



Tyler August

State Representative • 32nd Assembly District

Assembly Bill 554

Assembly Committee on Energy and Utilities

December 9, 2015

Thank you Chairman Kuglitsch and members for having this hearing today on Assembly Bill 554, a bill that provides additional options for municipalities that are struggling with running their water and sewer utility.

Currently, Wisconsin's municipalities have the option of selling or leasing their water and sewer utility to an in-state company. At this point, there are no in-state companies that are involved in running a municipal water and sewer utility.

Assembly Bill 554 gives municipalities an additional option by allowing them to sell or lease their water and sewer utilities to an out-of-state company. Municipalities would have no shortage of qualified business from around the country that would have the expertise in owning or running these types of utilities.

There are a number of advantages to communities that decide to sell or lease their water and sewage utility to a private company. Private companies have access to capital that will allow the needed upgrades to these utilities without huge rate increases. Municipalities will see an influx in revenue from the sale of their utility that can be used for needed public works or economic development projects. By selling to a private company, the utility will be placed back on the tax rolls. Lastly, these companies have the expertise in efficiently running these types of utilities that individual municipalities just don't have.

The second major change AB 554 makes is to the referendum process for these types of sales and leases. The bill would require a referendum vote by the members of that community only if 25% of the number of people that voted for governor in the last general election have signed a petition. This would cut down on the wasteful expense of having a referendum even when there is no opposition to a sale.

Assembly Bill 554 does not mandate a sale of these utilities, it is simply giving municipalities that no longer want to run their own water and sewer utility another option. I believe the privatizing of these utilities will positively affect Wisconsin's communities and taxpayers.

Thank you for hearing my testimony and I would be happy to answer any questions.



Wisconsin Rural Water Association
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To: Chairperson Mike Kuglitsch
Members, Assembly Committee on Energy and Utilities

From: David Lawrence, Executive Director, Wisconsin Rural Water Association

Date: December 9, 2015

Subject: **Opposition for AB 554**

Wisconsin Rural Water Association (WRWA) is a nonprofit organization representing 676 community water and wastewater systems in Wisconsin providing services to over four million Wisconsin residents. We also have close to 200 businesses that are members of our organization, and we are the leading provider of training and technical assistance to water and wastewater system operators, managers and administrative personnel in the state of Wisconsin.

WRWA opposes AB 554, which would establish a preferential process for investor-owned utilities to purchase or lease a municipal water or sewer utility. This alternative process limits consumer input and provides an unfair advantage for investor-owned utilities to purchase or lease water or sewer utility systems in Wisconsin.

The sale of a municipally owned utility is a very important decision for a governmental entity. As such, it should only happen after thoughtful deliberation by elected officials, local taxpayers and the customers of the utility. It should be made based on the facts and information provided by a neutral body such as the Public Service Commission (PSC).

The current process, as outlined in Wis. Stat § 66.0817, includes several steps which are uniform across utility-type and purchaser - whether it is an investor-owned, another municipality or regional governmental entity. After the municipality passes a resolution and submits a proposal to PSC, the PSC sets the price and terms for the transaction. This information is included in the notice for a referendum that is held for a vote in the municipality. The residents are provided this information *before they vote*, which allows them to make an informed decision on the sale/lease of the utility in their community.

Under AB 554, the sale or lease of a water or sewer service to an investor-owned utility would be exempt from the mandatory referendum process. The bill establishes an alternative cumbersome process to initiate a referendum. Municipalities would need to issue a petition, meet signature thresholds and submit the petition in a short time frame.

Under the alternative process, even if a referendum moves forward, it is done *before* the PSC sets the price and terms. Customers would not be able to make an informed decision to the sale or

lease of a utility that affects their rates and service. WRWA believes strongly that the customer should be provided the terms and price prior to a referendum vote.

The current procedure as outlined under Wis. Stat § 66.0817 is a fair and transparent process. WRWA supports municipalities to have a choice in the sale or lease of their utilities – however the decision process should not favor specific types of purchasers. For these reasons, WRWA opposes AB 554.

Thank you for your time and consideration.

December 9, 2015

Assembly Energy & Utilities Committee

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RE: Opposition to AB 554

Dear Chairman Kuglitsch and Committee Members:

The Municipal Environmental Group - Water Division (MEG - Water), an association of 58 municipal water systems that advocates on issues involving water supply, opposes AB 554 and the proposed revision to Wis. Stat. § 66.0817.

Currently the process for selling a municipal utility is set out in Wis. Stat. § 66.0817 and is the same for all purchasers. Regardless of the identity of the purchaser, a referendum is required to be held on a proposed sale or lease of a municipal water utility after the Public Service Commission has determined that the interests of the municipality and its residents would be best served by the sale or lease, and the PSC has fixed the price and other terms of the transaction.

AB 554 revises Wis. Stat. § 66.0817 and significantly curtails the referendum requirement if the sale or lease is to an *investor-owned entity* – while the mandatory referendum requirement remains for all other sale and lease transactions. MEG - Water opposes the easing of the referendum requirement and the creation of a preference for investor-owned purchasers.

MEG - Water opposes the easing of the referendum requirement because it eliminates customer input. Current law recognizes that a municipal water utility is a community asset and that customers are entitled to a say on whether that long-lived asset is sold or leased. The mandatory referendum requirement in Wis. Stat. § 66.0817 ensures customers a voice on the sale or lease of a municipal water utility. AB 554 would eliminate the mandatory referendum requirement for purchases or leases by an investor-owned utility.

