



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4973/1
EVM:amn

2021 ASSEMBLY BILL 719

November 18, 2021 - Introduced by Representatives THIESFELDT and RAMTHUN, cosponsored by Senator COWLES. Referred to Committee on Local Government.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to repeal* 66.0627 (8) (e); *to renumber and amend* 66.0627 (8) (a) and
2 66.0627 (8) (d); *to amend* 66.0627 (1) (ad) (intro.), 66.0627 (1) (am), 66.0627 (1)
3 (d), 66.0627 (8) (am) and 66.0627 (8) (c); and *to create* 66.0627 (1) (ao), 66.0627
4 (1) (bk), 66.0627 (1) (bm), 66.0627 (1) (cg), 66.0627 (8) (a) 2., 66.0627 (8) (cm),
5 66.0627 (8) (d) 2. and 66.0627 (8) (f) of the statutes; **relating to:** loans and
6 repayment assistance by a political subdivision for certain improvements to
7 properties and collection of the debt by special charge.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the property assessed clean energy (PACE) program.

Under current law, a municipality may impose a special charge against real property for services rendered by allocating the cost of the service to the properties that are served. Generally, a special charge is not payable in installments. Also under current law, under the PACE program, a city, village, town, or county (political subdivision) may make a loan to, or enter into a loan repayment agreement with, an owner or lessee of a premises for certain energy or water efficiency improvements or renewable resource applications. The political subdivision may collect a loan repayment under the PACE program as a special charge. A special charge imposed under the PACE program may be collected in installments. Also, a political

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subdivision may allow a third party that has provided financing for the PACE program project to collect the installments.

This bill allows a political subdivision to make PACE program loans or agreements for electric vehicle infrastructure, storm water control measures, and energy reliability improvements. The bill also allows, with certain limitations for premises located in floodplains, a political subdivision to make PACE program loans or agreements for improvements intended to improve the resiliency of a premises.

Under current law, a PACE installment payment that is delinquent becomes a lien on the property that benefits from the improvement or application as of the date of delinquency. Under this bill, a political subdivision that makes a loan or enters into an agreement under the PACE program has a lien on the property that benefits from the improvement or application in the amount of the loan or the amount to be repaid under the agreement as of the date of the making of the loan or the entry into the agreement.

Current law requires a political subdivision that makes a PACE program loan or agreement for an improvement or application that costs \$250,000 or more to require the owner to obtain a written guarantee from the contractor or project engineer that the improvement or application will achieve a savings-to-investment ratio of greater than 1.0 and that the contractor or engineer will annually pay the owner any shortfall in savings below this level.

This bill eliminates this requirement and instead provides that a political subdivision must require the owner or lessee to do the following:

1. With some exceptions, obtain either 1) a third-party assessment of the baseline water or energy use of the owner or lessee's property and an assessment of the expected monetary savings due to the improvement or 2) an assessment of the renewable energy production of the improvement and the monetary benefit to be generated by the improvement.

2. After the making, installation, or maintenance of the improvement or application is complete, provide a verification that the improvement or application was properly made, installed, or maintained or, for a loan or agreement solely for the operation of an improvement or application, that at the time the loan is made or the agreement entered into the improvement or application was in proper operational condition.

This bill also provides that a political subdivision must require an owner or lessee to obtain the written consent of all holders of a mortgage on the premises as a condition of obtaining a PACE program loan or agreement and that the repayment period of a PACE loan or agreement may not exceed 30 years.

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

1 **SECTION 1.** 66.0627 (1) (ad) (intro.) of the statutes is amended to read:

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1 66.0627 (1) (ad) (intro.) “Brownfield revitalization project” means any of the
2 following actions when taken upon ~~commercial or industrial~~ premises that are
3 located on, or that constitute, brownfields, as defined in s. 238.13 (1) (a):

4 **SECTION 2.** 66.0627 (1) (am) of the statutes is amended to read:

5 66.0627 (1) (am) “Energy efficiency or reliability improvement” means an
6 improvement to a ~~residential, commercial, or industrial~~ premises that reduces the
7 usage of energy, or increases the efficiency or reliability of energy usage, at the
8 premises, including energy storage or backup power generation improvements or
9 improvements that facilitate participation in a microgrid.

