



Frank Lasee

WISCONSIN STATE SENATOR
FIRST SENATE DISTRICT



Senator Lasee's Testimony **Senate Bill 432—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.



Tyler August

State Representative • 32nd Assembly District

Senate Bill 432

Senate Committee on Workforce Development, Public Works, & Military Affairs

January 5, 2016

Thank you Chairman Roth and members for having this hearing today on Senate Bill 432, 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.

Senate Bill 432 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 SB 432 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.

Senate Bill 432 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.



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To: Members, Senate Committee on Workforce Development, Public Works, and Military Affairs

From: Matt Bromley, Executive Director, Municipal Electric Utilities of Wisconsin

Date: January 5, 2016

Subject: Opposed to Senate Bill 432, related to the sale or lease of municipal water or sewer public utilities

Chairman Roth and committee members, thank you for the opportunity to speak today regarding Senate Bill 432 related to the sale of municipal water and sewer utilities. My name is Matt Bromley and I am the executive director of the Municipal Electric Utilities of Wisconsin (MEUW). With me is Randy Jaeckels, president of MEUW and general manager of New Holstein Utilities. MEUW represents the 82 municipal, or community-owned, electric utilities in Wisconsin. Many of our members also operate their communities' water and wastewater systems.

MEUW is opposed to SB 432 because we feel very strongly that the customers of a publically owned utility should have a direct say in choosing whether to sell their municipal utility. SB 432 severely limits public input by removing the requirement that a referendum be held before a municipal water or sewer utility can be sold or leased. Instead, SB 432 creates a burdensome process for citizens to initiate a referendum by requiring a petition signed by 25 percent of the municipality's electorate be filed in 30 days - a requirement that is more stringent than a petition and recall of an elected official. SB 432 also requires the petition to be filed before the Public Service Commission reviews and sets the final price and terms of the sale, in other words before the public would be fully informed about the impact the sale would have on their rates and service.

We simply request that changes to the referendum requirement be taken out of the bill, so that the public is not cut out of the important decision of selling their publically-owned utility.

Thank you for your consideration.

January 5, 2016

Senate Committee on Workforce Development, Public Works, and Military Affairs

Sen. Roth (Chair)
Sen. Gudex (Vice-Chair)
Sen. Stroebel
Sen. Chris Larson
Sen. Lassa

RE: Opposition to SB 432

Dear Chairman Roth 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 SB 432 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 this process requires that a referendum be held on the 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.

SB 432 revises Wis. Stat. § 66.0817 and significantly curtails the referendum. MEG - Water opposes the easing of the referendum requirement because it eliminates meaningful customer input. Current law recognizes that a municipal water utility is a community asset funded by customers 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.

The referendum proposal in SB 432 is not a reasonable replacement for the mandatory referendum in current law and does not ensure meaningful customer input. The provisions of SB 432 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. In contrast to the referendum provisions in SB 432, petitions for direct legislation require that signatures from 15% of the votes cast in the municipality for governor in the last general election be obtained within 60 days. SB 432, in contrast, requires that signatures from 25% of the votes cast in the municipality for governor in the last general election be obtained within 30 days.

Furthermore, even if the hurdle for obtaining a referendum is cleared under SB 432, 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. The sale of a municipal utility raises many questions that will have a profound effect on customers and needs more time for further consideration such as:

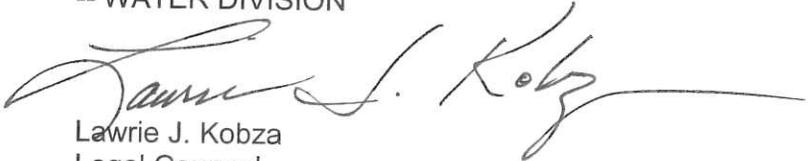
- (a) Utility customers have provided the funds that established and maintained the utility in the first place. If the utility is sold for a profit, where will the proceeds from the sale go?
- (b) How will the buyer be allowed to recover a higher purchase price in rates from the customers that paid to build up the utility in the first place?
- (c) What will be the short term and long term impact to the water utility rates after the transaction?

It is only fair that the Public Service Commission provides answers to these questions before customers lose the opportunity to vote on the proposed sale.

For the reasons set forth above, MEG - Water opposes SB 432 and the proposed revisions to Wis. Stat. § 66.0817. Section 66.0817 does not need to be revised in order to allow a municipality to sell or lease their municipal water utility. Nothing in § 66.0817 would prohibit such a transaction now.