The referendum proposal in AB 554 is not a reasonable replacement for the mandatory referendum in current law and does not ensure meaningful customer input. The provisions of AB 554 create too high a hurdle for triggering a referendum because the number of signatures required on a petition requesting a referendum is too high and the time period for submitting the

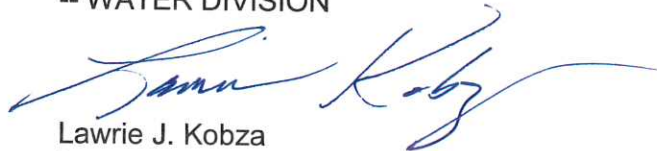
petition is too short. Furthermore, even if the hurdle is cleared and a referendum is held, the referendum would be held *prior* to the PSC's review of the proposal which means that customers' opportunity to vote on the proposal would occur before they even know the PSC's established price and terms of the transaction.

MEG - Water also opposes granting preferential treatment to investor-owned purchasers. AB 554 would make it easier to sell or lease a municipal utility to an investor-owned entity than it would be to sell or lease a municipal utility to another municipality, a regional governmental entity or cooperative. If the Legislature believes it is reasonable to ease the referendum requirement for the sale or lease of a municipal utility (which MEG - Water does not), there is no reason that this decision to ease the referendum requirement should only apply to sales or leases where investor-owned entities are involved. It should not be easier to sell or lease a municipal utility to an investor-owned entity than it would be to sell or lease a municipal utility to another municipality, a regional governmental entity or cooperative.

MEG - Water opposes AB 554 and the proposed revisions to Wis. Stat. § 66.0817. Section 66.0817 does not need to be revised in order to allow an investor-owned entity to purchase or lease a municipal water or sewer utility because nothing in § 66.0817 would prohibit such a transaction.

Thank you for your consideration of these comments.

MUNICIPAL ENVIRONMENTAL GROUP
-- WATER DIVISION



Lawrie J. Kobza
Legal Counsel

cc: MEG - Water Members (via e-mail)

**Before the Wisconsin Assembly
Committee on Energy and Utilities
December 9, 2015**

Hearing on SB 554

**Testimony of
Municipal Environmental Group – Wastewater Division**

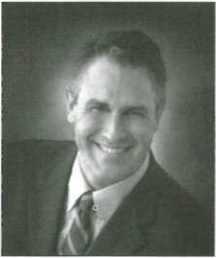
Good afternoon. My name is Paul Kent and I am here today on behalf of the Municipal Environmental Group Wastewater Division (MEG). We are an association of more than 100 municipalities throughout the state of Wisconsin who own and operate wastewater treatment facilities. For 26 years, MEG has been an advocate for municipalities in wastewater matters. For the reasons noted below, MEG Wastewater is opposed to this bill.

There is probably no function of local government more central to protecting public health and the environment than the provision of sewer and water services. Providing such services is far more complex than most people appreciate. Sewer and water services require the installation and maintenance of massive amounts of infrastructure including pipes, pumping stations, treatment facilities, laboratories and administrative facilities. Providing these critical services in a cost effective manner necessitates long term asset management and long term decision making. Many of the sewer utilities I personally work with have asset management and planning horizons of 50 years or more. Their decisions are guided by the twin goals of providing safe and effective services while keeping costs down for the rate payers. The goal of generating a profit for investors is not part of those goals.

Given the critical nature of these services and the importance of local control for sewer utilities, any decision to transfer part of all of those functions to an investor owned utility is a major decision with major policy and fiscal impacts. Such a decision should demand a full and robust public debate. This bill truncates that public participation process.

First, the referendum proposal in AB 554 does not ensure meaningful public input. Instead of an automatic referendum, it demands a significant number of signatures on a petition in too short a time period. Second, even if there is a referendum, it comes before rather than after an initial review by the PSC on the price and terms of the sale. A full and informed referendum process is still required for other utilities and an abbreviated process is not warranted for sewer and water utilities. The transfer of critical public infrastructure to organizations outside of local control, if it occurs at all, demands full public participation.

I would be glad to respond to any questions or feel free to contact me at pkent@staffordlaw.com



Frank Lasee

WISCONSIN STATE SENATOR
FIRST SENATE DISTRICT



Senator Lasee's Testimony **Assembly Bill 554—Sale of Municipal Utilities**

This bill creates a process by which municipalities could sell or lease their water or sewer utility to an in-state and out-of-state company. Municipalities should be given an additional option if they decide to no longer run their water or sewer utility.

This bill reduces a regulatory hurdle facing local governments by allowing them to divest of their municipal utility and realize a cost saving potential for their local budgets and their local taxpayers. By allowing a municipality the ability to enter into long-term relationships with companies specializing in operational efficiency, other states are allowing their local government partners to see reduced costs in running their utility, reduced tax burden and lower energy costs.

Other states who allow for the private ownership of municipality utilities include:

- Illinois
- Indiana
- Ohio
- Pennsylvania
- Texas
- New Jersey
- Virginia

Many communities here in Wisconsin continue to face financial concerns regarding their municipally run water and sewer utilities. They do not have the ability to fund needed upgrades and make repairs to their system without burdening taxpayers further. Communities that no longer want to run their own water and sewer utility have the option of selling or leasing the utility to an in-state company. Currently, we've only heard of one in-state company who is exploring entrance into this market. We want to expand the ability for local governments to work with companies who can provide this specialized service at lower costs.

We want to give our local partners one more tool in the toolbox to budget prudently, protect taxpayers, and take advantage of the open market principles which are driving down tax and energy costs around the nation. We can realize the same benefits of the free market innovation here in Wisconsin.