



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2015 Assembly Bill 554**

**Assembly Amendments 1 and 2**

*Memo published: January 25, 2016*

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### **2015 ASSEMBLY BILL 554**

2015 Assembly Bill 554 (the bill) changes provisions in current law that limit certain investments made by a public utility holding company, which is a company that controls 5% or more of the outstanding voting securities of a public utility other than a telecommunications public utility. The bill also changes the process for selling or leasing a water or sewer municipal public utility.

#### **Public Utility Holding Company Investments**

Under current law, a public utility holding company's affiliates, which are entities held by the holding company, are classified based generally on whether they qualify as a public utility. Current law caps the assets of nonutility affiliates relative to the assets of public utility affiliates in a public utility holding company.

The bill allows out-of-state affiliates that provide sewer service or water for public use to qualify as public utility affiliates for purposes of determining whether the public utility holding company's investments comply with asset caps.

#### **Sale or Lease of a Municipal Public Utility**

Current law requires certain steps to be completed before a municipality may sell or lease a municipal public utility. First, a municipality must adopt an ordinance or resolution authorizing a proposed sale or lease. Next, the municipality must submit the proposal to the Public Service Commission (PSC). If PSC determines that the interests of the municipality and its residents will be best served by the sale or lease, PSC must then fix the price and terms of the sale or lease. Once PSC has done so, the proposal must then be submitted to the electors of the municipality in a referendum and approved.

The bill changes the steps that must be completed when the municipal public utility being sold or leased is a water or sewer utility and the sale or lease is with an investor-owned public utility.

Under the bill, a municipality must adopt an ordinance or resolution authorizing a proposed sale or lease. Next, the proposal must be submitted to the electors of the municipality in a referendum if, within 30 days after the adoption of the ordinance or resolution, a petition signed by a number of electors equal to at least 25% of the votes cast in the municipality for Governor at the last general election is filed with the municipal clerk. If a petition is not filed or if the proposal is approved at referendum, the municipality must submit the proposal to PSC. If PSC determines that the interest of the municipality and its residents will be best served by the sale or lease, PSC must then fix the price and terms of the sale or lease.

### **ASSEMBLY AMENDMENT 1**

Assembly Amendment 1 (the amendment) changes provisions in the bill regarding the sale or lease of a municipal public utility, and it changes current law provisions regarding the taxation of a water utility.

#### **Sale or Lease of a Municipal Public Utility**

The amendment provides that the steps that must be completed under the bill in order to sell or lease a municipal water or sewer utility to an investor-owned public utility must be completed for any such sale or lease, regardless of whether the sale or lease is to an investor-owned public utility or another entity.

#### **Taxation of a Water Utility**

Under current law, a person, association, company, or corporation that supplies water for public use is subject to a state license fee, which is a state tax assessed on annual gross receipts. An entity subject to the state license fee is exempt from the general property tax.

Under current law, a municipal public utility is generally exempt from the state license fee and the general property tax. Current law authorizes a municipality to collect a tax equivalent payment from a municipal public utility other than a sewer utility. The amount of the payment is determined by summing the local and school tax rates, and applying the combined rate to the property of the municipal public utility located in the municipality. Current law authorizes a municipality to collect a lesser amount, or with the permission of PSC, to collect the payment in a greater amount.

The amendment exempts a water utility from the state license fee and the general property tax.

The amendment also creates a water utility tax that is collected by a municipality from any water utility located in the municipality, other than a municipal public utility. The amount of the tax is determined by summing the local and school tax rates, and applying the combined rate to the total taxable property of the water utility located in the municipality. The amendment

authorizes a municipality to levy and collect the tax in a lesser amount, or with the permission of PSC, to levy and collect the tax in a greater amount.

### **Assembly Amendment 2**

Assembly Amendment 2 changes the petition requirements contained in the bill. Assembly Amendment 2 provides that a proposal to sell a municipal water or sewer utility must be submitted to the electors of the municipality in a referendum if, within 60 days after the adoption of the ordinance or resolution authorizing the sale, a petition signed by a number of electors equal to at least 10% of the votes cast in the municipality for Governor at the last general election is filed with the municipal clerk.

### **BILL HISTORY**

Assembly Amendment 1 was offered by Representative August on December 14, 2015. On December 15, 2015, the Assembly Committee on Energy and Utilities recommended adoption of Assembly Amendment 1 on a vote of Ayes, 12; Noes, 3, and passage of the bill, as amended, on a vote of Ayes, 12; Noes 3.

Assembly Amendment 2 was offered by Representative August on January 11, 2016.

On January 12, 2016, the Assembly voted to adopt Assembly Amendment 1 and Assembly Amendment 2 on a voice vote. On the same day, the Assembly passed 2015 Assembly Bill 554, as amended, on a voice vote. By unanimous consent, Representatives Kremer, C. Taylor and Ohnstad were granted permission to be recorded as voting "No" with regard to passage of 2015 Assembly Bill 554.

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