facility that is available to the public on property owned by the local governmental unit.
- A local governmental unit may own or operate an electric vehicle charging station that is not available to the public if the sole purpose of the charging facility is charging vehicles owned or leased by a local governmental unit.
- A municipal utility existing on the date the legislation takes effect may own and operate an electric vehicle charging station that is available to the public if certain conditions specified in the substitute amendment are met.

Finally, the substitute amendment includes a nonstatutory provision applicable to any local governmental unit that owns or operates an electric vehicle charging station installed before the effective date of the legislation. It requires the local governmental unit to register all such charging stations with the PSC within six months of the effective date of the legislation.

## **ASSEMBLY AMENDMENT 1**

The amendment creates an exception to the prohibition against state agency ownership, operation, management, or leasing of a charging facility. Notwithstanding that prohibition, the amendment provides that DOT may—with respect to the federal grant program to deploy publicly accessible electric vehicle charging infrastructure along designated fuel corridors under the Infrastructure Investment and Jobs Act (IIJA)—take any of the following actions:

- Contract with and disburse federal funds to third parties, subject to the approval of JCF under s. 13.10, Stats.
- Authorize and contract with an electric provider or other qualified person to own and operate a charging facility that is available to the public on property owned by a state agency, subject to JCF approval under s. 13.10, Stats.
- Disburse federal funds to a local governmental unit to allow it to authorize an electric provider or other qualified person to own and operate a charging facility that is available to the public on property owned by the local governmental unit.
- Disburse federal funds to a local governmental unit for the purpose of owning and operating a charging facility that is needed to meet a demonstrated need for electric vehicle charging capacity in a geographic area of the state that is not currently being met, and that meets other applicable requirements, as provided below.

Additionally, the amendment creates an exception to the prohibition against local governmental unit ownership, operation, management, leasing or control of a charging facility. Notwithstanding that prohibition, the amendment authorizes a local governmental unit to own and operate a charging facility that is available to the public if all of the following apply:

- DOT makes, and JCF approves under s. 13.10, Stats., a grant to pay the capital, operational, and maintenance costs associated with the charging facility with funds from the federal grant program under IIJA, described above.
- The charging facility is needed to meet a demonstrated need for electric vehicle charging capacity in a geographic area of the state that is not currently being met. This requirement may only be satisfied if the electric provider serving the area indicates that it does not intend to site a charging facility in that area and no other person qualified to own and operate a charging facility indicates that they intend to site a charging facility in that area.
- No tax revenue subsidizes, directly or indirectly, any costs associated with the charging facility.
- No revenue generated by the charging facility is used to directly or indirectly supplement the local governmental unit's budget.

Finally, the amendment requires DOT to conduct a study on methods for generating revenue for the transportation fund based on vehicle miles traveled, and to submit a report of its findings to the appropriate standing committees of the Legislature, and JCF, no later than January 1, 2023.

## **BILL HISTORY**

Senator Cowles introduced and Representative VanderMeer cosponsored the bill on September 24, 2021, and it was referred to the Senate Committee on Utilities, Technology and Telecommunications. On February 2, 2022, the Senate Committee on Utilities, Technology and Telecommunications held a public hearing. On February 10, 2022, Senator Cowles offered Senate Substitute Amendment 3. On February 11, 2022, the committee recommended adoption of the substitute amendment, and passage of the bill, as amended, on votes of Ayes, 3; Noes, 2. On February 15, 2022, the Senate adopted Senate Substitute Amendment 3, on a voice vote, and passed the bill, as amended, on a vote of Ayes, 19; Noes, 13. On February 24, 2022, Assembly Amendment 1 was offered by Representative Kuglitsch; the Assembly adopted Assembly Amendment 1 and concurred in the bill, as amended, on voice votes.

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