



House of Representatives

General Assembly

File No. 437

February Session, 2018

House Bill No. 5346

House of Representatives, April 12, 2018

The Committee on Energy and Technology reported through REP. REED of the 102nd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE SALE OF MUNICIPAL WATER SUPPLY AND WASTEWATER UTILITY ASSETS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2018*) (a) For purposes of this
2 section:

3 (1) "Municipal" or "municipality" means any unit of government,
4 including a town, city, borough, consolidated town and city,
5 consolidated town and borough, district taxing district, public agency
6 or authority established by the general statutes, a special act or a local
7 law, ordinance or charter, or any other subdivision of government;

8 (2) "Municipal water supply system" means a water system owned
9 by a municipality, including a municipal waterworks system
10 established by the general statutes, a special act or a local law,
11 ordinance or charter, or any other subdivision of government;

12 (3) "Municipal wastewater system" means a sewage or wastewater

13 system owned by a municipality or otherwise established by the
14 general statutes, a special act or a local law, ordinance or charter, or
15 any other subdivision of government;

16 (4) "Average fair market value" means the numerical average of the
17 fair market values of two utility valuation expert appraisals conducted
18 pursuant to subsection (c) of this section;

19 (5) "Ratemaking rate base" means the dollar value of the municipal
20 water supply system or municipal wastewater system;

21 (6) "Water company" has the same meaning as provided in section
22 16-1 of the general statutes; and

23 (7) "Utility valuation expert" means an experienced appraiser.

24 (b) A municipality may negotiate with a water company for the sale
25 of a municipal water supply system or municipal wastewater system
26 to such water company. The municipality and the water company shall
27 negotiate a sale price. After such sale price is negotiated and agreed
28 upon, such municipality and water company shall determine the
29 average fair market value of such municipal water supply system or
30 municipal wastewater system pursuant to subsection (c) of this section.

31 (c) To determine the average fair market value of a municipal water
32 supply system or municipal wastewater system, after a municipality
33 and a water company have negotiated and agreed upon a sale price
34 pursuant to subsection (b) of this section, (1) the municipality and the
35 water company shall jointly engage the services of a licensed engineer
36 to conduct an assessment of the tangible assets of such municipal
37 water supply system or municipal wastewater system, (2) the
38 municipality and the water company shall each engage a utility
39 valuation expert, (3) each utility valuation expert, using the assessment
40 conducted pursuant to subdivision (1) of this subsection, shall perform
41 an appraisal of such municipal water supply system or municipal
42 wastewater system, which shall include a determination of the fair
43 market value of such municipal water supply system or municipal

44 wastewater system pursuant to the Uniform Standards of Professional
45 Appraisal Practice, and (4) each utility valuation expert shall provide
46 such utility valuation expert's appraisal to the municipality and the
47 water company within ninety days of engagement pursuant to
48 subdivision (2) of this subsection.

49 (d) After the completion of the appraisals pursuant to subsection (c)
50 of this section, the municipality and the water company shall jointly
51 submit an application for approval for the sale of such municipal water
52 supply system or municipal wastewater system to the Public Utilities
53 Regulatory Authority. The authority may approve such application,
54 provided the authority shall approve or deny such application not
55 later than six months after the date on which the application was filed.

56 (e) If the authority approves such application, the authority shall (1)
57 determine the ratemaking rate base as the lesser of (A) the sale price
58 negotiated by the municipality and the water company pursuant to
59 subsection (b) of this section, and (B) the average fair market value of
60 such municipal water supply system or municipal wastewater system
61 as determined by subsection (c) of this section, (2) approve rates and
62 any applicable surcharges for customers of such municipal water
63 supply system or municipal wastewater system, (3) permit such water
64 company to include the ratemaking rate base in such water company's
65 rate base for ratemaking purposes in its next general rate case, and (4)
66 permit such water company to include in its rate base the costs
67 associated with the acquisition of such municipal water supply system
68 or municipal wastewater system, including (A) transaction and closing
69 costs, and (B) fees paid to the engineer conducting the assessment of
70 the assets and the utility valuation experts, provided appraisal fees
71 that do not exceed five per cent of the fair market value of the
72 municipal water supply system or municipal wastewater system shall
73 be presumed to be reasonable.

