ANDRÉ JACQUE

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Testimony on AB 182
Committee on Energy and Utilities
February 28, 2012

Chairman Honadel and members of the Assembly Committee on Energy and Utilities,

Thank you for holding this hearing and the opportunity to testify in support of Assembly Bill 182 and the substitute amendment I have proposed, both of which seek to restore balance to the collection of delinquent utility bills. This is a basic fairness issue. Last year, I introduced Assembly Bill 182 at the request of constituents and current and former local elected officials to provide additional tools for municipal bill collection and ensure the same standard for delinquent bill collection for both investor-owned public utilities and municipal utilities. Any successful private business would not be able to directly hold their good customers responsible for the unpaid bills of others. Yet currently, municipalities have the universal ability to guarantee (through a property tax lien) that municipal utility service bills incurred by a delinquent tenant, in that tenant's name, will be paid by someone who did not warrant those costs—the property owner.

Because municipal utility property tax liens provide an unchallengeable method of collection from responsible property owners, the diverse, effective tools available to municipalities to compel payment from bad tenants have essentially been abandoned in favor of penalizing those who have made tremendous investments in local communities and account for a substantial portion of our state's tax base. Unlike investor-owned public utilities, many municipal utilities refuse to even threaten to turn off utility service to severely delinquent tenants – even well after eviction proceedings have begun – because they know that the bill will still get paid by the property owner… a property owner legally unable to even demand the termination of utility service to their own property! It is not a surprise that municipal utilities would prefer to keep the status quo, which allows them to avoid the real issues of termination and collection from negligent tenants.

Among other differences, municipal utilities currently differ from other public utilities in that they may collect unpaid bills for utility service through a tax lien on the property served. This rewards bad tenants and can create special problems for the owners of rental property. The use of tax liens on property to collect unpaid municipal utility and sewerage service charges does not distinguish between charges incurred by an owner occupant and those incurred by a tenant, and there is no disincentive for municipal utilities to limit service to delinquent tenants who have been served with an eviction notice.

Investor-owned public utilities, such as Wisconsin Public Service and Madison Gas & Electric, do not have the ability to impose property tax liens for unpaid utility bills as municipal utilities do. Rather than just send notices indicating the amount in arrears, these service providers send disconnection notices, utilize small claims court, and work with collection agencies, as well as other methods. A bad tenant who would be pursued by WPS or MG&E, could easily get away scot-free from municipal utilities.

For municipal utilities, property tax liens are often the first and final collection tactic employed following notices mailed to delinquent tenants, despite a variety of additional options. While landlords may be made aware of these billing notices, they are often unable to compel payment short of costly court proceedings. Consequently, bills for utility or sewerage service provided by a municipality and incurred by a tenant often become a hefty lien on the property of the landlord if they remain unpaid at the time that the tenant vacates the rental property, a frequent occurrence in eviction proceedings.

The original version of AB 182 would specifically stipulate that municipal utilities may not only utilize the collection abilities and resources currently available to municipal courts for bill collection, including tax return intercept, warrant issuance, driver's license suspension, and installment plans, remedies that would become available to a petitioning property owner under the substitute amendment. In both its original form and the substitute amendment, AB 182 also extends to municipal courts the same collection abilities as circuit courts, including wage garnishment. In other words, municipal utilities would still possess better tools to collect on delinquent bills than their public, investor-owned counterparts.

Would AB 182, as originally proposed, eliminate the ability of municipalities to create a property tax lien for unpaid municipal utility bills?

No, the initial version of AB 182 would simply stipulate that in order for property owners to avoid property tax liens for utility bills in someone else's name, the property owner must be able to provide the municipal utility with written notification of their name and address, as well as that of the tenant who is responsible for paying for the service, a copy of the rental or lease agreement in which the tenant assumes responsibility for payment of utility charges, and have the means (such as split utility meters, requiring the tenant to take out utility service in their name) to match utility usage to the responsible tenant.

I do understand the viewpoint of the organizations opposed to making statutory changes to the collection of municipal utility bills, and I appreciate their willingness and that of other important stakeholders on this issue to engage in a broad discussion of different approaches and where we could find common ground—conversations that led to the substitute amendment I introduced late last year.

[illegible] owned public utilities, such as Wisconsin Public Service or [illegible], do not have the ability to impose property tax liens for unpaid utility bills as municipal utilities [illegible] send notices indicating [illegible] service providers send delinquent accounts to [illegible] court, and work with collection agencies, as well as other methods. A bad tenant who would [illegible] could easily get away scot-free from municipal utilities.

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[illegible] municipalities [illegible] changes to the collection of municipal [illegible] delinquencies [illegible] lien [illegible] the [illegible].

Even those groups whose official position was that they were not interested in working out a compromise on the bill were helpful in addressing technical issues on how certain approaches might work, in moving toward equal protection of utility ratepayers as a whole and managing accounts with the goal of reducing costs to both utilities and property owners rather than simply writing unpaid bills off without any attempt to collect.