10 **SECTION 3.** 66.0627 (1) (ao) of the statutes is created to read:

11 66.0627 (1) (ao) “EV infrastructure improvement” means an improvement to
12 a premises to provide facilities for charging vehicles that are fully or partially
13 powered by electricity.

14 **SECTION 4.** 66.0627 (1) (bk) of the statutes is created to read:

15 66.0627 (1) (bk) “Renewable resource application” means any of the following:

16 1. An improvement to a premises that allows for the production of energy
17 through the incorporation of solar thermal electric or photovoltaic energy.

18 2. An improvement to a premises that allows for the small scale derivation of
19 electricity from a renewable resource listed under s. 196.378 (1) (h).

20 3. A manure digestion or other biomass system that produces natural gas.

21 **SECTION 5.** 66.0627 (1) (bm) of the statutes is created to read:

22 66.0627 (1) (bm) “Resiliency improvement” means an improvement to a
23 premises intended to increase resilience or improve the durability of infrastructure,
24 including an improvement intended to improve storm and wind durability or wind
25 resistance or to assist in fire suppression or mitigation of damage from flooding.

ASSEMBLY BILL 719**SECTION 6**

1 **SECTION 6.** 66.0627 (1) (cg) of the statutes is created to read:

2 66.0627 (1) (cg) “Storm water control measure” means an improvement to a
3 premises that uses structural or nonstructural measures, practices, techniques, or
4 devices designed to mitigate the negative impacts of storm water runoff or other
5 surface runoff to the premises, including an infiltration system, wet detention pond,
6 constructed wetland, grassed swale, or vegetative roofing system. “Storm water
7 control measure” does not include a rain barrel or cistern designed for temporary
8 storage of precipitation.

9 **SECTION 7.** 66.0627 (1) (d) of the statutes is amended to read:

10 66.0627 (1) (d) “Water efficiency improvement” means an improvement to a
11 residential, commercial, or industrial premises that reduces the usage of water, or
12 increases the efficiency of water usage, at the premises.

13 **SECTION 8.** 66.0627 (8) (a) of the statutes is renumbered 66.0627 (8) (a) 1. and
14 amended to read:

15 66.0627 (8) (a) 1. ~~A~~ Except as provided in subd. 2., a political subdivision may
16 make a loan, or enter into an agreement regarding loan repayments to a 3rd party
17 for owner-arranged or lessee-arranged financing, to an owner or lessee of a premises
18 located in the political subdivision for a brownfield revitalization project or for the
19 financing or refinancing of making or, installing, operating, or maintaining an
20 energy efficiency or reliability improvement, a water efficiency improvement, EV
21 infrastructure improvement, resiliency improvement, storm water control measure,
22 or ~~a~~ renewable resource application to the premises.

23 **SECTION 9.** 66.0627 (8) (a) 2. of the statutes is created to read:

24 66.0627 (8) (a) 2. A political subdivision may not make a loan or enter into an
25 agreement under subd. 1. for the financing or refinancing of making, installing,

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1 operating, or maintaining a resiliency improvement for a premises to which a
2 floodplain zoning ordinance applies unless all of the following apply:

3 a. If the premises is a nonconforming building, as defined in s. 87.30 (1d) (a)
4 1., the building would be permanently repaired, reconstructed, or improved so as to
5 comply with all applicable requirements of the floodplain zoning ordinance for the
6 area of the floodplain that it occupies after completion of the resiliency improvement.

7 b. If the political subdivision participates in the National Flood Insurance
8 Program, the owner or lessee of the premises agrees to maintain any flood insurance
9 policy required under the program for the premises.

