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Tuesday, January 9, 2018

Rep. Sanfelippo's testimony on 2017 Assembly Bill 774

Chairman Kuglistch and committee members, thank you for allowing me the opportunity to testify on Assembly Bill 774.

The Milwaukee Metropolitan Sewerage District (MMSD) is a regional governmental agency providing wastewater treatment and flood management services for 28 municipalities. MMSD serves all communities located within Milwaukee County except South Milwaukee. The district also serves several communities in Ozaukee, Racine, Washington and Waukesha Counties including the city of New Berlin. New Berlin is a community which is outside of the district's boundaries and therefore does not have voting rights, but is within the service area of the district. Because of this limitation, contract communities have a very limited ability for meaningful input in the governance and operation of MMSD despite paying significant sums towards district operations and following its rules. In addition, MMSD is not treated like other utilities when it comes to settling disputes through the Public Service Commission (PSC).

Under current law, any user of MMSD services may register a complaint with the PSC that MMSD's charges, rules or practices are unreasonable or unjustly discriminatory. However, existing state statute provides that charges established by MMSD must be presumed reasonable in any review of the charges by the PSC. This unique presumption of reasonableness greatly tilts the scales in favor of MMSD and against the smaller municipalities that make up the contract communities when attempting to resolve complaints.

In addition, the PSC has held that in order to require a change to a rate, rule, or practice, the PSC must find that it is unreasonable or unjustly discriminatory. Otherwise, the rate, rule, or practice must remain in effect even though it is not one that the PSC agrees with or would itself prescribe.

The bill allows a fair and unbiased complaint process by the PSC by repealing the statutes that require charges established by MMSD to be presumed reasonable. It further specifies that in reviewing any complaint that charges, rules, or practices are unreasonable, the PSC must make its determination without deference to MMSD.

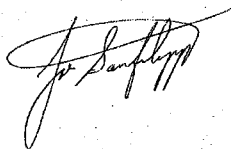
The deference given to MMSD in statutes poses a unique problem in our area because MMSD is a unique wastewater utility.

With a service area of more than 400 square miles involving 28 different communities and more than 1 million people, MMSD is like no other wastewater utility in the state. The fact is, MMSD is a large, regional utility serving a multitude of diverse communities and therefore is more appropriately regulated like other large regional utilities. Yet, despite that fact, this bill stops short of requiring MMSD to strictly follow PSC rules regarding rate cases by allowing them to set rates without first receiving prior approval through the typical process PSC requires of other utilities.

Assembly Bill 774 also states that MMSD may not disconnect any government entity from the MMSD sewerage system without review and approval from the PSC.

Assembly Bill 774 simply recognizes the unique nature of MMSD's structure as a large, regional wastewater utility and balances the playing field for MMSD contract communities who are limited in voicing their concerns on the MMSD Commission.

Again, thank you for allowing me the opportunity to speak with you today about Assembly Bill 774. I'm happy to answer any questions you may have.

A handwritten signature in black ink, appearing to read "Joe Sanfilippo". The signature is written in a cursive style with a large, sweeping initial "J".



DAVID CRAIG

STATE SENATOR

Assembly Committee on Energy and Utilities
Public Hearing, January 9, 2018
Assembly Bill 774
Senator David Craig, 28th Senate District

Dear Chairman Kuglitsch and Committee Members,

Thank you for taking testimony on Assembly Bill 774 relating to the charges, rules, and practices of the Milwaukee Metropolitan Sewerage District (MMSD).

The legislation before the committee today seeks to strike a balance for area communities affiliated with MMSD, the Public Service Commission (PSC), and MMSD itself. The bill removes statutory deference as to the reasonableness of the rates imposed by MMSD and enacts a fairer process to contest rates. Finally, the bill ensures that MMSD will not be allowed to disconnect service from any community without the express and written consent of the PSC.

I have spoken with several representatives and officials from various communities that are part of MMSD, as well as staff and management at MMSD and I am appreciate their feedback and the ability of everyone to reach consensus with the bill before us today. Thank you for allowing me to testify on this important piece of legislation. I am happy to take any questions from committee members.