74 (f) Nothing in this section shall be construed to supersede any
75 provisions of the general statutes or municipal charters regarding the
76 sale or disposition of municipal assets or any provisions of the general

77 statutes regarding the acquisition of a water company.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	New section

ET *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** See Below***Municipal Impact:*** See Below***Explanation***

The bill creates a process through which private water companies, when purchasing municipal water or wastewater systems, may include the lesser of either the sale price or the system's average fair market value in its rate base. This may increase rates paid to private water companies, including various state agencies and municipalities.

The Out Years***State Impact:*** See Above***Municipal Impact:*** See Above

OLR Bill Analysis**HB 5346*****AN ACT CONCERNING THE SALE OF MUNICIPAL WATER SUPPLY AND WASTEWATER UTILITY ASSETS.*****SUMMARY**

This bill establishes a process through which a water company regulated by the Public Utilities Regulatory Authority (PURA) can buy a municipally owned wastewater or water supply system and have the lesser of either the sale price or the system's average fair market value included in its rate base (i.e., an amount it can recover through its rates). Under current practice, the water company would generally only be able to include the municipal system's "net book value" (original costs, less depreciation), in its rate base.

Under the bill, a "municipality" is any unit of government, including a town, city, borough, consolidated town and city, consolidated town and borough, district taxing district, public agency or authority established by the general statutes, a special act or a local law, ordinance or charter, or any other subdivision of government.

EFFECTIVE DATE: October 1, 2018

DETERMINING FAIR MARKET VALUE

The bill allows a municipality to negotiate with a PURA-regulated water company to sell its municipal wastewater or water supply system to the company. Once the parties have negotiated and agreed upon a sale price they must determine the system's average fair market value.

To do so, the bill requires the municipality and company to (1) jointly engage a licensed engineer to assess the system's tangible assets and (2) each engage a utility valuation expert. Under the bill, a utility

valuation expert is an experienced appraiser. Each valuation expert, using the engineer's assessment, must then appraise the system and determine its fair market value under the Uniform Standards of Professional Appraisal Practice (see BACKGROUND). Each valuation expert must provide his or her appraisal to the municipality and water company within 90 days after he or she was engaged for the appraisal.

Once the appraisals are done, the bill requires the municipality and water company to jointly submit an application for approval for the sale to PURA. PURA must approve or deny the application within six months after the parties file it.

RATES

If PURA approves the application, it must determine the ratemaking rate base (the system's dollar value) as the lesser of (1) the negotiated sale price or (2) the system's average fair market value. Under the bill, the average fair market value is the numerical average of the fair market values produced by the two valuation experts' appraisals.

The bill also requires PURA to:

1. approve rates and any applicable surcharges for the municipal system's customers;
2. allow the water company to include the ratemaking rate base in its rate base for ratemaking purposes at its next general rate case (i.e., allow it to recover the municipal system's dollar value through its rates); and
3. allow the company to include in its rate base the costs associated with acquiring the municipal system, including the (a) transaction and closing costs and (b) fees paid to the engineer and valuation expert.

Under the bill, appraisal fees that do not exceed 5% of the system's fair market value must be presumed to be reasonable.

The bill specifies that it does not supersede any provisions of the general statutes or municipal charters regarding the sale or disposition of municipal assets, or any provisions of the general statutes regarding water company acquisitions.

BACKGROUND

Uniform Standards of Professional Appraisal Practice

The Uniform Standards of Professional Appraisal Practice contains standards for all types of appraisal services, including real estate, personal property, business, and mass appraisal. It is updated every two years and state-licensed and state-certified appraisers involved in federally-related real estate transactions must comply with it.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 21 Nay 4 (03/29/2018)