



## Legislation Text

File #: 42296, Version: 1

### Fiscal Note

The proposed resolution provides a tax refund to NES Equipment Services Corporation as the result of a retroactive agreement impacting pending litigation between the City and NES. Both parties have reached an agreement that the City will refund half of outstanding accumulated interest (\$1,700). The proposed resolution will appropriate \$1,700 from the Contingent Reserve for this purpose. Upon adoption of this resolution the balance of the 2016 Contingent Reserve will be \$1,138,646.

### Title

Authorizing the payment of a tax refund and associated interest as required by state law to NES Equipment Services Corporation. due to a retroactive amendment made to the personal property exemption statute for rental equipment and making an \$1,700 appropriation from the Contingent Reserve to pay interest.

### Body

This resolution authorizes the payment of a tax refund and associated interest as required by state law to NES Equipment Services Corporation due to a retroactive amendment made to the personal property exemption statute for rental equipment.

The City denied NES Equipment's exemption because the statute contained a provision that the entity could not qualify for exemption if they had subsidiaries or affiliate companies that were engaged in business other than personal property rental. NES Equipment sued the City for the refund of the 2014 taxes in the Dane County Circuit Court Case Number 15CV1573. The Wisconsin Legislature amended this section in 2015 Wis. Act 55 (Budget Bill) retroactive to January 1, 2014, which resolved the City's argument concerning NES Equipment affiliate companies and subsidiaries. This change in the law was adopted on July 12, 2015. In December of 2015 the Department of Revenue released the 2016 version of the Wisconsin Property Assessment Manual, which provided further instruction and clarification on the specific types of equipment that Assessors should exempt under this section.

Therefore, in light of the retroactive amendment and the instruction set forth in the Wisconsin Property Assessment Manual, the City and NES Equipment have agreed that the 2014 assessment of the personal property should be reduced from \$1,285,100 to \$23,400 and a tax refund should be issued in the amount of \$30,612.35. Additionally, the statutory interest on the refunded amount from the date they filed a claim with the City which was, January 27, 2015. The interest amount is calculated at .8% per month and is approximately \$3,460.00, as of March of 2016. The City and NES Equipment have reached an agreement that the City will pay approximately half of the outstanding interest accumulated as of March of 2016, \$1,700 in an effort to resolve this matter without any further litigation and dismiss case number 15CV1573. In the event that this resolution is not approved or acted upon by June 1, 2016, the interest will continue to accrue.

WHEREAS, NES Equipment Services Corporation pursued a claim for unlawful taxation for the 2014 tax year for their rental equipment pursuant to Wis. Stat. §70.111(22); and

WHEREAS, 2015 Wisconsin Act 55, retroactively amended Wis. Stat. § 70.111(22) to exempt the majority of NES Equipment for tax year 2014;

WHEREAS, the City must pay a refund and statutory interest for the 2014 taxes as follows:

Tax Refund: \$30,612.35

Interest:       \$1,700.00(Agreed upon amount)

NOW, THEREFORE BE IT RESOLVED, that the Common Council authorizes the refund to NES Equipment as required by the change in state law, and further authorizes the agreement to settle the interest payment at \$1,700, and directing City staff to effectuate the refund and settlement.

NOW, THEREFORE BE IT FINALLY RESOLVED, that \$1,700 is appropriated from the Contingent Reserve to make the \$1,700 interest payment.