MEMORANDUM

TO: Mayor David Ament
FROM: City Attorney Mark G. Blum
SUBJECT: MMSD – 2017 Assembly Bill 774
DATE: January 5, 2018 Amended January 8, 2018 by Mayor Ament

Good afternoon members of the Committee. My name is David Ament, Mayor of the City of New Berlin. I am here this afternoon to speak in support of 2017 Assembly Bill 774 dealing with amendments to the Statutes governing the operation of the Milwaukee Metropolitan Sewage District.

The City of New Berlin is a contract customer of the MMSD and the District serves approximately two-thirds of the geographical area of our City. As the City establishes its budget for its sewer utility customers, we find that our local rates are primarily driven by the charges which we receive from MMSD. Because New Berlin is a community which is outside of the district's boundaries but is within the service area of the district we do not have voting rights. Because of this limitation under the current law, the only mechanism the City has to challenge the rates that are imposed by MMSD is through an appeal process to the State of Wisconsin Public Service Commission. However, again under the current law, any user of MMSD services may register a complaint with the PSC that MMSD's charges, rules or practices are unreasonable but the PSC is required to give deference to MMSD with respect to the rates it establishes. Thus existing state statute provides that charges established by MMSD must be presumed reasonable in any review of charges by the PSC. This unique presumption of reasonableness greatly tilts the scale in favor of MMSD when attempting to resolve complaints.

Bill 774 simply balances the playing field and creates a more fair complaint process for MMSD contract communities who are limited in voicing their concerns to the MMSD Commission.

This Bill would change this to provide that a determination of a user's appeal of the service charges being made by the District would be reviewed by PSC without deference to the rates established by MMSD.

The City believes that having an effective means of reviewing the charges which are being made by MMSD on a fair and equitable basis is essential to our utility customers.

In addition, this legislation provides that were MMSD to make a decision to end a relationship with a contract community, it may only do so with the approval of the Public Service Commission.

Were MMSD to ever make a determination to end the contractual relationship with a contract customer such as the City of New Berlin, our utility would be placed in a very difficult position, as we would need to provide for alternate sewer treatment for the sewage generated in our City. This would be a significant burden on our utility customers. This Bill changes this by requiring PSC approval of the termination by MMSD of a contract with a contract community. We believe that allowing for an independent review of any decision to terminate the contractual relationship with a contract community such as New Berlin, will provide fundamental protection for utility customers of the contract communities working with MMSD.

Thank you for your consideration of these comments.



MEMO

To: Assembly Committee on Energy and Utilities
From: Steve Jacquart, Intergovernmental Coordinator
Milwaukee Metropolitan Sewerage District (MMSD)
RE: AB 774 – charges, rules, & practices of the Milwaukee Metropolitan Sewerage District
Date: January 5, 2018

MMSD position on AB 774

MMSD's position on this bill is neutral. The following information is provided for informational purposes.

Background

MMSD is a regional government agency that provides water reclamation and flood management services for about 1.1 million people in 28 communities in the Greater Milwaukee Area. We serve 411 square miles that cover all, or segments of, six watersheds. Established by state law, the District is governed by 11 commissioners with taxing authority. The representation is based on population. The Mayor of Milwaukee appoints seven Commissioners, and the Intergovernmental Cooperation Council (ICC), which is a group composed of the elected leaders of the suburbs in Milwaukee County, elects the other four.

Protecting public health and the drinking water supply for millions of people takes the expertise of hundreds of specially skilled and dedicated employees. MMSD is highly regarded nationally as a leader in wastewater treatment, flood management, and water quality protection. A recipient of the U.S. Water Prize and many other awards, the District is most proud of its record, since 1994, for capturing and cleaning of 98.4% of wastewater and storm water delivered from 28 communities in a 411 square mile area. Many metropolitan areas in the United State struggle to capture and clean the national regulatory goal of 85% of all the rain and wastewater that enters their sewer systems.