10 **SECTION 10.** 66.0627 (8) (am) of the statutes is amended to read:

11 66.0627 (8) (am) If a political subdivision makes a loan or enters into an
12 agreement under par. (a) 1. or (ag), the political subdivision may collect the loan
13 repayment as a special charge under this section. Notwithstanding sub. (4), a special
14 charge imposed under this paragraph may be collected in installments and may be
15 included in the current or next tax roll for collection and settlement under ch. 74 even
16 if the special charge is not delinquent. If a political subdivision makes a loan, or
17 enters into an agreement regarding loan repayments to a 3rd party, ~~for a brownfield~~
18 ~~revitalization project under par. (a),~~ the repayment period may not exceed 20 30
19 years.

20 **SECTION 11.** 66.0627 (8) (c) of the statutes is amended to read:

21 66.0627 (8) (c) ~~An installment payment authorized under par. (am) that is~~
22 ~~delinquent becomes a~~ A political subdivision that makes a loan or enters into an
23 agreement under par. (a) or (ag) has a lien on the property that benefits from the
24 improvement or application in the amount of the loan or the amount to be repaid
25 under the agreement as of the date of delinquency the making of the loan or the entry

ASSEMBLY BILL 719**SECTION 11**

1 into the agreement. A lien under this paragraph runs with the land and has the same
2 priority as a special assessment lien.

3 **SECTION 12.** 66.0627 (8) (cm) of the statutes is created to read:

4 66.0627 (8) (cm) 1. If an installment payment authorized under par. (am) is
5 delinquent, a lien under par. (c) may be enforced by foreclosure under s. 75.521.

6 2. The governing body of a county may assign the county's right to take
7 judgment with respect to any parcel that is subject to subd. 1. to a 3rd party that is
8 party to a loan repayment agreement under par. (a) or (ag). An assignment under
9 this subdivision shall be in accordance with s. 75.106, except that s. 75.106 (1) and
10 (2) (d), (e), and (f) do not apply.

11 **SECTION 13.** 66.0627 (8) (d) of the statutes is renumbered 66.0627 (8) (d) (intro.)
12 and amended to read:

13 66.0627 (8) (d) (intro.) A political subdivision that, under par. (a) 1., makes a
14 loan to, or enters an agreement with, an owner or lessee for making ~~or~~, installing,
15 operating, or maintaining an improvement or application that ~~costs \$250,000 or~~
16 ~~more~~ shall require the owner or lessee to ~~obtain a written guarantee from the~~
17 ~~contractor or project engineer that the improvement or application will achieve a~~
18 ~~savings-to-investment ratio of greater than 1.0 and that the contractor or engineer~~
19 ~~will annually pay the owner any shortfall in savings below this level.~~ The political
20 subdivision may determine the method by which a guarantee under this paragraph
21 is enforced do all of the following:

22 1. For an energy efficiency or reliability improvement or water efficiency
23 improvement, obtain a 3rd-party assessment of the baseline water or energy use of
24 the owner or lessee's property and an assessment of the expected monetary savings
25 due to the improvement or, for a renewable resource application, obtain an

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1 assessment of the renewable energy production of the application and the expected
2 monetary benefit to be generated by the application. This paragraph subdivision
3 does not apply to a loan or agreement for a brownfield revitalization project, a
4 customer-side water service line replacement, an EV infrastructure improvement,
5 a resiliency improvement, or a storm water control measure.

6 **SECTION 14.** 66.0627 (8) (d) 2. of the statutes is created to read:

7 66.0627 (8) (d) 2. After the making, installation, or maintenance of the
8 improvement or application is complete, provide a verification that the improvement
9 or application was properly made, installed, or maintained or, for a loan or agreement
10 solely for the operation of an improvement or application, that at the time the loan
11 is made or the agreement entered into the improvement or application was in proper
12 operational condition.

13 **SECTION 15.** 66.0627 (8) (e) of the statutes is repealed.

14 **SECTION 16.** 66.0627 (8) (f) of the statutes is created to read:

15 66.0627 (8) (f) A political subdivision shall require that the owner or lessee
16 obtain the written consent of all holders of a mortgage on the premises as a condition
17 of making a loan or entering into an agreement under par. (a).

18 **SECTION 17. Initial applicability.**

19 (1) This act first applies to an application made to a political subdivision for a
20 loan or an agreement regarding loan repayment to a 3rd party on the effective date
21 of this subsection.

22 (END)