Assembly Substitute Amendment 1 to AB 182 completely retains the ability of municipalities to place delinquent tenant utility charges on the landlord's property tax bill while making the following changes to state law:

- Provides that if a municipality uses the delinquency collection process in current law on a rental unit, the utility must report the delinquency and the name and last-known address of the tenant who incurred the past-due amounts on the CCAP system once the past due amounts become a lien on the rental property. This will assist landlords in screening prospective new tenants who have previously avoided paying their bills, giving the public access to information currently unavailable under most current municipal utility collection practices.

- Permits a municipal utility providing service to a tenant to collect an advance deposit from the tenant as a condition of receiving the utility service which could be used to pay off past due amounts, something desired by both municipal utilities and landlords.

- Allows the owner of the rental property to request an action in municipal court to compel payment of the past-due amount from the tenant, such as tax return intercept (TRIP), wage garnishment, or issuance of warrants. Amounts collected would go to the municipality or municipal utility to satisfy the lien (in part or in full), at which point the municipality would place a credit on the landlord's next property tax bill. I understand that some municipalities have already worked out such an arrangement with their landlords, in which the municipality reimburses the landlord for any payments they receive from absconding tenants using TRIP.

Numerous municipal and municipal utility officials that contacted me in opposition to the original language of 182 have called or written me again since Substitute Amendment 1 was introduced, to voice their support for passage of the bill in its new form.

Thank you for your patience and your consideration, and I welcome any questions you may have for me at this time.

MEUW MUNICIPAL ELECTRIC UTILITIES OF WISCONSIN

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Waupun
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Wisconsin Dells
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Wonewoc

TO: **Members of the Assembly Energy & Utilities Committee**

FROM: **Scott J. Meske, Associate Director**

DATE: **February 28, 2012**

RE: **Written Testimony in Opposition to Assembly Bill 182**

Mr. Chairman and Members of the Assembly Energy & Utilities Committee:

The Municipal Electric Utilities of Wisconsin serves all 82 Wisconsin communities that own and operate an electric utility. Combined our utilities distribute about 11 percent of Wisconsin's electric load to nearly 280,000 residential, commercial, industrial and farm customers.

MEUW does not support Assembly Bill 182 as originally drafted. Rather MEUW supports current State Statutes §66.0809, pertaining to the collection of unpaid utility bills. This language is a compromise between the landlords and the municipal utilities that was reached with the enactment of 1995 Wisconsin Act 419. And while the issue of unpaid utility bills hasn't disappeared, we believe the statutes are flexible enough to allow municipal utilities and landlords to cooperate to reduce the amount of unpaid bills that are either passed on to other ratepayers, or placed on property tax rolls.

There are just a couple of main points I would like to focus on with the Committee today.

1. This particular issue (unpaid utility bills) is brought up each legislative session. Why hasn't it been resolved? Because there are no easy, silver bullet answers. Some MEUW Member communities choose *not* to place unpaid electric bills on the property tax rolls, but most do. Many MEUW Member utilities work with landlords to minimize the amount of unpaid utility bills. But some do not have the staff or the resources to aggressively pursue customers who skip out on paying their utility obligations. And as municipal entities these unpaid municipal utility bills or 'special charges,' can only be collected through the use of tax liens, so that diligent ratepayers don't end up subsidizing non-payers.

2. The Public Service Commission of Wisconsin regulates all municipal utilities and reviews rates and construction projects of MEUW Members. As such, the PSC also administers customer service rules on providing service, disconnection and collection procedures (PSC Chap 113). Regularly, MEUW enlists the help of PSC staff in educating our utility clerks and managers on procedures they can employ to help minimize the amount of unpaid utility bills. But the bottom line for electric service providers is they must provide service to whoever requests

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service; regardless of the applicant's payment history, credit history or ability to pay. To assist landlords, the Commission does publish a list of items a landlord can do to minimize their risks of unpaid utility bills going on to their property taxes or ability to pay.

3. I would like to briefly address Representative Jacque's substitute amendment language. We are very grateful to Rep. Jacque for agreeing to meet with us periodically and work through some of the issues brought forward by MEUW and our municipal water colleagues. I believe Rep. Jacque has made a good faith effort to actually solve some of the issues around unpaid utility bills, and not just simply shift the burden of payment to the diligent utility rate payers. Having a state-wide tracking system for habitual non-payers, and modifying the utility service deposit rules would be useful tools that if designed properly, could start to reduce the amount of unpaid utility bills in Wisconsin. There were some specific questions on implementation that we share with our municipal water colleagues. We look forward to working with Rep. Jacque on refining some of these issues.

4. Lastly, Mr. Chairman, and Committee Members: I have been working on this issue for the past 11 years, and there are different ways of running your rental property business, and there are differences in operating a municipal utility. This particular issue of unpaid utility bills is troubling. But I believe progress is being made. I am not so certain we need a change in state statutes at this point to address the core issue.

   I believe there are two kinds of non-payers: There are some non-payers who **can't** pay their bill for one reason or other; they are unemployed for extended periods, have health challenges, or other uncontrollable circumstances. And we have programs specifically designed to assist them. But then there are those who **won't** pay their bills because they jump from territory to service territory, skirting the system and ignoring their obligations because they can. *Those* are the non-payers we need to target. And only working together can utilities and property owners continue to clamp down on unpaid utility bills. Lower amounts of unpaid utility bills that are placed on property tax rolls OR that landlords have to pay is good for all Wisconsin utility customers.

