

## Legislation Text

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### Resolution 2020-228 To Amend Great Lakes Water Authority Settlement Policy

Agenda of June 24, 2020

Item No. **2020-228**

#### GREAT LAKES WATER AUTHORITY RESOLUTION 2020-228 TO AMEND GREAT LAKES WATER AUTHORITY SETTLEMENT POLICY

By: Member Gary Brown

WHEREAS, the Regional Water System Lease, the Regional Sewage Disposal System Lease and the Water and Sewer Services Agreement (“the Lease Documents”) require the Great Lakes Water Authority (GLWA) and the City of Detroit to designate representatives to resolve disputes; and

WHEREAS, the Lease Documents require the parties to settle a matter by arbitration if the representatives are unable to resolve a dispute; and

WHEREAS, the GLWA and City of Detroit are currently arbitrating disputes and have engaged in extended negotiations; and

WHEREAS, on February 28, 2018, the GLWA Board authorized and adopted a Settlement Policy requiring a proposed settlement amount greater than \$125,000.00 be referred by the GLWA CEO or General Counsel to the Board’s Legal Committee for consideration; and

WHEREAS, the Settlement Policy requires the Legal Committee to return one of the following recommendations to the Board within 30 days of the Proposed Settlement Amount referral: (i) recommended for approval, (ii) not recommended for approval, or (iii) referred without recommendation; and

WHEREAS, the Settlement Policy allows GLWA’s CEO to refer a time-sensitive Proposed Settlement Amount directly to the Board at a regularly scheduled or Special Meeting for approval; and

WHEREAS, on February 18, 2020, the GLWA’s CEO and General Counsel conveyed a Proposed Settlement to City of Detroit to resolve the pending arbitrations without first presenting the Proposed Settlement to the Legal Committee and/or Board and on June 18, 2020, the City of Detroit conveyed a Counter-Proposal Settlement to GLWA, which has not been presented to the Board;

NOW, THEREFORE, BE IT RESOLVED THAT the GLWA Settlement Policy be amended to add a

category for arbitrations between the GLWA and City of Detroit that states:

### **ARBITRATIONS BETWEEN GLWA AND CITY OF DETROIT**

- **All Settlements.** Any and all proposed settlements of disputes, regardless of amount or value, between the GLWA and City of Detroit where either party has served a notice to arbitrate upon the other party shall be approved by the Board.
- **Committee Referral.** A Proposed Settlement of a dispute after service of a notice to arbitrate shall be referred by GLWA's CEO or General Counsel to the Board's Legal Committee for its consideration.
- **Committee Consideration.** For each Proposed Settlement of a dispute after service of a notice to arbitrate, the Legal Committee shall consider, by way of example and without limitation, the following factors:
  - The factual allegations
  - The financial impact on GLWA and the City of Detroit
  - The likelihood of prevailing at an arbitration hearing
  - GLWA's General Counsel's recommendation
  - Such other considerations of importance to the Legal Committee or Board, as appropriate
- **Committee Recommendation.** The Legal Committee shall return one of the following recommendations to the Board within 30 days of the Proposed Settlement referral:
  - (i) recommended for approval, (ii) not recommended for approval, or (iii) referred without recommendation.
- **Exception.** In the event of a time-sensitive need to approve a Proposed Settlement, GLWA's CEO may refer the Proposed Settlement directly to the Board at a regularly scheduled or Special Meeting for approval.