



## Legislation Details (With Text)

**File #:** 06836      **Version:** 2      **Name:** restructure Board of Water Commissioners  
**Type:** Ordinance      **Status:** Passed  
**File created:** 6/26/2007      **In control:** WATER UTILITY BOARD  
**On agenda:** 8/7/2007      **Final action:** 8/7/2007  
**Enactment date:** 8/23/2007      **Enactment #:** ORD-07-00099  
**Title:** AMENDED - Amending Sections 13.01, 13.02, and 13.03 of the Madison General Ordinances to restructure the Board of Water Commissioners in compliance with state statutes and to add two additional voting members.  
**Sponsors:** David J. Cieslewicz, Satya V. Rhodes-Conway

### Indexes:

### Code sections:

**Attachments:** 1. Mike May Memo WU Sec. 66.0805 Stats.pdf, 2. 06836 Amendment.pdf, 3. 06836 Registration Stmt.pdf, 4. 080707 ccoc minutes.pdf

Date	Ver.	Action By	Action	Result
8/9/2007	2	Attorney's Office/Approval Group	Approved As To Form	
8/7/2007	2	COMMON COUNCIL	Adopt With Amendment(s)	Pass
7/10/2007	1	WATER UTILITY BOARD	RECOMMEND TO COUNCIL TO RE-REFER - REPORT OF OFFICER	
7/3/2007	1	COMMON COUNCIL	Refer	
7/3/2007	1	WATER UTILITY BOARD	Refer	
6/27/2007	1	Finance Dept/Approval Group	Approved Fiscal Note By The Comptroller's Office	
6/27/2007	1	Attorney's Office	Referred for Introduction	
6/26/2007	1	Attorney's Office/Approval Group	Approved As To Form	
6/26/2007	1	Attorney's Office	Fiscal Note Required / Approval	

### Fiscal Note

No appropriation required.

### Title

AMENDED - Amending Sections 13.01, 13.02, and 13.03 of the Madison General Ordinances to restructure the Board of Water Commissioners in compliance with state statutes and to add two additional voting members.

### Body

DRAFTER'S ANALYSIS: The City's existing ordinances governing the Water Utility, specifically the Board of Commissioners and the General Manager, are in conflict with state law on some issues. Sec. 66.0805 (1)-(5), Wis. Stats., requires that a utility commission established under it have certain powers. The City's ordinance creates something akin to the "hybrid" commission that was found improper by the Wisconsin Supreme Court in Schroeder v. City of Clintonville, 90 Wis. 2d 457 (1979).

However, sec. 66.0805(6), Wis. Stats., allows the City to opt out of the other requirements of sec. 66.0805, and establish government of the utility in another manner. This ordinance makes that election to opt out, and reconstitutes the Water Board with the shared governance with the Mayor and Common Council that appears to be the intent of the current ordinance.

This ordinance also increases the size of the Board from 6 to 8 members, including the Public Health Director as a non-

voting member of the Board. A more detailed memo from the City Attorney is included as an attachment.

The Common Council of the City of Madison do hereby ordain as follows:

1. Section 13.01 entitled "Board of Water Commissioners" of the Madison General Ordinances is amended to read as follows:

