



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

April 30, 2025

**Senate Committee on Utilities and Tourism
Testimony on Senate Bill 96
Electric Vehicle Charging – Technical Correction**

Thank you Chairman Bradley and committee members for hearing Senate Bill (SB) 96. SB 96 makes a technical correction to 2023 Wisconsin Act 121, the electric vehicle (EV) charging legislation passed last session. The legislative intent for Act 121 was to exclude residential charging from the excise tax on EV charging.

I have included the Act Memo prepared by Legislative Council and it specifically states “However, the excise tax does not apply to electricity from an EV charging station located at a residence.” A late amendment contained a drafting error that only exempted a Level 3 charger located at a residence from the excise tax, but most residences have a Level 1 or 2 charger.

The primary reason for this bill is to correct that section of the law. SB 96 exempts all residential charging from the excise tax.

We worked with the Department of Revenue (DOR) on this bill, and they made suggestions to clarify the administration of this new provision. Act 121 added a definition for an “electric vehicle charging station,” but did not include a definition for an “electric vehicle.” SB 96 adds that definition, otherwise golf carts, E-scooters and E-bikes would be subject to the excise tax.

The final provision clarifies, if an EV charging station is owned or operated by an LLC, it requires the LLC to register and file EV charging tax returns under the LLC's name and ID number.

This technical correction legislation is supported by a wide variety of stakeholders.

Thank you for scheduling this public hearing today. I appreciate your consideration of this legislation and look forward to the discussion.

Wisconsin Legislative Council

ACT MEMO



Prepared by: Brian Larson, Principal Attorney

March 21, 2024

2023 Wisconsin Act 121 [2023 Senate Bill 791]

Electric Vehicle Charging Stations

2023 Wisconsin Act 121 (Act 121) exempts electric vehicle (EV) charging stations from regulation as public utilities; regulates the use of EV charging stations by governmental units; creates an excise tax on certain electricity delivered through EV charging stations; and creates a sales tax exemption for certain electricity delivered through EV charging stations.

PUBLIC UTILITY EXEMPTION FOR EV CHARGING STATIONS

Current law subjects public utilities to oversight by the Public Service Commission (PSC). The term “public utility” is defined to include any person or entity that provides electricity directly or indirectly to the public, unless an exemption applies, as specified in the statute. Act 121 exempts a person who supplies electricity to EVs through an EV charging station from regulation as a public utility, if they charge a fee based on the kilowatt-hours of electricity that the user consumes, and if all the electricity supplied is provided by the person’s electric utility or retail electric cooperative. Act 121 specifies that a person who supplies electricity under this exemption may not otherwise directly or indirectly provide electricity to the public.

GOVERNMENTAL USE OF EV CHARGING STATIONS

EV Chargers

Act 121 distinguishes among types of EV chargers for purposes of regulating governmental use of EV charging stations. First, a **Level 1 charger** means a device with one or more charging ports and connectors for charging EVs that operates on a circuit up to 120 volts and transfers alternating current (AC) electricity to a device in an EV that converts AC to direct current (DC) to recharge an EV battery. Second, a **Level 2 charger** has the meaning given for “AC Level 2” under federal law, which is a charger that operates on a circuit from 208 volts to 240 volts and transfers AC electricity to a device in an EV that converts AC to DC to recharge an EV battery. Third, a **Level 3 charger** means a “DC fast charger” under federal law (which refers to a charger that enables rapid charging by delivering DC electricity directly to an EV’s battery) and analogous successor technologies.

State EV Charging Stations

Act 121 prohibits a state agency from owning, operating, managing, or leasing an EV charging station containing a Level 1, Level 2, or Level 3 charger, except as follows:

- A state agency may own, operate, manage, or lease an EV charging station containing a Level 1, Level 2, or Level 3 charger if it is not available to the public and is used solely to charge vehicles owned or leased by a state agency.
- A state agency may own, operate, manage, or lease an EV charging station at which a Level 1 or Level 2 charger is available to the public if the state agency makes all such chargers available for public use free of charge.

- A state agency may own, operate, manage, or lease an EV charging station at which a Level 1 or Level 2 charger installed on or after March 22, 2024, is available to the public if the agency charges a reasonable fee for the electricity supplied by such chargers.
- A state agency may authorize another person to own and operate an EV charging station at which a Level 1, Level 2, or Level 3 charger is available to the public on property owned by the state agency. The person must be a qualified electric provider or supply electricity through an EV charging station to EVs under the exemption from regulation as a public utility created in the act and must charge a reasonable fee for providing such electricity.

Local Governmental EV Charging Stations

Act 121 prohibits a local governmental unit from owning, operating, managing, or leasing an EV charging station containing a Level 1, Level 2, or Level 3 charger, except as follows:

- A local governmental unit may own, operate, manage, or lease an EV charging station containing a Level 1, Level 2, or Level 3 charger if it is not available to the public and is used solely to charge vehicles owned or leased by the local governmental unit.
- A local governmental unit may own, operate, manage, or lease an EV charging station at which a Level 1 or Level 2 charger installed before March 22, 2024, is available to the public if the local governmental unit makes all such chargers available for public use free of charge.
- A local governmental unit may own, operate, manage or lease an EV charging station at which a Level 1 or Level 2 charger installed on or after March 22, 2024, is available to the public if the local governmental unit charges a reasonable fee for the electricity supplied by such chargers.
- A local governmental unit may authorize another person to own and operate an EV charging station at which a Level 1, Level 2, or Level 3 charger is available to the public on property owned by the local governmental unit. The person must be a qualified electric provider or supply electricity through an EV charging station to EVs under the exemption from regulation as a public utility created in the act and must charge a reasonable fee for providing such electricity.
- A municipal utility existing on March 22, 2024, may own and operate an EV charging station that is available to the public and may charge a fee based on the amount of kilowatt-hours of electricity that users consume, provided that the EV charging station receives any PSC approvals that are required. No revenue generated by the EV charging station may be transferred to the general fund of the municipality, and no tax revenue may directly or indirectly subsidize any costs associated with the EV charging station. However, this does not prohibit a municipal utility from using grant money to expand the availability of EV charging infrastructure, as specified in the act.

