



December 18, 2023

Members of the Senate Committee on Utilities and Technology  
Members of the Assembly Committee on Energy and Utilities

Re: Senate Bill 455  
Assembly Bill 457  
Related to PSC Regulation of Storm Water Utilities

The Wisconsin Chapter of the American Public Works Association (APWA Wisconsin) is an organization of nearly 800 professionals in both the public and private sector serving the public works needs of communities across the State of Wisconsin. Recently, a handful of Senators and Representatives have proposed legislation under Senate Bill 455 and Assembly Bill 457 that would subject “municipal storm water utilities . . . to the full authority of the Public Service Commission to regulate rates and services.” APWA Wisconsin is writing in opposition to the proposed Act.

For years, APWA Wisconsin has maintained a list of Wisconsin communities who have adopted stormwater utilities. A copy of this list is included for your benefit but can also be found on the APWA Wisconsin Chapter [website](#). 95 of the 123 communities who have storm water utilities are also subject to additional water quality performance criteria under their Municipal Separate Storm Sewer (MS4) Permit (NR 216) with the Department of Natural Resources (refer to the [DNR website](#) for more information on MS4 permits). Communities with storm water utilities tend to have a common goal: address the applicable regulatory requirements while at the same time addressing drainage and flooding concerns within their respective community.

As noted in Guidance for Municipal Stormwater Funding which was prepared by the National Association of Flood and Stormwater Management Agencies in January 2006, “the stormwater function has evolved from a basic capital construction and maintenance program supported primarily by local taxes, to a program of integrated water resource management, environmental enhancement, and recreational services requiring a multi-faceted benefit-based finance system.” (Page ES-1 of the [Guidance Document](#)). Communities that have adopted storm water utilities have already spent significant funds ensuring the “legality, equity, revenue sufficiency, flexibility, balance of rates with level of service, data requirements, compatibility with data processing systems, consistency with other local funding and rate policies, and revenue stability and sensitivity” have been achieved (ES-2). Please consider the intent of the proposed legislation and whether it will increase the cost of compliance for local communities subject to an MS4 permit or, for that matter, the cost of operations regardless of whether the community is subject to an MS4 permit.

From our perspective and expertise, municipalities would be burdened with the additional cost of preparation of formal annual reports, rate studies, and oversight of capital improvement projects that would require scrutiny, review and approval by the PSC under the proposed regulations. The estimated cost to prepare these reports could add over \$100,000 to each utility, which more than doubles the costs that many utilities currently spend on planning for stormwater drainage improvements and regulatory compliance. These funds are better spent on replacing and repairing aging infrastructure and addressing



compliance with MS4 permit requirements (where applicable). Further, many of the communities with stormwater utilities have found that funding through the utility is inadequate for the large capital expenditures needed to replace their aging infrastructure and have had to supplement their costs from the general tax levy.

There are also significant concerns about how the PSC will interpret the appropriate regulatory framework for these essential services. While the intention may be to streamline operations and enhance efficiency, ceding control to the PSC could have adverse effects on local governance, community responsiveness, and the unique nature of stormwater management. Complaints regarding municipal stormwater utilities are already subject to review by the PSC. Our concerns with the proposed legislation are highlighted in the attached Talking Points handout.

It appears there are very few benefits to ratepayers under the proposed legislation; in contrast, there may be significant unintended consequences, including increased costs and unnecessary regulatory oversight, if you were to advance this legislation. Granting the PSC jurisdiction over publicly owned stormwater utilities is a step that risks sacrificing the benefits of local autonomy, community responsiveness, and environmentally conscious decision-making. For these reasons, APWA Wisconsin respectfully requests that you vote “no” and not advance this proposed legislation to the full Senate and Assembly.

Respectfully Submitted,

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President, APWA Wisconsin