**"13.01 WATER UTILITY BOARD OF WATER COMMISSIONERS.**

- (1) Election. The City of Madison hereby elects, pursuant to sec. 66.0805(6), Wis. Stats., to provide for the operation of the Madison Water Utility by a board of officers other than the commission provided for in sec. 66.0805(1)-(3), Wis. Stats. In establishing this Board, the City also relies on its authority under sec. 62.11(5), Wis. Stats.
- (4) (2) Water Utility Board of Water Commissioners. There shall be a board is hereby created a Water Utility Board of five (5) water commissioners eight (8) members, whose duty shall be the management and operation of the City Water Utility. There shall be seven (7) voting members and one (1) non-voting ex-officio member. At least One (1) and not more than two (2) of the commissioner voting members shall be a members of the Common Council. Pursuant to Sec. 66.0805(2), Wis. Stats., commissioners The members shall be appointed by the Mayor and confirmed by the Common Council on a staggered basis for a term each of five (5) years. In case of vacancy, the Common Council may at any regular or special meeting elect confirm a member for the unexpired term. In addition, The Director of Public Health under Sec. 7.02, M.G.O., or his or her designee shall serve as an ex-officio, non-voting member of the Board in order to provide advice and information to the Board on health issues related to the Water Utility. The Director of Public Health shall not vote, may not make motions, and shall not be counted as a member in determining quorum or majorities. Upon passage of this ordinance, the existing commissioners of the Board of Water Commissioners shall immediately succeed to positions as members of the Water Utility Board and fill out their terms as if appointed to the remaining length of their terms.
- (-2) (3) Meeting, and Organization and Duties of the Board. The commissioners Board on an annual basis shall choose from among their number a president, vice president and secretary. The Board of Water Commissioners may make rules for its own proceedings and for the government of the Utility. The Board shall keep books of account in the manner and form prescribed by the Public Service Commission which shall be open to the public. The Board shall have the general management and supervision of the City Water Utility and all matters connected therewith, subject to the general control and supervision of the Water Utility Board by the Mayor and Common Council. The Council shall exercise such supervision by enacting ordinances governing the Board's operation, and approving contracts for the Water Utility as it does for other departments, and The Board shall have the general power and authority to make rules and regulations for the management of said Utility as it shall from time to time find necessary for the safe, economical and efficient management and protection of the wWater uUtility. The Board shall issue an annual report which shall be made available to the Common Council.
- (4) Employees. Employees of the Water Utility shall be governed by the ordinances, rules and procedures established for other employees of the City of Madison, together with any rules established by the Water Utility Board.

2. Section 13.02 entitled "Appointment of General Manager, Duties" of the Madison General Ordinances is amended to read as follows:

**"13.02 APPOINTMENT OF GENERAL MANAGER; DUTIES.**

- (1) The Water Utility General Manager shall be appointed by the Mayor, in consultation with and subject to the approval of the Water Utility Board, of Water Commissioners and further subject to the approval of the Mayor and Common Council, and The position shall be filled according to Sec. 3.383.54(6)(f) of these ordinances. The General Manager shall hold her/his position pursuant to the terms of the employment contract provided for in such section. The Water Utility General Manager shall be the chief executive of the Water Utility and shall perform those duties generally described in this chapter and such other duties as may be delegated by the Board."

3. Section 13.03 entitled "Duties of General Manager" of the Madison General Ordinances is amended to read as follows:

**"13.03 DUTIES OF GENERAL MANAGER.**

- (1) General Duties. The General Manager shall have supervision of the Water Utility under the direction of

the Water Utility Board of Water Commissioners and shall have supervision and control over the buildings, grounds, and all matters connected therewith, and shall enforce all ordinances, rules and regulations of the Common Council and of the Board; and see that the conditions of all contracts relating to said Utility are faithfully complied with, and that all charges for the use of water are duly made, collected, and paid into the City Treasury. The General Manager shall be the appointing authority under the provisions of the civil service ordinance for the purpose of making appointments of employees in the Water Utility. The General Manager shall be subject to the supervision of the Mayor and the Water Utility Board, as set forth in his/her employment contract.

- (2) In Charge of New Construction and Installations. The General Manager shall supervise the installation of all new equipment, the construction of all new wells, reservoirs, treatment facilities, and pumping stations and have charge of all improvements to the Water Utility plant, including the installation, repair and reconstruction of all mains and service connections. The General Manager shall have supervision of work of this nature and, ~~subject to such regulation as the Common Council or Board may adopt,~~ shall ~~have the authority to~~ purchase materials and ~~to employ the services and labor necessary supplies~~ for such work pursuant to City ordinances, including Sec. 4.26. M.G.O.
- (3) Maps and Records to be Kept. The General Manager shall direct the maintenance of maps and records of the water system.
- (4) Other Records to be Kept. The General Manager shall keep a record of all accounts and claims for or against the Water Utility and all meters and the location thereof and shall perform such other duties as the Board or the Common Council may prescribe."

- 4. All prior actions of the Board of Water Commissioners and the City, including contracts, are ratified and approved as if entered into under this new ordinance.