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Fiscal Note

Under State Public Service Commission regulations, a municipality may assess an annual Payment in Lieu of Taxes (PILOT) payment on its municipal Water Utility. The State regulations provide that a municipality may assess a PILOT that is derived from an assessment of the Utility's physical plant value multiplied by the combined property tax mill rates of the City, the School District, and the Technical College. This PILOT calculation and assessment has been utilized by the City for many years.

Since the year 2000, the Water Utility PILOT has ranged from approximately 13% of its total annual operating expense budget to a high of 16.8% (the current, 2014 ratio). Various factors may affect the Water Utility's physical plant values and the taxing rates of the several jurisdictions. Over the past few years, a combination of the Utility's increased investment in its physical plant (including an intensified water main replacement schedule and new well construction and filtering) and increases in tax rates to coincide with a declining property tax base have resulted in increased PILOT payments, as per the State/PSC prescribed PILOT formulation.

As with all PILOTs, a Payment In Lieu of Taxes recognizes that the City bears costs such as Police and Fire protection even for properties that might be exempt from the property tax, and a PILOT is a proxy mechanism that mutually recognizes and acknowledges such costs. Revenues derived from PILOTs, including the Water Utility PILOT, are credited to the City's General Fund to support general City operations.

If the Water Utility PILOT were capped at 15% of its gross revenues, as proposed in the Resolution, the Water Utility PILOT payment in 2013 (for which the last complete data are available) would have been about $4.338M instead of its actual payment of $5.581M, or a reduction in City General Fund revenues of approximately $1.243M (please see attached spreadsheet for more data). As such, an additional $1.243M in expense reductions or revenue enhancements would have been necessary to balance the City budget. The Resolution does provide a floor that is no lower than “the amount that was provided in the 2014 Water Utility Operating Budget.” That amount is $5,919,256. However, each year’s Water Utility PILOT that is included in the Utility’s operating budget is an estimate. The latest projection for the actual 2014 Water Utility PILOT due the City is $6,040,099. Thus, if the Resolution had been effective in 2014, the actual 2014 General Fund shortfall is currently projected at $120,843. The latest projection for the Water Utility PILOT due in 2015 is $6.536M, so if the Resolution were effective in 2015, the anticipated General Fund revenue loss from the Water Pilot is about $600,000. Future impacts of a Water Utility PILOT cap at 15% of the Water Utility gross revenues or pegged at the 2014 budgeted (or final) Water Utility PILOT are unknown and dependent on a number of variables, but given the Water Utility's continued intensive pace of upgrades and investments in its physical plant, coupled with the likelihood of increased or static tax rates, the overall potential loss to the City General Fund will continue to grow and result in additional City budget challenges.

It merits noting that the Public Service Commission recently conducted a study of the Water Utility PILOT formulation. After months of study, the PSC concluded its study without recommendations that the PILOT formulation be changed.

Title

Resolution changing the calculation formula used for Madison Water Utility's Payment In Lieu of Taxes (PILOT) for 2015 and beyond (Citywide).

Body

WHEREAS, the Madison Water Utility makes a payment in lieu of taxes (PILOT) to the City as authorized under Wis. Stat. Sec. 66.0811(2) and Wis. Admin Code Ch. PSC 109; and

WHEREAS, of the three enterprises involved in water resources (the Water Utility, the Sewer Utility, and the Stormwater Utility), only the Water Utility can be assessed PILOT; and

WHEREAS, as defined in state administrative rules, the PILOT is calculated using the tax rates of the City, School District and Technical College District applied to the gross book value of the total water utility plant; and

WHEREAS, applying the maximum allowable rate, PILOT has increased 84% since 2005 due to intensified water pipe replacement efforts and increasing tax rates associated with falling property values; and

WHEREAS, PILOT is now the third largest line item expense in the 2014 Madison Water Utility Budget, after debt service and permanent salaries, representing 16.9 % of the entire budget; and

WHEREAS, the PILOT amount is growing rapidly as a result of the replacement of water distribution plant and necessary water treatment improvements; and

WHEREAS, the City of Madison uses the maximum allowable PILOT rate and assesses a payment based upon the City's Tax Rate, the Madison Metropolitan School District Tax Rate, and the Madison Area Technical College Tax Rate, though the City retains all the funds collected; and

WHEREAS, the cost of PILOT payments is passed on to ratepayers in the form of higher rates, resulting in a significant portion of a customer’s water bill being paid to the City of Madison rather than used for water production and distribution; and

WHEREAS, the Legislature in 1995 established a minimum PILOT amount because utilities’ tax equivalents were expected to decrease as a result of property tax relief provisions in 1995 Wis. Act 27; and

WHEREAS, Wis. Stat. Sec. 66.0811(2) gives explicit authority to the governing body of the municipality to set an amount lower than the statutory minimum; and

WHEREAS, the formula used to calculate the Utility’s PILOT can be changed by Council Resolution, provided the formula does not result in a PILOT that exceeds the maximum allowable rate under PSC 109.

NOW, THEREFORE, BE IT RESOLVED, that the PILOT for 2015 and beyond not exceed 15% of the gross revenue of the Madison Water Utility, or 7% of the gross revenue of the water resources enterprises, but shall not be less than the amount that was provided in the 2014 Water Utility Operating Budget nor greater than the maximum allowable rate under PSC 109.

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