

# The Source

UTILITY ENTERPRISE MANAGEMENT

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## MN PPL Proposals Deadline Coming Soon

**T**he deadline for proposals to be included on the Minnesota Drinking Water Revolving Fund (DWRF) Project Priority List (PPL) is coming soon. The deadline is Friday, May 21st, 2004 at 4:30 p.m. Public water system construction projects must be on the PPL in order to be eligible for a DWRF loan. Projects that address public health problems, achieve drinking water requirements compliance, and/or serve public water systems in financial need will take priority on the list.

For more information about the PPL and an example of a PPL, go to [www.health.state.mn.us/divs/eh/water/dwrf/ppl/pploverview.html](http://www.health.state.mn.us/divs/eh/water/dwrf/ppl/pploverview.html). ■

## Planning and Rate Design Presentation Hits the Road

AE2S, in conjunction with the ND Rural Water Systems Association, will present "Planning & Rate Design to Address Water Infrastructure Challenges" at ND League of Cities Regional Meetings including the following:

- April 20 - Watford City City Hall
- April 21 - Dodge City Auditorium
- April 22 - Riverdale Community Center
- April 27 - Fargo Howard Johnson
- April 28 - Northwood Community Center
- April 29 - Carrington Chieftain

**I**n a continuing saga of controversy, South Dakota has repealed the year-old law that allowed cities to enter into lease-leaseback arrangements. Enacted as an option for utilities to secure needed funding, the process is currently undergoing scrutiny by the US Senate Finance Committee, thus prompting state legislators to reevaluate its merit and, in some cases, vote for repeal.

Under the lease-leaseback arrangement, cities would have received an upfront cash payment in exchange for setting up a 99-year lease on city-owned facilities. The benefit to the private investors is that they would receive a federal tax deferment. Herein lies the controversy - wealthy taxpayers receive a tax break for facilities from which they do not directly benefit. The U.S. Treasury

Department has determined that lease-leaseback transactions are, therefore, "without substance".

Lease-leaseback hit the federal radar in October 2003, when the US Senate Finance Committee was holding hearings on questionable tax shelters. Testimony from an anonymous witness brought the lease-leaseback transactions into the spotlight when it was explained how major U.S. companies receive huge tax deductions by "pretending" to lease city infrastructure and then "pretending" to lease it back. Senator Chuck Grassley, a Republican from Iowa and Chairman of the US Senate Finance Committee, is working with committee members to get legislation passed that will make the transaction illegal at the federal level. The Senate is expected to discuss lease/leaseback transaction the week of March 22, when it considers the Foreign Sales Corporation-Extraterritorial Income (FSC-ETI) bill. The bill is expected to be on the House floor before the Easter recess scheduled for April 5-16.

Although some utility managers and City leaders felt the move was premature, South Dakota lawmakers decided not to wait for the federal decision. Some cited putting the State's credit rating at risk as one reason. In addition, Jeremiah Murphy and Jerry Fischer of the South Dakota Building Authority said that, under the existing law, the State of South Dakota was responsible for paying bonds issued as part of a lease-leaseback transaction, in the event of a default.

While the repeal forces South Dakota cities to look at other options for funding, it also precludes their having to deal with the issue should the federal government vote in favor of legislation to stop lease/leaseback transactions. ■

## South Dakota Repeals Lease/Leaseback Legislation

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If you have any questions concerning the contents of this newsletter, please contact Sheryl Smith at 701.746.8087 or [Sheryl.Smith@ae2s.com](mailto:Sheryl.Smith@ae2s.com)

## Rate Surveys Wrapping Up

**T**he AE2S annual North Central Region Utility Rate Survey will be wrapping up this month. The survey covers water, wastewater, and storm water utility rates for communities serving approximately 5,000 and greater throughout North Dakota, Minnesota, and South Dakota.

There still is time to participate. You may either call 701-746-8087 or email Sheryl Smith at [Sheryl.Smith@ae2s.com](mailto:Sheryl.Smith@ae2s.com) for a copy of the survey or go to our website at [www.ae2s.com/knowledge-center/utilityratesurvey.pdf](http://www.ae2s.com/knowledge-center/utilityratesurvey.pdf) and print out the survey form. Please fax your completed form to Sheryl Smith at 701-746-0370. All respondents will receive a complete survey booklet in April. ■

An interesting question has been posed by a number of participants in the AE2S rate survey - How many cities use sales tax to fund their utilities? If there is enough interest in this subject, AE2S will conduct a survey specific to this subject. If you are willing to participate, please call 701-746-8087 or email [Sheryl.Smith@ae2s.com](mailto:Sheryl.Smith@ae2s.com).

## Stormwater Fees: To Charge or Not to Charge?

The service of managing stormwater runoff is unlike providing other utility services such as water and wastewater service, which can be quantified by the actual gallons consumed or the actual gallons discharged and treated. The amount of stormwater runoff contributed to a City's storm system varies according to property size, property surfaces, impervious moisture content, and soil drainage capability, among other things. These characteristics vary from one site to the next, and certainly from one City to the next.

Due to these variations, there is not one clearly consistent trend in the management of or fee collection for stormwater systems. Some cities operate a combined wastewater and stormwater utility, some rely on other City departments to complete stormwater maintenance, and still others have established a separate stormwater utility.

Cities operating a stand-alone utility generally charge a monthly operation and maintenance fee based on the amount of a property's impervious surface area. Communities without a separate utility typically fund these activities through another fund, such as wastewater, or through general property taxes. Large capital projects are often funded using special assessments.

Stormwater is gaining increased awareness due to recent wet periods and changing stormwater regulations. In addition, as the concept of cost of service-based utility rates continues to catch on, Cities are expected to fine-tune their utility billing rate structures to reflect fair and equitable charges for each user class. These issues will likely lead to the implementation of a separate stormwater utility charge for many municipalities. ■

Watch for regional stormwater fee coverage in future issues of *The Source* following completion of AE2S' 2004 North Central Regional Utility Rate Survey.

[www.ae2s.com](http://www.ae2s.com)

Offices in:  
Grand Forks, ND  
Bismarck, ND  
Williston, ND  
Moorhead, MN  
Brainerd, MN

Advanced Engineering and  
Environmental Services, Inc. (AE2S)  
2016 Washington Street South  
Grand Forks, ND 58201

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