Comments on 2011 Assembly Bill 182

From John H. Fischer (past-president, Wisconsin Apartment Association)

There are two aspects of this bill that impact how municipally owned utilities bill for their services, I will limit my comments to just those items that impact rental housing. The Wisconsin Apartment Association, as well as I personally, SUPPORT 2011 Assembly Bill 182 and encourage you to vote for this bill. My reasons for supporting this bill are:

PERSONAL RESPONSIBILITY

First and foremost, people need to take individual responsibility for their actions. When someone uses a service and there is a fee associated with that service, that person should be held responsible for that fee. There is something inherently wrong when ANY law allows ANY service provider to collect from a party other than that who used the service.

From a philosophical standpoint, the rental property owner should NEVER be financially liable for the utility used by the tenant when that utility is billed directly to the tenant. This bill only limited the rental property owner's liability when they can provide the utility with a valid address for the person who actually used the service. This is a reasonable compromise.

INCREASE SECURITY DEPOSIT TURN AROUND TIME

Under current law (ATCP 134.06), a rental property owner has 21 days to return the security deposit to the tenant in full. If any amounts are withheld, then the landlord needs to send a statement itemizing those amounts. Utilities billed by a municipal utility are allowed to be deducted from a security deposit. However, it is my understanding that when a final billing statement issued, that the deadline for the utility to even issue that final bill is outside of the 21 days that we have. This would require a property owner to estimate that final bill. Even with utilities that are very timely in final billing, the due date for that final bill is often beyond the 21 day deadline.

When a rental unit has been left in good condition, a landlord is able to return the deposit almost immediately. I personally do not want my tenants to wait any longer for their money than they have to. I would love to check out a rental unit on the first of the month and get a check in the mail to the tenant the next day for the full amount of the deposit. That is my ultimate goal. However, the one thing that delays these deposits when there are no other damages are utility bills. If we no longer had to wait to get the final billing or wait to see if the tenant paid it because this billing could not come back against us, there is nothing stopping us from returning deposits much sooner for tenants who have taken care of the property.

DECREASE CONFUSION WHEN BILLS PAID BY BOTH PARTIES

The check is in the mail, I paid at the office, we have all heard those statements. What happens when the tenant pays the bill at city/village hall in December, and a few days later I get my property tax bill with that water bill on it. Will the city apply that payment to my tax bill arrearages? Or will they credit it to the current account? Can I still bill the tenant for the water bill because I had to pay it? These are not hypothetical questions. I have this happen once or twice every single year. This causes stress and confusion for me, for the tenant, for the water

utility, and for the municipality. This Bill would eliminate that as utility bills for current tenants would not be added to the tax rolls.

ENCOURAGE UTILITIES WHO HAVE NOT DONE SO TO ESTABLISH DISCONNECT POLICIES FOR NON-PAYMENT (TO MITIGATE POTENTIAL DAMAGES)

Where I manage properties, I deal with seven different municipal utilities. Of those seven, two of them (including the largest, Wausau Water Works) do not have any type of disconnect policy for non-payment. They do nothing to limit the amount of the utility bill. Every few years, the concept of a disconnect policy is brought up to them. However, it is always rejected. The reason, is that the larger the unpaid bill, the more money that particular utility makes. At the end of the year, the City will pay the utility all amounts owed, including late fees. The City then adds this to the tax roll.

If the ability to automatically add these bills to the tax rolls were reduced, utilities who have not yet established disconnect policies would now be encouraged to do so. This would actually limit the potential amount of the bills that are in question.

It is my understanding that municipally owned utilities that are impacted by this bill are opposed. My rebuttal to their most common objections are:

INCREASED OVERHEAD REQUIRED FOR BILLING

Although this may require some additional labor or change in procedures, most of the municipal utilities that I deal with go out of their way to explain that they are separate entities from the cities or villages they serve. They have their own board, their own revenues, their own expenses, their own bonding, etc. They are basically their own businesses.

I manage my own business, and I used to own my own business. I had to have procedures to address past due accounts. I could not count on someone to just make those accounts good. Other utilities that are not owned by municipalities face these same challenges, and have for years. They cannot bill a third party for services used. Increase overhead for debt collection is a legitimate cost of doing business

LARGER RATE OF NON-PAYMENT TO IMPACT UTILITY RATES

It is said that when some people don't pay, then we all do pay. That is true. However, some utilities (like Wausau's Water Works), will always get paid in full for all past due amounts. I don't know if this is true of all municipal utilities, but it would not surprise me that were the case. It is conceivable that cities and villages would change this procedure if property tax assessment was limited.

This bill does NOT eliminate the ability for the property tax collection method, it only limits it. Those accounts which will be the hardest to collect, those where the tenant has skipped (absconded) and left no forwarding address and are difficult if not impossible to find, those accounts will not be affected by this bill. Those accounts that this bill addresses, the ones where

the address of the person who used the utility is known, those are the accounts that have the highest probability of re-payment.

PROPERTY OWNERS COULD AVOID THESE ISSUES BY NOT TRANSFERRING THIS UTILITY TO THE TENANT

This is a true statement. However, evidence has shown time and time again that when any utility is separately metered, and the tenant is financially liable for that bill, that the tenant is more frugal in the use of that utility. In these days when conservation of resources is a high priority for us as a civilization, we should not be encouraged to engage in activities which actually discourage conservation.

