

2001 DRAFTING REQUEST

Bill

Received: **01/09/2001**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-5468**

By/Representing: **Ziegler**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Munis - miscellaneous
Public Util. - misc.**

Extra Copies: **MDK**

Pre Topic:

DOA:.....Ziegler -

Topic:

Sale of municipal utility property, eliminate referendum requirements

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	shoveme 01/09/2001	wjackson 01/10/2001	martykr 01/10/2001	_____	lrb_docadmin 01/10/2001		S&L

FE Sent For:

<END>

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1?	shoveme	1 WLj 1/10	<i>[Signature]</i> ₁₀	<i>[Signature]</i> <u>Km</u> ₁₀			

11 MES 1/9/01

FE Sent For:

<END>

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY



Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: January 8, 2000

To: Steve Miller, Chief
Legislative Reference Bureau

From: Paul Ziegler, Policy and Budget Analyst
State Budget Office, DOA

Subject: Drafting requests for 2001-03 Biennial Budget Bill

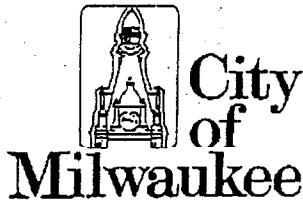
A handwritten signature in black ink, appearing to be "P. Ziegler".

Please have the following item drafted for inclusion in the 2001-03 biennial budget bill:

Sale of municipal utility property. Eliminate the requirement that a municipality pass a referendum prior to selling or leasing a municipal utility. Please see the attached letter for details.

Please contact me at 266-5468 or by email at paul.ziegler@doa.state.wi.us with any questions.

Thank you.



Department of Administration

John C. Norquist
MayorDavid R. Riemer
DirectorJames Rowan
Deputy Director

TO: Rick Chandler, Budget Director
State of Wisconsin

FROM: David Riemer, DOA Director
City of Milwaukee

DATE: December 18, 2000

RE: Restrictions on Sale or Lease of Municipal Public Utility Plant

As we discussed at last week's meeting of the Kettl Commission, Wisconsin law now imposes an extraordinarily cumbersome restriction on local governments that seek to sell or lease a water utility (or any other public utility plant).

Sec. 66.0817 [former Sec. 66.07] requires that "a town, village or city may sell or lease any complete public utility plant owned by it" only if it schedules a referendum. The law mandates virtually all of the features of the referendum, i.e., when in the negotiation process it must occur, what the notice of referendum must state, how long a positive vote is good for, etc.

This requirement does not apply merely to the City of Milwaukee. It applies to every town, village, or city in Wisconsin.

By contrast, the state law governing joint local water authorities, i.e., a water utility owned by more than one local governmental unit, does not impose a referendum requirement. I believe the statute number is Sec. 66.0823. [The old statutory cite is Sec. 66.0735.] The referendum requirement imposed under Sec. 66.0817 on "single" local governments that own utilities is particularly inexplicable in light of the law's elimination of any referendum requirement in the case of joint local water authorities.

Consistent with both the Kettl Commission's philosophy of removing impediments to local government flexibility and the philosophy of the Thompson Administration to let local governments make their own decisions, I ask that you include in the 2001-03 budget a provision that repeals Sec. 66.0817, and authorizes a town, village, or city to sell or lease all or part of a public utility plant through the normal operation of its town, village, or city government. The decision to own, sell, or lease a water plant or other public utility should be a local decision that a local government makes in the same manner as any other decision to own, sell, or lease its property.

Thank you for considering this request.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1922/1
MES.../.....
WJLMP

DOA:.....Ziegler – Sale of municipal utility property, eliminate referendum requirements

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SOON

O-note

do not gen

- 1 AN ACT ...; relating to: the procedures used by a city, village, or town to sell or
- 2 lease a municipal public utility plant.

Analysis by the Legislative Reference Bureau

LOCAL GOVERNMENT ✓

OTHER LOCAL GOVERNMENT ✓

Under current law, a municipality (a city, village, or town) may sell or lease any public utility plant that it owns only by completing a number of steps that must be performed according to a specified time table. The steps include the following: ~~Enacting an ordinance or resolution that summarizes the proposed terms of a sale or lease and that authorizes the negotiation of a preliminary agreement with a prospective purchaser; submission of a preliminary agreement to DOT or the PSC for a determination of whether the sale or lease is in the public interest; fixing of the price and terms of the transaction by DOT or the PSC if the transaction is found to be in the public interest; submission of the proposed transaction to the electors of the municipality for a referendum; a requirement that if the referendum is approved, the sale or lease be consummated within one year of the referendum, unless the time is extended by DOT or the PSC, or the transaction is void.~~

Submitting

This bill repeals all of the steps that must be completed. Under the bill, a municipality may sell or lease any public utility plant it owns in any manner that it considers appropriate.

