



## Legislation Text

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**File #:** 65639, **Version:** 1

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### **Fiscal Note**

This resolution authorizes outside counsel for issuance of Sewer System Revenue bonds. Legal fees associated with these services are tied to the size of the issuance. Legal fees for the 2020 Sewer System Revenue bond issuance totaled \$14,720 on \$17.4 million of bonds issued. The fee schedule described in the resolution remains the same. The two firms have a separate agreement that determines the distribution of the fees. Legal fees for issuance are paid from bond proceeds.

### **Title**

Authorizing the City and Sewer Utility to retain special outside counsel on a non-competitive basis to represent their respective interests in issuing debt.

### **Body**

WHEREAS, the City of Madison uses general obligations bonds and notes to finance its operations; and

WHEREAS, the City of Madison Sewer Utility uses revenue bonds to partially finance their operations; and

WHEREAS, bond financing requires specialized knowledge and expertise requiring the City to retain an outside expert for advice, and to prepare legal opinions, as required by law, supporting the bond issuance; and

WHEREAS, Attorney Kevin Barney and Kutak Rock, LLP (“Kutak”) have the required specialized knowledge and expertise on these specific types of issues having represented the City and Sewer Utility previously for such matters; and

WHEREAS, Jennifer Pflug Murphy and MWH Law Group, LLP (“MWH”) have the required specialized knowledge and expertise on these specific types of issues, and MWH is the only minority owned law firm in Wisconsin representing municipalities in debt issuances; and

WHEREAS, Kutak has been working with MWH as a co-counsel on debt issuances including for the Wisconsin Housing and Economic Development Authority; and

WHEREAS, in order to diversify the City’s legal services, while also maintaining continuity of representation, Kutak has agreed to enter into a fee sharing arrangement with MWH and divide work in representing the City and its utilities; and

WHEREAS, under sec. 4.26(4)(a)3., the City may retain services of an attorney without competitive bids.

NOW THEREFORE BE IT RESOLVED that the City hereby agrees to retain the firm of Kutak Rock, LLP and Attorney Kevin Barney to assist the City Attorney’s Office in representing the City’s interests in issuing general obligation debt and Sewer Utility Revenue bonds; and

BE IT FURTHER RESOLVED that the City hereby agrees to retain the firm of MWH Law Group, LLP and Attorney Jennifer Plug Murphy to assist the City Attorney’s Office in representing the City’s interests in issuing general obligation and utility revenue debt; and

BE IT FURTHER RESOLVED that the City is authorized to pay for legal services out of the bond proceeds according to the following schedule:

Base fee of \$1,000 for notes and \$3,000 for bonds  
\$0.75 per \$1,000 principal issued for the first \$10,000,000.  
\$0.50 per \$1,000 principal issued for principal above \$10,000,000  
Flat \$500 for out-of-pocket costs.

AND BE IT FINALLY RESOLVED that the City Attorney shall review and execute retainer agreements with Kutak Rock, LLP and MWH Law Group, LLP on the terms approved by the City Attorney.