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Is S'gor water bond bailout unlawful?

A watchdog group says a bailout would also require nullifying the concessions agreement, in line with the Water Services Industry Act.

Questions are being raised if the vehicles used in the proposed RM6.5 billion bailout for Selangor's water bond holders deviates from the purposes outlined by the Water Services Industry Act (WSIA) 2006.

Watchdog group Association of Water and Energy Research Malaysia (AWER) said that the bailout does not detail the stakes of water-related concessionaires that would be affected.

"The **WSIA model** allows the removal of concession agreements via a proper mechanism. Paying off liabilities of the concession companies to prevent deterioration of (capital) market confidence is acceptable.



"But the concession agreement must be made null and void at the end of the whole deal," said AWER president S Piarapakaran in a statement today.

Piarapakaran argues that the Selangor water bond bailout was similar to the American government's bailout of General Motors and Chrysler in 2009.

But unlike the American example, Piarapakaran said that there are no clear signs that the concessionaires's stakes are being acquired.

'People end up funding bailout'

The WSIA was designed to allow the federal government full ownership of water treatment and supply assets and liabilities nationwide in order to restructure water supply.

This would be done through the Water Services Commission (Span), the licensee, and Finance Ministry-owned Perbadanan Aset Air Bhd (PAAB), a company established to take over the water assets.

Piarapakaran argued that once the bailout had been completed, PAAB should have taken control of the relevant stakes and strike an agreement with the Selangor government to proceed with the water restructuring exercise.

"Unfortunately, the proposed action by PAAB is just saving the bondholders without relinquishing the stakes of affected concession agreement holders.

"This should not be the way Span, PAAB and energy, green technology and water ministry end the water bonds' issue.

"This is equivalent to passing the entire problem straight to the people and businesses to pay off. After all, all these costs are paid through tariff," he said.

Growing criticism against bailout

On Thursday, Energy, Green Technology and Water Minister Peter Chin announced that PAAB had established a new company - Acqua SPV Sdn Bhd - to acquire the bonds and **denied** that the move was a bailout.



"I wish to stress that the takeover does not mean Selangor water companies who issued the bonds are released from their obligations to pay back their liabilities prior to the takeover by Acqua SPV.

"Thus if the Acqua SPV's bid is successful, the takeover should be looked at as a change in investors from current bondholders to only Acqua SPV," he said.

Chin (*left*) said that the move was necessary to prevent negative sentiments on the capital markets.

The federal government has been under pressure by bondholders to bail them out because their bonds have been heavily **downgraded** by rating agencies.

Critics such as Petaling Jaya Utara MP Tony Pua points out that the government must be **transparent** on the terms of the bailout, such as whether the water concessionaires would not have to pay their debts to the federal government.

He said that bailout was irresponsible because the government is allowing taxpayers to foot the bill for the mistakes of private companies, which have in the past declared fat dividends for their shareholders.

The four water players in Selangor that are unable to pay bondholders are Syarikat Bekalan Air Selangor Sdn Bhd (Syabas), Puncak Niaga Sdn Bhd (PNSB), Syarikat Pengeluaran Air Sungai Selangor Sdn Bhd (Splash) and Konsortium ABASS.