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

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

1 **SECTION 1.** 66.0807 (2)¹ of the statutes is amended to read:

2 **66.0807 (2)** A city, village or town served by a privately owned public utility,
3 motor bus or other systems of public transportation rendering local service may
4 contract with the owner of the utility or system for the leasing, public operation, joint
5 operation, extension and improvement of the utility or system by the municipality;
6 or, with funds loaned by the municipality, may contract for the stabilization by
7 municipal guaranty of the return upon or for the purchase by instalments out of
8 earnings or otherwise of that portion of the public utility or system which is operated
9 within the municipality and any territory immediately adjacent and tributary to the
10 municipality; or may contract for the accomplishment of any object agreed upon
11 between the parties relating to the use, operation, management, value, earnings,
12 purchase, extension, improvement, sale, lease or control of the utility or system
13 property. The provisions of s. 66.0817, 1999 stats., relating to preliminary agreement
14 and approval by the department of transportation or public service commission apply
15 to the contracts authorized by this section. The department of transportation or
16 public service commission shall, when a contract under this section is approved by
17 it and consummated, cooperate with the parties in respect to making valuations,
18 appraisals, estimates and other determinations specified in the contract to be made
19 by it.

20 History: 1977 c. 29 s. 1654 (9) (g); 1981 c. 347 s. 30 (2); 1985 a. 187; 1993 a. 16, 246; 1999 a 150 ss. 171, 237; Stats. 1999 s. 66.0807.

20 **SECTION 2.** 66.0817 (intro.) of the statutes is renumbered 66.0817 and amended

21 to read:

1 **66.0817 Sale or lease of municipal public utility plant.** ⁹(intro.) A town,
2 ~~village or city, village, or town~~ may sell or lease any complete public utility plant
3 owned by it in ~~the following manner:~~ any manner that it considers appropriate.

History: 1971 c. 260; 1977 c. 29 ss. 712, 1654 (9) (g); 1981 c. 347 ss. 14, 80 (2); 1981 c. 390 s. 252; 1983 a. 207 s. 93 (1); 1993 a. 16; 1999 a. 150 s. 190; Stats. 1999 s. 66.0817; 1999 a. 186 s. 48.

4 **SECTION 3.** 66.0817 (1) to (7) of the statutes are repealed.

5 **SECTION 4.** 198.14 (4) of the statutes is amended to read:

6 **198.14 (4) PURCHASES, SALES, CONVEYANCES.** To lease, purchase, sell, convey and
7 mortgage the property of the district and to authorize and order all instruments,
8 contracts, deeds or mortgages to be executed on behalf of the district by the
9 chairperson of the board and the clerk of the district, except that the sale or lease of
10 any public utility equipment in excess of 10 per cent of the book value of the utility
11 property of the district shall be made as nearly as may be in accordance with s.
12 66.0817, 1999 stats., except that the commission shall have no power to determine
13 whether the interests of the district and the residents thereof will be best served by
14 the sale or lease nor to fix the price and terms thereof other than to furnish the clerk
15 of said district with its written recommendations thereon within 90 days.

History: 1981 c. 390 s. 252; 1983 a. 207; 1993 a. 184; 1997 a. 254; 1999 a. 150 s. 672.

16

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1922/?dn

MES...../.....

WJ

Paul Ziegler:

Your instructions did not indicate how you wanted to deal with ss. 66.0807 (2) and 198.14 (4). Is the treatment contained in this draft OK?

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1922/1dn
MES:wj:km

January 10, 2001

Paul Ziegler:

Your instructions did not indicate how you wanted to deal with ss. 66.0807 (2) and 198.14 (4). Is the treatment contained in this draft OK?

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Senior Legislative Attorney
Phone: (608) 266-0129
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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1922/1

MES:wlj:km

DOA:.....Ziegler – Sale of municipal utility property, eliminate referendum requirements

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This bill repeals all of the steps that must be completed. Under the bill, a municipality may sell or lease any public utility plant it owns in any manner that it considers appropriate.

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

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8 earnings or otherwise of that portion of the public utility or system which is operated
9 within the municipality and any territory immediately adjacent and tributary to the
10 municipality; or may contract for the accomplishment of any object agreed upon
11 between the parties relating to the use, operation, management, value, earnings,
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