In those cases where the utility is separately metered and the utility company feels we could solve this problem by paying the bill ourselves and then billing the tenant, all they are asking us to do is do their job for them. By billing the utility usage separate, are we now, as landlords becoming a utility provider?

Also, the sad truth is that when people are facing hard times and cannot make ends meet and they must rob Peter to pay Paul, all too often rental property owners find themselves as Peter. The tenant wants power, so the power bill gets paid. The tenant wants water, so the water bill gets paid. The tenant knows if they don't pay the rent, it will take a month or more for the landlord to do anything about it, and the average landlord will not do anything until the rent is a few months late. The utility also most follow due process to turn the service off, but their ability to do so is much easier than a landlord's ability to evict for non-payment.

THE LANDLORD CAN SIMPLY TAKE THIS MONEY OUT OF THE SECURITY DEPOSIT THEY HOLD

I already discussed the timing issues that can occur with final billing statements not matching the 21 day deadline that landlords have for returning that deposit.

However, it is an all too common occurrence that because tenants need first month's rent and a deposit at their new place, to come up with that money, they just don't pay their last month's rent and allow the landlord to just apply the deposit instead. This practice violates Wisconsin law and most standard leases that I am familiar with, but it doesn't stop it from happening in at least 20% of move outs that I experience. Therefore, if a tenant didn't pay their last month's rent simply because they needed the money for the deposit in their new place, there is no deposit for me to take that final water bill out of.

I have also had the chance to review Assembly Substitute Amendment 1, to 2011 Assembly Bill 182. I oppose this amendment.

THOUGHTS IN OPPOSITION OF SUBSTITUTE AMENDMENT 1

Under this amendment, the ability for a municipality to add past due bills to the tax rolls of the property owner for utility actually used by the tenant remains as it is in current law. This bill does attempt to assist property owners by giving municipal courts the ability to add those

responsible for the unpaid bill to CCAP and allow property owners to collect accounts owed through municipal court.

If a tenant owes a landlord for a utility bill that the landlord was required to pay on the tenant's behalf, they already have the ability to file a claim in circuit court (normally under small claims) and collect through a court action. Also, once a judgment is entered, that information is available on CCAP.

Therefore, in my personal opinion, the substitute does not address any of the concerns that AB182 does and does not really give property owners any more recourse than they already have. For this reason, I oppose the rental property billing issues addressed Assembly Substitute Amendment 1, to 2011 Assembly Bill 182.

(NOTE: I do want to say that the ability for utilities to mitigate their damages against unpaid bills by requiring a deposit be paid by the user of the utility is a very good idea worthy of consideration.)

Respectfully Submitted by:
John H. Fischer
Past-President, Wisconsin Apartment Association
1711 Franklin Street, Wausau, WI 54403 (Home Address)
Emmerich Properties, 453 Grand Avenue, Schofield, WI 54403 (Work Address)
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Wisconsin Water Association
A section of AWWA

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RE: Please Oppose AB 182 (Changes To Existing State Law Allowing Municipally-Owned Utilities to Place Unpaid Utility Bills on Property Tax Bills).

We respectfully request that you oppose AB182, which would change existing statutes concerning a municipal utility's ability to place unpaid utility bills on the property tax roll of the property owner.

A municipal utility is owned by the residents of the community; thus, any costs not absorbed through traditional ratemaking and payments for service must be borne directly by the community taxpayers. Since the Public Service Commission oversees all municipally-owned utilities and monitors rates, we believe removing the ability for these utilities to rightfully collect payments for utility services rendered would result in increased rates for every municipal utility customer who does pay their utility bill.

Since the municipal utilities will be forced to absorb the costs from unpaid customers, **the customers who pay their bills will have to cover the costs for those customers who don't pay their bills.**

We fully support the current statutes pertaining to the subject and believe they are reasonable to all parties involved. The current law is the result of a compromise reached more than 15 years ago between landlords and municipal utilities. Our organizations have worked diligently to educate utility and community leaders to ensure the intent and letter of the law regarding the collection of unpaid utility bills is being followed.

Again, we urge you to oppose AB182 and would be pleased to discuss any questions you may have about the current state statutes.

CITY OF STEVENS POINT
RESOLUTION OPPOSING ASSEMBLY BILL 182

WHEREAS, the City of Stevens Point has been well served by a community-owned, locally controlled, water utility for almost 90 years; and

WHEREAS, the City of Stevens Point, Water Department has consistently provided low-cost, reliable water to our residents, business industries, and public entities; and

WHEREAS, Assembly Bill 182 would prohibit the City of Stevens Point, Water Department from collecting unpaid municipal water bills using the property tax roll; and

WHEREAS, since municipal utility is supported by the residents and businesses of the community, any costs not absorbed for uncollectible bills through traditional ratemaking and payments for service, must be directly borne by other utility customers.