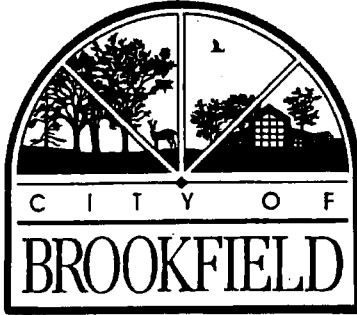
AB 774 discussion

The Public Service Commission (PSC) currently treats MMSD like other wastewater utilities when reviewing and ruling on rate cases; that is, the same PSC review standard applies to all wastewater utilities governed under State law. Under current law, any user of any wastewater

utility, including the MMSD, may complain to the PSC about the utility's rates, rules or practices. Under current state law, the PSC then investigates the complaint to determine if the challenged rate, rule or practice is "unreasonable or unjustly discriminatory". If the PSC finds the rates to be unreasonable or unjustly discriminatory, it may make findings to correct the issues. This current PSC oversight of Wisconsin wastewater utilities has proven sufficient over many years. AB 774 attempts to create a different, more stringent, standard that would apply only to MMSD that states that the PSC is not to give "deference" to MMSD rates, rules, or practices in any investigation upon a complaint.

Nonmember communities benefit from the current charge methods. MMSD serves 10 communities outside of Milwaukee County known as "nonmember communities" that are not voting members of the MMSD Commission. The communities include all or parts of the City of Brookfield, Village of Butler, Village of Caledonia, Village of Elm Grove, Village of Germantown, Village of Menomonee Falls, City of Mequon, City of Muskego, City of New Berlin, and Village of Thiensville. Current state law allows any of MMSD's nonmember communities to join MMSD as voting Commission members. To date, the nonmember communities have chosen not to become voting members of MMSD as doing so would prevent them from financially benefitting from the 'watercourse credit'. Based on a PSC ruling (9308-SR-102), nonmember communities pay for watercourse, or flood management, projects only on tributaries that are inside their community. For example, New Berlin does not pay for watercourse work on the Kinnickinnic or the Milwaukee Rivers, because they do not flow through that community. Since 1998, the nonmember communities have saved an estimated \$102 million as the result of the watercourse credit.

MMSD customers have many opportunities to review and participate in its budget process. Public budget hearings are conducted each fall and full MMSD budget information is readily available online at MMSD's website at www.mmsd.com. Annually, starting in early September, MMSD Director of Finance/Treasurer Mark Kaminski schedules visits to or sends e-mails to nonmember communities' financial staff to discuss the District's upcoming budgets and their next year's estimated billings. This is in addition to a September letter with detailed attachments that is mailed to the Mayors or Presidents of the non-member communities. Mr. Kaminski and MMSD Executive Director Kevin Shafer also offer to appear before their governing board and answer any questions they may have. MMSD hosts monthly meetings with the engineering staff from the local communities to solicit their input and guidance on policies and practices. Nonmember communities have also contracted with a local engineering firm for many years to review, evaluate, and report on MMSD's budget and facilities plans. In conclusion, our agency works diligently to ensure that all our communities work together and fully participate in the budgeting and policymaking processes that are provided.



MAYOR

Steven V. Ponto

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January 8, 2018

Assembly Committee on Energy and Utilities

Representative Kuglitsch (Chair)
Representative Steffen (Vice-Chair)
Representative Rodriguez
Representative Weatherston
Representative Petersen
Representative Tauchen
Representative Tranel
Representative Jarchow

Representative Petryk
Representative Neylon
Representative Genrich
Representative Sargent
Representative Stuck
Representative Meyers
Representative Crowley

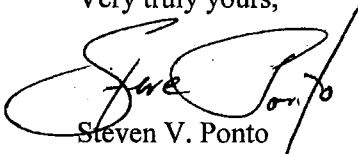
RE: In Support of 2017 Assembly Bill 774

Dear Representatives:

As Mayor of the City of Brookfield, I am writing to express my support for Assembly Bill 774. The City of Brookfield is one of the contract communities with the Milwaukee Metropolitan Sewerage District (MMSD). Our City is outside the MMSD boundaries but a portion is within the MMSD service area. AB 774 provides reasonable, basic protections for contract communities by providing that when the Public Service Commission (PSC) reviews MMSD decisions affecting a contract community, the PSC does so on an even-handed basis without a presumption in favor of the MMSD decision. The bill also prohibits MMSD from disconnecting sewerage service to a contract community without approval from the PSC. The provisions of AB 774 afford reasonable, basic protections to contract communities.

I urge your favorable consideration of this bill.

Very truly yours,


Steven V. Ponto
Mayor

cc: Senator Leah Vukmir; Representative Dale Kooyenga; Representative Rob Hutton;
Wisconsin League of Municipalities; City of Brookfield Aldermen