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)

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TO: Senate Committee Members for Workforce Development, Public Works, and
Military Affairs

FROM: Randy Jaeckels, General Manager, New Holstein Utilities

DATE: January 5, 2016

SUBJECT: Senate Bill 432

Chairman Roth and committee members, thank you for the opportunity to meet with you today on Senate Bill 432, regarding the sale of municipal water and sanitary sewer utilities. I am Randy Jaeckels, General Manager of New Holstein Utilities, a municipally-owned and operated electric, water, and sanitary sewer utility located in northeast Wisconsin. New Holstein has a population of approximately 3,300 residents and we provide slightly more than 1,400 customers with water and sanitary sewer service.

New Holstein Utilities is opposed to the current draft of Senate Bill 432. We are not opposed to the sale of a municipally-owned and operated water and/or sanitary sewer system. However, as a locally-owned and operated utility, New Holstein Utilities is very concerned that our customers, the community's citizens, may not have a direct voice in the sale of the water and/or sanitary sewer system if Senate Bill 432 is passed. Our customers are used to having a voice in key decisions involving their utility services. We are very much opposed to this bill as this bill removes the requirement that a referendum be held prior to the agreement of a sale or lease of the utility.

While this bill does allow for the use of a referendum, the process outlined in the bill would require very fast action via a petition in order to get the referendum approved. In order to initiate a referendum, a petition would need to be signed by 25% of the municipality's electorate from the past gubernatorial election, within a thirty (30) day time frame. Senate Bill 432 would also require that the petition would need to be filed before the Public Service Commission of Wisconsin (PSC) would review the proposed sale or lease, and set the final price and terms of the sale. By completing the process in this manner, the citizens of the community would not be fully informed as to the details of the sale of their utility.

I respectfully request that any changes with regards to the referendum requirement be removed from Senate Bill 432. While members of a governing body typically do a very good job of representing the interests of the utility or community, the customers/citizens of the utility/community must be included in a decision that is as important as selling a municipally-owned utility.

Thank you for your consideration of this request.



Municipal Environmental Group

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TO: Senate Committee on Workforce Development, Public Works, and Military Affairs

FROM: Lawrie Kobza, Legal Counsel
Municipal Environmental Group - Water Division

DATE: January 14, 2016

RE: SB 432 -- Supplemental Comments Provided at 1/5/2016 Committee Hearing

SB 432 would eliminate the current statutory requirement that the sale or lease of a municipal utility be approved by a referendum that occurs after the Public Service Commission reviews and fixes the price and other terms of the transaction. SB 432 would make two important changes to the referendum requirement: (i) a referendum would only be triggered if a petition with a sufficient number of signatures is submitted; and (ii) the referendum would occur prior to the PSC setting the terms of the transaction, including fixing the sale price and determining the rates under the new owner.

Senator Stroebel asked at the hearing, who is the community that should decide whether to sell the municipal utility? Proponents of SB 432 contend that current law should be changed and that elected officials, rather than community residents, should make the final decision on whether to sell a municipal utility. MEG - Water disagrees. There are important reasons why community residents, and not elected officials, should continue to make the final decision on whether to sell their municipal utility.

First, municipal public utilities are unique compared to other municipal enterprises. Elected officials cannot decide to create a municipal public utility on their own. If a municipality wants to create a new public utility, a referendum needs to be passed. (Wis. Stat. § 66.0803.) There needs to be a direct commitment from residents to invest in a municipal public utility. This has been a statutory requirement for almost a century. The corresponding sale provision (which is also almost a century old) says that if a municipality wants to get rid of its utility, municipal residents must pass a referendum approving that sale. (Wis. Stat. § 66.0817.) This corresponding provision makes sense because if residents voted to create a municipal public utility in the first place and make that investment in a municipal public utility, they should be the ones to make the decision to divest themselves of that asset.

Second, residents, as utility ratepayers, may have a different view than elected officials as to how sale proceeds should be used. Ratepayers will want to make sure that if the

utility is sold that the sale proceeds will be used in a way that benefits the ratepayers who built up the asset in the first place. They will expect continued service from the asset, and they will want their utility rates to reflect the fact that they have paid to build up that asset. Will elected officials have the same goal, or will they see the public utility as an asset that they can get cash for to use for other municipal purposes? Who makes the final decision on the sale of a municipal public utility will likely impact where sale proceeds go. Maintaining the referendum as is will ensure that sale proceeds are used to benefit the ratepayers who paid to build up the municipal utility.

Proponents of SB 432 say that the sale of a municipal public utility to an investor owned utility should be a viable option. We do not disagree. However, the people who paid to construct and maintain the public utility should be the ones to decide whether the proposed sale is a good deal for them. In order to make that decision, they need to know the terms of the deal and what their utility rates will likely be after the transaction. This information will only be available after the PSC review. Therefore, in order to have a meaningful vote on the proposed sale, the vote must occur after the PSC review. That is only fair.