WHEREAS, we fully support current statutory authority ('66.0809) that allows for the placement of unpaid municipal utility bills on the property tax roll and believe that the existing authority is reasonable to all parties involved; current law being the result of a 15 year old compromise between the landlords and the municipal utilities;

NOW, THEREFORE BE IT RESOLVED that the City of Stevens Point Common Council opposes Assembly Bill 182 since it would shift property owner costs to other utility customers, increasing their utility bills; and

BE IT FURTHER RESOLVED that we ask the Wisconsin Legislature to oppose Assembly Bill 182 and instead support the current statutory authority in this regard; and

BE IT FURTHER RESOLVED that copies of this resolution will be sent to our State Legislators and Governor Scott Walker.

APPROVED: _____
Andrew J. Halverson, Mayor

ATTEST: _____
John Moe, City Clerk

Dated: July 5, 2011
Adopted: July 5, 2011

NANETTE ROZELLE—WISCONSIN HOUSING PROVIDER

Landlords play a key part in "The Community".

All communities need rental properties to support the residents that need to rent . Without rental properties in each community, we wouldn't have housing to support the folks that make up our community. Waiters, bartenders, gas station attendants, police officers, teachers, nurses, and retail service providers can all need rental housing. Without these folks in our community, we don't have a community.

When someone can be entrusted with the responsibility of living on their own, that responsibility comes with accountability for their community as well.

There are other ways to hold residents to their usage in the community.

1) ***I am NOT aware of any other industry that is required to pay the bills of their customers.***

2) ***To provide housing, I am required to provide plumbing. I must make lines running to and from the property that meets city codes and ordinances so the water can flow. I must provide the ability for my customer to receive water. <u>I do not provide the water.</u>***

3) ***Usage is an individual's right. Everyone needs access to water and should be accountable for what they use.***

In 2008 I had a Tenant apply for a Neenah address. His credit report showed an outstanding collection due to Menasha Utilities. I told him, we could not rent to him until he paid off that utility bill. He contacted Menasha Utilities and was told that he did not owe that amount (but it's still on his credit report) they had added it to the Landlord's Tax bill.

In 2010 I attended an committee to come up with better solutions for Menasha Utilities and their landlord policies. I thought it was generous of them to invite us. A Landlord there sited that his tenant had set up a payment program with their previous landlord that carried over to his property and when the tenant defaulted the entire balance landed on his property.

A landlord can not be charged for water without notification of delinquency. Appleton bills every 3 months. By the time there is notice, this outstanding bill is not less than $100.00 (providing nothing has been leaking).

In late 2008 Grand Chute Utilities contacted me with a courtesy call to say that two of my units were showing excessive use. One water bill was over $1000.00 and the other was at $900.00 for 3 months. We went in the units and discovered a running toilet in a unit that the tenant was rarely at because he travelled for work and the other unit had a drippy faucet the tenants just did not bother to call about.

Grand Chute Utilities has been telling my tenants they will send me the final bill for their water reading and that I will deduct it from their security deposit. There isn't always money left from the Security deposit for water.

Respectfully submitted

Nanette L Rozelle
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MEG Water Division
Municipal Environmental Group

P.O. Box 927
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Telephone (608) 283-1788
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February 26, 2012

Assembly Energy and Utilities Committee

Rep. Mark Honadel (Chair)	Rep. John Klenke	Rep. Kevin Petersen
Rep. Gary Tauchen	Rep. Thomas Larson	Rep. Erik Severson
Rep. Chad Weininger	Rep. Josh Zepnick	Rep. John Steinbrink
Rep. Anthony Staskunas	Rep. Brett Hulsey	

RE: <u>Opposition to AB 182</u>

Dear Chairman Honadel and Members of the Assembly Energy and Utilities Committee:

The Municipal Environmental Group - Water Division (MEG - Water) is an association of 58 municipal water utilities who have joined together to provide input on proposed laws and regulations that affect municipal water utilities.

MEG - Water asks that you oppose AB 182 as introduced because it would limit a municipal water utility's ability to use a long established and cost effective method of collecting delinquent bills for water provided to a property. Without this collection process, water rates to all good paying customers will go up because utilities' collection costs and uncollectible accounts will increase. This is unfair to all customers who pay their bills.

Regarding Substitute Amendment 1 to AB 182, MEG - Water cannot take a position on the proposal at this time. While MEG - Water appreciates that the ability to place delinquent utility bills on the property tax rolls would be retained under the substitute amendment, many questions exist with how the notification process proposed in Substitute Amendment 1 would work. Questions that have been raised include:

- How would a utility know that a property, like a single family home, is a rental property?
- How would communities, like Racine and Kenosha, that bill for water based on a property address, rather than an individual's name, comply with the notice process without having to institute a new billing system?
- Who would do the work to enter the information onto CCAP?
- Would notification on CCAP violate Wisconsin's fair debt collection act (Chapter 427)?

The logistics of this proposed notification process must be clearer before MEG - Water can take a position on the Substitute Amendment.

Thank you for consideration of these comments.

Sincerely,

Lawrie J. Kobza
MEG - Water Legal Counsel

cc: MEG - Water Members

WISCONSIN RURAL WATER ASSOCIATION

350 Water Way • Plover, Wisconsin 54467
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Society Of Water Professionals

Comments for AB 182 Hearing

Chairman Honadel and esteemed members of the Assembly Committee on Energy and Utilities,

On behalf of the Wisconsin Rural Water Association (WRWA) and our 567 community utility members, we are here today in opposition to Assembly Bill 182.

