

---

# Wisconsin Legislative Council

## AMENDMENT MEMO

---



**Memo published:** March 11, 2024

**Contact:** Patrick Ward, Staff Attorney

**2023 Senate Bill 589**

**Senate Substitute Amendment 1**

### 2023 SENATE BILL 589

2023 Senate Bill 589 provides a temporary easement to an owner of real property on which construction activity is occurring. The temporary easement is for the limited purpose of passing a crane boom over adjacent real property for the duration of construction activities. The crane boom must be at an altitude that does not interfere with the existing use of the adjacent real property or the space over that property.

### SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 changes the easement to a license, expands the duties of those seeking the license, and specifies that the bill covers only tower crane booms.

First, the substitute amendment defines a licensee as either an owner of real property, person responsible for operating a tower crane, or a general contractor for construction activities.

Next, the substitute amendment grants a license to any licensee using a tower crane in connection with construction activities on real property to pass the tower crane boom over adjacent real property at an altitude that does not interfere with the then existing use of the adjacent real property. In order for a licensee to exercise their rights under their license, the following requirements must be met:

- The licensee must provide the owner of each adjacent real property over which the tower crane boom may pass written notice and compensation at least 30 days before the tower crane to which the license applies is installed.
- The licensee must obtain, before installation of and for the duration of construction activity, general liability insurance in an amount no less than \$2 million per occurrence with an annual aggregate limit of no less than \$5 million for compensating third parties for bodily injury and property damage arising from the tower crane.
- The licensee must compensate the owner of each adjacent real property over which the tower crane boom may pass in one of the following two ways:
  - An amount equal to one percent of the assessed value of the adjacent real property or \$25,000, whichever is less.
  - Other compensation agreed upon by the licensee and owner of adjacent real property, including a reciprocal agreement.
  - Compensation is not required if adjacent real property is public property.

Additionally, the bill creates requirements for the length of the license and recording notices of the license. The license terminates either upon construction ending or 24 months after the tower crane boom is installed, whichever is earlier. The licensee must record notice of the license with the register of deeds in the county where each adjacent real property over which the tower crane boom may pass is

located and in the county where the construction activities will occur, no later than the date on which the tower crane is installed. Also, the licensee must record the termination of the license no later than 30 days after the license ends in each county in which a notice was recorded.

Next, the substitute amendment requires the owner of adjacent real property that is subject to a license to disclose the existence of the license to a potential purchaser of the property before entering into an agreement to convey the property.

The substitute amendment also provides that a licensee's exercise of rights under the license cannot be the basis for an action alleging physical injury to or interference with real property under s. 844.01, Stats.

Lastly, the substitute amendment provides that the bill first applies to a notice of installation given on the effective date of the bill.

## **BILL HISTORY**

Senator Tomczyk offered Senate Substitute Amendment 1 on January 22, 2024. On March 6, 2024, the Senate Committee on Housing, Rural Issues and Forestry recommended adoption of Senate Substitute Amendment 1 on a vote of Ayes, 5; Noes, 0, and recommended passage of the bill, as amended, on a vote of Ayes, 3; Noes, 2.

For a full history of the bill, visit the Legislature's [bill history page](#).

PW:jal