

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2024 Regular Session**

Part I: Measure Information

Bill Request #: 454

Bill #: SB 220

Document ID #: 5907

Bill Title: AN ACT relating to combined municipal electric and water utilities.

Sponsor: Senator Edwin Gex Williams

Unit of Government: City County Urban-County
Unified Local
 Charter County Consolidated Local Government

Office(s) Impacted: Municipal combined utility plant boards

Requirement: Mandatory Optional

Effect on
Powers & Duties: Modifies Existing Adds New Eliminates Existing

**Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local
Government**

SB 220 **Section 2** would increase membership on the board of a combined municipal water and electric utility board from 5 to 7 members and would appoint members in such a way to bring board membership closest to proportionately representative of the customers who reside inside the city limits rather than outside the city limits.

KRS 96.179 currently allows municipal combined water and electric utility boards, in lieu of taxes, to elect to pay to a school district and a municipality where its property is located an amount equivalent to an annual ad valorem tax on the fair cash value of board property located in those jurisdictions. SB 220 **Section 4** would amend KRS 96.179 to require the board pay that amount to each taxing jurisdiction in which its property lies.

Section 5 would prohibit use of surplus utility revenues for any purpose except redemption or purchase of outstanding bonds or reduction of utility rates.

Section 5 of the bill would require that acquisition, construction, maintenance, improvement, addition to, or operation of any public project by the board would first have to be approved by the legislative body of the municipality operating the combined utility system; the board may not use revenues from utility service to subsidize activities unrelated to provision of electric or water utility service. The board would be required to keep separate accounts for non-utility related activities.

Section 6 would amend KRS 96.184 to add a requirement that use of utility revenues to secure payment of revenue bonds for non-utility public projects must be approved by the municipality's legislative body.

Section 7 would, in addition to the annual audit of combined utility board records currently required by KRS 96.185, require in each even-numbered year the board have an independent appraisal for the properties, services and assets of each project or operation of the board unrelated to provision of water or electric utility services.

Section 8 would establish the 60 day time period for challenging ordinances or resolutions of the board begins when they are published in accordance with KRS Chapter 424.

Section 9 would define terms and would prohibit the board using funds generated from its provision of utility services for institutional or political advertising. The board would be authorized to use money not derived from its provision of service for promotional advertising of public projects it undertakes pursuant to Section 5.

The Kentucky League of Cities (KLC) believes SB 220 would have an indeterminable negative fiscal impact on cities. The payment of equivalent ad valorem taxes by a combined municipal water and electric utility to additional taxing jurisdictions, which could require multiple tax assessments be done, would have a negative fiscal impact on the utility.

KLC believes SB 220 could negatively impact the utility board's ability to borrow money and provide funds between different departments within the system, and to make investments to maintain and update other systems it operates, including services it offers to other cities. Difficulty borrowing money would make such borrowing more expensive and could result in higher utility rates to its customers, including to the city. For the same reasons, the bill could also have a negative impact on the board's ability to provide money for other economic development in the city.

Finally, KLC believes subjecting a local municipal utility to PSC regulation would be a duplication of current local oversight and would add significant delays and cost. KLC believes the requirements of the bill would place the utility – an asset of the city - at risk and subject the city to increased liabilities.

Passage of SB 220 may require municipal combined water and electric utilities and the cities owning them may have to amend applicable ordinances to effectuate the

requirements of the bill. Local governments will incur costs associated with drafting, publication, and public hearing of proposed ordinances. Time spent drafting an ordinance is influenced by its complexity and the amount of research necessary.

According to the Kentucky League of Cities, most cities, especially smaller cities, pay their city attorney on an hourly basis. The estimated average wage paid by a city to their attorney as of January 2024 is approximately \$117 to \$128 an hour. Rates for publishing legal notices vary depending on the length of the notice, the number of times it must be published, and the newspaper in which the notice is published. Therefore these costs are unknown.

Information for preparing this local mandate analysis was sought from the Kentucky Association of Counties (KACO) and from the Kentucky Municipal Energy Agency. If information is received from either entity, this mandate analysis may be amended.

Data Source(s): Kentucky League of Cities; Kentucky Revised Statutes; online research; LRC staff

Preparer: Mary Stephens (JB) **Reviewer:** KHC **Date:** 3/12/24