Municipal public utilities are owned by the residents and businesses of a community. Every aspect of our customer accounts including rate structures, billing and collection procedures are regulated by State Statutes and the Wisconsin Administrative Code. As such, all of our expenses must be recovered through the Public Service Commission (PSC) approved rates we charge our customers for the utilities they use. We support the current authority as granted in section 66.0809 of the state statutes that allows for the placement of unpaid municipal utility bills on the tax rolls. We feel this is a valuable tool in order to keep our rates fair and equitable for all our customers, and to prevent our conscientious bill paying customers from being held responsible for the utilities used by others.

Following the initial introduction of AB 182, many communities passed resolutions or contacted their legislators in opposition to the original provisions of the bill. As a result, Rep. Andre Jacque introduced a Substitute Amendment in an effort to address the concerns of public utilities. While we appreciate these efforts, we still have concerns over the substitute amendment in how it may affect a utility's fair and equal treatment of customers according to sections 196.22 and 196.60 of the state statutes and section PSC 185.15 of the Administrative Code. We also have concerns over the substitute amendment and how it may affect the confidentiality and privacy of our customers as regulated under sections 196.135 and 995.50 of the state statutes.

The vast majority of our municipal utility member utilities go well above and beyond the state notification requirements for tenants and rental property owners in order to keep those accounts up to date and current. The reason for this is simple. It's in our best interests to do so as that's our primary source of revenues. And in many cases, these same rental property owners are our relatives, friends and neighbors.

Communities and utilities in Wisconsin are facing many challenges as a result of the current economic climate. To add additional requirements or restrictions on the ways utilities can be compensated for the water used by our customers is unreasonable and unnecessary in our opinion. We pledge to work with all our customers, including those that are owners of rental properties, in order to keep their accounts current and up to date while at the same time adhering to all state laws and regulations.

Sincerely

Ken M. Blomberg
Executive Director
Wisconsin Rural Water Association

Dave Lawrence
Assistant Director
Wisconsin Rural Water Association

WRWA Mission:

"To assist our membership and the public they serve, improve and preserve the quality and quantity of water resources in the State of Wisconsin."

Quality On Tap!
Our Commitment Our Profession

James Brooks
Evansville Water & Light
Evansville WI

Remarks in Opposition to AB182 and Substitute Amendment 1
Assembly Committee on Energy and Utilities, 28 February, 2012

Good afternoon. I am James Brooks, an alderman from Evansville and Chair of the Water and Light Committee of the City Council. I am here today to speak in opposition to AB182 and Substitute Amendment 1. Others will talk about the impacts that this legislation will have on ratepayers of municipal utilities across the state. I am here to tell Evansville's story and how this legislation affects our utility and city.

Over the past five years Evansville Water and Light has placed nearly $190,000 in delinquent utility bills on the tax rolls for all customers. About half of that has been for rental properties and about half for owner-occupied residences. But, while the number of utility bills sent to tax rolls for homeowners' delinquencies has increased over the last five years, by working with our city's landlords Evansville Water and Light has been able to reduce the number of rental property delinquencies filed as liens to new lows. In 2011 31 rental delinquencies were added to tax rolls, compared to 71 in 2010 and 65 in 2009.

By working with landlords throughout the year and by aggressive collection measures by the utility, Water and Light staff have been able to mitigate the effect on landlords of their tenant's non-payment. Evansville Water and Light disconnects tenants for non-payment when it is legal to do so and disconnects commercial rentals year round. Staff has gone above and beyond the current requirements of the law, meeting face to face with landlords that choose to meet on a monthly basis to review outstanding balances before they become tax liabilities, by noting aging balances on monthly "landlord letters" even though not being required to do so, and by using the Tax Refund Intercept Program before resorting to placing the bill on tax rolls.

Using TRIP to collect delinquencies is showing results in the first full year we have used it, already having collected more than $6000 of last year's delinquencies with higher

totals expected as more returns are filed with the state. Our staff reports difficulties with using TRIP, however. Without driver's license number or Social Security number to report, they cannot access the tax refunds of these scofflaws. The utility is prohibited from collecting this information on its own behalf but has been successful in collections when landlords have had the foresight to make these identifiers available to the utility. Likewise, when landlords conduct background checks on prospective tenants and enforce lease mandates to maintain current balances on utility bills, we have seen a lower incidence of tax liens for unpaid bills.

The drawbacks of AB182 itself have been discussed for months and the costs of it are well known to those of us in this room. The substitute amendment is problematic for other reasons. The demands it places on staff can only be paid for by passing the costs on to all ratepayers of the utility. Screening all new tenants for the prospect of collecting deposits for service will be a large cost for the utility that it has no opportunity to recoup short of passing the costs on to ratepayers. Likewise, the use of Municipal Court as provided in this amendment would be a cost to the taxpayers of the municipality. The amendment provides no filing fee to the court for these cases and will require hearings to determine the assignable income sources of the delinquents, without recompense to the municipality, before deciding how best to assign the debt. Our municipal court budget is small and the court runs efficiently. Adding these complicated hearings without providing a way to recoup costs will result in higher taxes to be borne by all in the city.