In addition, Act 121 provides that no local governmental unit may require a private developer to install an EV charging station or allow the installation of an EV charging station on the developer's property as a condition of granting a building permit, conditional use permit, or other approval. However, this restriction does not apply to the enforcement of a voluntary agreement, as specified in the act.

EXCISE TAX

Act 121 creates an excise tax on EV charging at a rate of three cents per kilowatt-hour on certain electricity delivered or placed by an EV charging station into the battery or other energy storage device of an EV. The tax applies to electricity from any Level 3 charger, as well as electricity from a Level 1 or Level 2 charger installed on or after March 22, 2024. Act 121 specifically provides that governmental entities are subject to the excise tax. However, the excise tax does not apply to electricity from an EV charging station located at a residence. Under the act, a "residence" means a place where a person resides permanently or temporarily, except for a hotel.



NANCY VANDERMEER

STATE REPRESENTATIVE • 70TH ASSEMBLY DISTRICT

TO: Honorable Members of the Senate Committee on Utilities and Tourism

FROM: State Representative Nancy VanderMeer

DATE: April 30, 2025

SUBJECT: Testimony in support of Senate Bill 96 - relating to: exempting certain electric vehicle charging stations located at a residence from the electric vehicle charging tax

Thank you Chairman Bradley for holding a hearing on Senate Bill 96 today. This bill exempts from the electric vehicle charging tax electricity delivered or placed by any charger of an electric vehicle charging station located at a residence. Generally, under current law, beginning on January 1, 2025, an electric vehicle charging tax is imposed at the rate of 3 cents per kilowatt-hour on electricity delivered or placed by certain electric vehicle charging stations. Current law exempts electricity delivered or placed by a residential Level 3 charger of an electric vehicle charging station from the tax.

Last session, the legislature passed and the governor signed 2023 Senate Bill 791, which became 2023 Wisconsin Act 121. If you read the Act Memo prepared by Legislative Council it specifically states, "However, the excise tax does not apply to electricity from an EV charging station located at a residence." That was the legislative intent of the bill, but a drafting error only exempted a Level 3 charger located at a residence from the excise tax. Most residences only have a Level 1 or 2 charger. The primary reason for this bill is to correct that section of the law.

Additionally, Act 121 added a definition for an "electric vehicle charging station," but did not include a definition for an "electric vehicle." This bill adds that definition. Current law is complicated for who must be registered, filing, and paying the EV charging tax. SB 96 clarifies that the actual entity that owns or operates the charging station must register and file.

Thank you again for the opportunity for a public hearing on this bill and to share testimony with you today. I respectfully ask that you join Senator Marklein and me in support of this legislation to move the bill forward in the legislative process.



Tony Evers
Governor

David M. Casey
Secretary of Revenue Designee

Senate Committee on Utilities and Tourism
Testimony on Senate Bill 96
April 30, 2025

Chairman Bradley, Vice-Chair Feyen, and members of the Senate Committee on Utilities and Tourism, thank you for the opportunity to provide testimony on Senate Bill 96. I also want to thank Senator Marklein for introducing this legislation, as it includes several recommendations from the Department of Revenue (DOR) that provide additional clarity and simplification to existing law. My name is Nate Weber. I serve as the Director for the Office of Technical Services within the Division of Income, Sales, and Excise Tax at the DOR.

As you know, last session, the legislature established an electric vehicle infrastructure program. Senate Bill 96 makes a few necessary adjustments to ensure the intent of the law is achieved. These changes include:

Section 4 – The bill provides a definition of "electric vehicle" in chapter 77 of the Wisconsin statutes based on federal regulations for national electric vehicle infrastructure standards and requirements. The definition clarifies that the excise tax applies to electricity delivered into the battery or storage device of a motor vehicle that is either partially or fully powered on electric power received from an external power source, but does not apply to golf carts, electric bicycles, or other micromobility devices such as wheelchairs and scooters.

Section 5 – The bill specifies that electricity delivered by any electric vehicle charger at a residence is exempt from the excise tax. Currently, the law provides that the exemption only applies to electricity delivered by a Level 3 charger at a residence.

Section 6 – The bill simplifies registration and tax filing requirements in situations where the electric vehicle charging station is owned and operated by a disregarded entity (e.g., a single member Limited Liability Company). Under current law, the owner of an LLC may need to register and file returns under the owner's FEIN or SSN, rather than under the LLC's FEIN. Under the bill, if the LLC is the actual owner or operator of the charging station, the LLC must register and file returns under the LLC's FEIN.

One thing to consider is that Senate Bill 96 provides an exemption from tax due on charging stations located at residences. To ensure DOR's guidance on the exemption is not in conflict with the law, the bill would ideally be signed into law by June 30 or no later than the first tax payment due date of July 31. Again, we are thankful to Senator Marklein for introducing this legislation and Chairman Bradley for scheduling this hearing. At this time, I am happy to answer any questions the committee may have.