



## 2005 ASSEMBLY BILL 492

June 14, 2005 – Introduced by Representatives UNDERHEIM and VOS. Referred to Committee on Urban and Local Affairs.

1     **AN ACT** *to renumber* 66.0821 (1) (a); *to amend* 66.0821 (3) (a), 66.0821 (4) (c)  
2             and 66.0821 (5) (a); and *to create* 66.0821 (1) (ag) and 66.0821 (4) (am) of the  
3             statutes; **relating to:** service charges of municipal storm water utilities and  
4             complaints about municipal storm water and other sewer utilities.

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### *Analysis by the Legislative Reference Bureau*

This bill prohibits cities, villages, and towns (municipalities) from using both property taxes and service charges to pay for the same costs that are incurred for storm water utilities. Under current law, a municipality is allowed to construct and operate a system for collecting, transporting, pumping, treating, or disposing of storm water and surface water. The costs for such a system may be funded with property taxes, special assessments, service charges, municipal obligations or revenue bonds, or any combination of the foregoing.

Current law allows a municipality to establish service charges in amounts to meet all or part of the costs for any of the following requirements of such a system: constructing, reconstructing, improving, extending, operating, maintaining, repairing, or depreciating the system, or paying all or part of the principal and interest of any indebtedness incurred for the system.

This bill refers to such a system as a “municipal storm water utility.” The bill allows a municipality to use any of the sources allowed under current law to meet the costs of a municipal storm water utility. However, if a municipality establishes a service charge to meet all or part of the costs for any requirement described above, the bill prohibits the municipality from including in its property tax levy any

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expenditure that is made for the purpose of meeting the requirement. In addition, if any portion of an expenditure can be allocated to meeting the requirement, the municipality may not include the allocated portion of the expenditure in its property tax levy.

In addition, the bill requires a municipality to consider the following when it establishes the amount of a service charge: 1) the volume or peaking of storm water or surface water discharge that is caused by impervious surfaces of the property served by the municipal storm water utility; 2) topography and other surface characteristics of the property; 3) the extent and reliability of mitigation or treatment measures available to service the property, apart from measures provided by the utility; and 4) any other reasonably relevant considerations. Under current law, a municipality is allowed, but not required, to consider these characteristics.

The bill also makes a change to the provisions for complaints about municipal storm water utilities and other municipal sewer utilities. Under current law, a person who uses such a utility may complain to the Public Service Commission (PSC) that the rates, rules, or practices of the municipality regarding the utility are unreasonable or unjustly discriminatory. If the PSC finds sufficient cause for the complaint, the PSC must hold a public hearing after providing ten days' notice to the person who filed the complaint and the municipality. After the hearing, if the PSC determines that the rates, rules, or practices are unreasonable or unjustly discriminatory, the PSC must issue an order establishing reasonable and just rates, rules, or practices.

This bill specifies that a user of a municipal storm water or other sewer utility may also complain to the PSC if the municipality violates any requirements under law that apply to the utility, including the requirements created in the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 66.0821 (1) (a) of the statutes is renumbered 66.0821 (1) (ar).

2           **SECTION 2.** 66.0821 (1) (ag) of the statutes is created to read:

3           66.0821 (1) (ag) “Municipal storm water utility” means a municipal public  
4 utility operated for the collection, transportation, pumping, treatment, or final  
5 disposition of storm water and surface water.

6           **SECTION 3.** 66.0821 (3) (a) of the statutes is amended to read:

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1           66.0821 (3) (a) Except as provided in sub. (4) (am) and s. 66.0721, all or a  
2           portion of the cost of exercising the authority under sub. (2) may be funded, to the  
3           extent applicable, from the municipality's general fund, by taxation, special  
4           assessment or sewerage service charges, by municipal obligations or revenue bonds  
5           or from any combination of these sources.

6           **SECTION 4.** 66.0821 (4) (am) of the statutes is created to read:

7           66.0821 (4) (am) If the governing body of a municipality establishes a service  
8           charge to meet any requirement described in par. (a) that is required for a municipal  
9           storm water utility, the municipality may not include in its property tax levy any  
10          expenditure, or any allocable portion of an expenditure, that is made for the purpose  
11          of meeting the requirement.

12          **SECTION 5.** 66.0821 (4) (c) of the statutes is amended to read:

13          66.0821 (4) (c) For the purpose of making equitable charges for all services  
14          rendered by a ~~storm water and surface water sewerage system~~ municipal storm  
15          water utility to users, the property served may ~~may~~ shall be classified, taking into  
16          consideration the volume or peaking of storm water or surface water discharge that  
17          is caused by the area of impervious surfaces, topography, impervious surfaces and  
18          other surface characteristics, extent and reliability of mitigation or treatment  
19          measures available to service the property, apart from measures provided by the  
20          ~~storm water and surface water sewerage system~~ municipal storm water utility, and  
21          any other considerations that are reasonably relevant to a use made of the ~~storm~~  
22          ~~water and surface water sewerage system~~ municipal storm water utility. The  
23          charges may also include standby charges to property not yet developed with  
24          significant impervious surfaces for which capacity has been made available in the  
25          ~~storm water and surface water sewerage system~~ municipal storm water utility.

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1           **SECTION 6.** 66.0821 (5) (a) of the statutes is amended to read:

2           66.0821 (5) (a) If a user of a service complains to the public service commission  
3 that rates, rules ~~and, or~~ practices are unreasonable or unjustly discriminatory or  
4 violate this section, or if a holder of a mortgage or revenue bond or mortgage  
5 certificate or other evidence of debt, secured by a mortgage on the sewerage system  
6 or any part of the system or pledge of the income of sewerage service charges,  
7 complains that rates are inadequate, the public service commission shall investigate  
8 the complaint. If there appears to be sufficient cause for the complaint, the  
9 commission shall set the matter for a public hearing upon 10 days' notice to the  
10 complainant and the town, village or city. After the hearing, if the public service  
11 commission determines that the rates, rules, or practices complained of are  
12 unreasonable or unjustly discriminatory or violate this section, it shall determine  
13 and by order fix reasonable or lawful rates, rules, and practices and may make any  
14 other order respecting the complaint that is just and reasonable, including, in the  
15 case of standby charges imposed under sub. (4) (c), an order that a municipality  
16 refund to the user any amount of the standby charges that have been collected if the  
17 user has filed a complaint with the public service commission not later than 60 days  
18 after receiving the original notice of charge or after receiving a notice of charge that  
19 relates to an increased standby charge. The proceedings under this paragraph are  
20 governed, to the extent applicable, by ss. 196.26 to 196.40. The commission shall bill  
21 any expense of the commission attributable to a proceeding under this paragraph to  
22 the town, village or city under s. 196.85 (1).

23           **SECTION 7. Initial applicability.**

24           (1) The treatment of section 66.0821 (3) (a) and (4) (am) and (c) of the statutes  
25 first applies to charges imposed on the effective date of this subsection.