Evansville has shown that utilities and landlords working effectively and diligently together can reduce the number and amount of tax liens resulting from delinquent tenant utility bills. Adoption of either AB182 or the amendment will not make it more likely that we can reduce that number further and, more importantly, will add costs that must be borne by both utility ratepayers and municipal taxpayers. I urge you to vote against this legislation.

Thank you.

Waukesha Water Utility
SERVING WAUKESHA SINCE 1886

115 Delafield Street
Waukesha, WI 53188-3615

Telephone: (262) 521-5272 • Fax: (262) 521-5265 • E-mail: contactus@waukesha-water.com

RE: Please Oppose AB 182 (Changes To Existing State Law Allowing Municipally-Owned Utilities to Place Unpaid Utility Bills on Property Tax Bills).

We respectfully ask that you oppose AB182 which would change existing statutes concerning the ability a municipal utility has to place unpaid utility bills on the property tax roll of the property owner.

We fully support the current statutes pertaining to the subject and believe they are reasonable to all parties involved. Current law was the result of a compromise reached more than 15 years ago between landlords and municipal utilities. Our organizations have worked to educate utility and community leaders to ensure they are following the intent and letter of the law regarding the collection of unpaid utility bills.

Unlike an investor-owned utility, a municipal utility does not have the ability to simply "write-off" any unpaid utility bills. Since a municipal utility is owned by the residents of the community, any costs not absorbed through traditional ratemaking and payments for service, must be borne directly by the community taxpayers. Since the Public Service Commission oversees all municipally-owned utilities and monitors rates, we believe removing the ability for these utilities to rightfully collect payments for utility service rendered, would result in increased rates for all of the other municipal utility customers who do pay their utility bills.

Last year the City of Waukesha's Utilities were forced to send $889,000 of delinquent bills to the tax roll (10% of operating revenue). If the Utilities were forced to absorb that cost, **the people who pay their bills would have to absorb the costs for those people who don't pay their bills. This would equate to a 10% increase for all residents that actually pay their bills.**

Attached is a copy of a resolution passed by the City of Waukesha Common Council formally opposing this bill.

Again, we urge you to oppose AB182 and would be glad to discuss any questions you may have about the current state statutes.

R 36-11

COMMON COUNCIL OF Waukesha Wisconsin

RESOLUTION OPPOSING ASSEMBLY BILL 182

WHEREAS, the City of Waukesha, WI has been well served by a community-owned, locally controlled, nonprofit water and wastewater utility for over 100 years; and

WHEREAS, Waukesha Water Utility and the City of Waukesha has consistently provided low-cost, reliable water and wastewater to our residents, businesses and industries on a not-for profit basis; and

WHEREAS, Assembly Bill 182 would prohibit Waukesha Water Utility from collecting unpaid municipal water and wastewater bills using the property tax roll; and

WHEREAS, since a municipal utility is owned by the residents and businesses of the community, any costs not absorbed through traditional ratemaking and payments for service, must be directly borne by the utility customers and unlike an investor-owned utility, a municipal utility does not have the ability to simply "write-off" any unpaid utility bills; and

WHEREAS, we fully support current statutory authority ('66.0809) that allows for the placement of unpaid municipal utility bills on the property tax roll and believe that the existing authority is reasonable to all parties involved; current law being the result of a 15 year old compromise between the landlords and the municipal utilities;

NOW, THEREFORE BE IT RESOLVED that the Common Council of Waukesha, WI opposes Assembly Bill 182 since it would shift property owner costs to other utility customers, increasing their utility bills; and

BE IT FURTHER RESOLVED that we ask the Wisconsin Legislature to oppose Assembly Bill 182 and instead support the current statutory authority in this regard; and

BE IT FURTHER RESOLVED that we pledge to continue working with landlords in our community to improve collection methods and communications with them, with the objective being to continue our ability to offer low-cost municipal utility service to all of our customers; and

AND BE IT FURTHER RESOLVED that copies of this resolution will be sent to our State Legislators, Governor Scott Walker, and the Municipal Water Utilities of Wisconsin.

Passed and approved this 21 day of June, 2011.

Jeff Scrima, Mayor
City of Waukesha

Attest:

Thomas E. Neill, City Clerk
City of Waukesha

122 W. Washington Avenue
Suite 300
Madison, Wisconsin 53703-2715

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800/991-5502
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To: Assembly Committee on Energy and Utilities

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: February 28, 2012

Re: AB 182, Prohibiting Municipalities from Placing Tenant Utility Bill Delinquencies on the Landlord's Property Tax Bill

The League of Wisconsin Municipalities strongly opposes Assembly Bill 182, prohibiting a municipality from placing delinquent tenant utility bills on the landlord's property tax bill.

The League also opposes the Substitute Amendment. While we very much appreciate the dialogue we have had with Rep. Jacque on this bill and his willingness to make amendments designed to address our issues, we believe more work needs to be done on the Substitute Amendment.

For example, the portion of the Substitute Amendment allowing the owner of a rental property to commence an action in municipal court to collect past-due amounts from a tenant would prove expensive for municipalities. There is no provision in the Substitute Amendment allowing the court to charge a filing fee or to require any payment to the city for processing landlord actions. The filing fee for a small claims action in circuit court is $94.50. In addition, if the landlord wins the case, the landlord will want the court to issue an assignment or an order assigning not more that 25% of the defendant's earnings. The bottom line is that the municipal court would have to spend a lot of time on these cases with the city ultimately responsible for paying for the court's expenses without receiving any payment from the landlord.

We strongly support existing law and are hesitant to endorse any changes to the current process for collecting tenant delinquencies. Current law governing this issue was established 15 years ago as a reasonable compromise between municipal utilities and landlords. Currently, a municipal utility may place a tenant's unpaid utility bill on the landlord's property tax bill at year end if the utility has, upon the landlord's request, copied the landlord each time that a delinquent bill notice is sent to the tenant.

While the Substitute Amendment may serve as a base from which to begin discussions on a future bill, it is not ready to advance at this time and we urge you to vote against it. Thanks for considering our concerns.

South Milwaukee Water Utility

100 Marshall Ave.
South Milwaukee, WI 53172
tel 414-768 8070 fax 414 768 8074

Douglas Fischer
Superintendent

AB 182

The assembly bill from hell.

Many of our residents and customers are owner occupants who pay their bills on time and enjoy water and sewer services at the lowest cost our municipal utility can accommodate. The rate structures are designed to provide healthy clean water and maintain and improve infrastructure. The current rate structures do not include costs to manage landlord tenant issues.

The bill, if passed will increase our costs. It will force the utility to become property managers for the few landlords who don't care to manage their own properties. The utility will need to collect deposits for the tenants future bills. The utility will have to pay interest on that deposit, the rate must be equal to the weekly average yield of one-year United States treasury securities, currently 0.17%. The rate is currently greater than what the utility earns on its temporary investments. The utility will be forced to disconnect service for non-payment, which creates a health and an in-humane condition for the tenant. A landlord has the option of collecting a security deposit to cover expenses for water and sewer services. A landlord has the responsibility of providing tenants with plumbing in good working order. Landlords have the responsibility of screening and selecting tenants who are capable of paying the rent. The utility doesn't have the option to screen and select customers. We serve all. That's a good thing. We want to do that.

We currently accommodate landlords by offering to send duplicate copies of bills when issued. We currently encourage landlords to call and inquire about the status of their tenants bills. We are open for business, call us.

Here's the mindset we have when it comes to the tax roll. Many of our residents believe that when they do not pay their water and sewer bill and it rolls to the taxes, the increased property tax becomes a legitimate deduction at year end. It is not, but it is a common misconception. This "tax deduction" costs that customer 13.3% in late fees. That's because when a bill is not paid on the 20th, it incurs a late fee of 3%, three times a year, then 10% to roll to taxes. It's amazing how many people let it roll year after year. So, I have to believe the customer had the money to pay throughout the year, if they can afford the 13.3% at tax time. The utility will have to determine which accounts are owner occupied, owners who wish to continue this silly practice from tenant occupied, who we'll just have to deny service. The utility, however, cannot just turn the water off at the curb and be done with it. We have to give them a 10 day notice, and if the customer provides proof that they have a health condition, we have to leave it on for another 20 days.

Do we, as a community, want to be out and about disconnecting water. I don't believe we are that community. I believe we choose to be neighbors. Regardless if the neighbor owns or rents.

Jane Niggemann, Office Manager
South Milwaukee Water Utility

Village of
Little Chute

To: Wisconsin State Legislature, Assembly Committee on Energy and Utilities

From: Village of Little Chute Water Utility Commissioners, Kevin Coffey, Chairman

Date: February 28, 2012

Re: Please Oppose Assembly Substitute Amendment 1, to 2011 Assembly Bill 182

The Village of Little Chute Water Utility opposes Assembly Substitute Amendment 1, to 2011 Assembly Bill 182. While the amendment allows a municipal utility to retain the ability to place delinquent tenant utility bills on the landlord's property tax bill, the increased costs of customer service for bill notification and management of customer deposits as well as the costs to a municipalities' municipal court represent significant costs to both, utility ratepayers and municipal taxpayers. The premise that a utility wishes to share in the business costs of being a real estate landlord is completely unacceptable. This bill and amendment assume that a community's taxpayers and ratepayers are willing to absorb the costs of bad debt collection for each landlord within their community. Faced with state mandated levy limits and pressure to minimize rate increases in public utilities, requirements to increase customer service and increase bad debt collection are both, labor intensive and expensive.

In addition, the substitute amendment requires the utilization of the consolidated court automation program case management system to commence an action in municipal court to collect the past-due amount from the tenant. This process increases the costs of the municipal court without any mechanism for a community to recover the costs of the time and efforts to ensure collection of delinquent tenants. In its present form this appears to be an unfunded mandate required to be absorbed within current levy limits for a municipality.

Finally, is there any documentation that continued notice of delinquency increases collection for a utility? The amendment seems to make the argument that a landlord has no knowledge of the credit worthiness of the tenant that occupies their property and that if a utility fails to continually notify them of a customer's delinquency, a landlord is completely unprepared for the lien that is placed on their property tax bill. It places the responsibility for determining an amount of a customer deposit upon a utility and places a utility in the position of denying service to potential tenants for landlords in the community.

For these reasons we urge you to oppose Assembly Substitute Amendment 1, to 2011 Assembly Bill 182. Thank you for considering our concerns.