

No. 28, S.]

[Published February 10, 1933.]

CHAPTER 3.

AN ACT relating to expert and clerical assistants or other expenses for the joint committee on finance and making an appropriation therefor.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. The joint committee on finance of the legislature of 1933 is empowered to employ trained experts in accounting and statistics, and such other assistants as may be necessary; such experts and assistants shall be exempt from the provisions of chapter 16 and subsection (1) of section 13.14 of the statutes.

SECTION 2. There is appropriated out of the general fund for use of the joint committee on finance of the legislature of 1933 to carry out the provisions of this act not to exceed three thousand dollars, to be paid upon the approval and order of the chairman of the senate and assembly divisions of the joint committee on finance, said appropriation to be available for any bills incurred for help or other expenses by the joint finance committee since the date of its organization.

SECTION 3. This act shall take effect upon passage and publication.

Approved February 9, 1933.

No. 29, S.]

[Published February 9, 1933.]

CHAPTER 4.

AN ACT to repeal and recreate section 196.85 and to amend subsection (2) of section 184.10 of the statutes, relating to payment of the expenditures of the public service commission by public utilities, power districts, and railroads, and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Section 196.85 of the statutes is repealed.

SECTION 2. A new section is added to the statutes to be numbered and to read: 196.85 PAYMENT OF COMMISSION'S EXPENDITURES BY UTILITIES. (1) Whenever the commission in a proceeding upon its own motion, on complaint, or upon an applica-

tion to it shall deem it necessary in order to carry out the duties imposed upon it by law to investigate the books, accounts, practices and activities of, or make appraisals of the property of any public utility, power district or railroad or to render any engineering or accounting services to any public utility, power district or railroad, such public utility, power district or railroad shall pay the expenses reasonably attributable to such investigation, appraisal or service. The commission shall ascertain such expenses, and shall render a bill therefor, by registered mail, to the public utility, power district or railroad, either at the conclusion of the investigation, appraisal or services, or from time to time during its progress, which bill shall constitute notice of said assessment and demand of payment thereof. Upon bill so rendered such public utility, power district or railroad shall, within fifteen days after the mailing thereof pay to the commission the amount of the special expense for which it is billed, and such payment when made shall be credited to the appropriation to the commission in subsection (4) of section 20.51. The total amount, in any one calendar year, for which any public utility, power district or railroad shall become liable, by reason of costs incurred by the commission within such calendar year including charges under subsection (2) of section 184.10, shall not exceed one-half of one per cent of its gross operating revenues derived from intrastate operations in the last preceding calendar year. Where, pursuant to this subsection, costs are incurred within any calendar year which are in excess of one-half of one per cent of such gross operating revenues, the excess costs shall not be chargeable as part of the remainder under subsection (2) of this section but shall be paid out of the general appropriation to the public service commission. Nothing herein contained shall prevent the commission from rendering bills in one calendar year for costs incurred within a previous year.

(2) The commission shall annually, within ninety days after the close of each fiscal year, ascertain the total of its expenditures during such year which are reasonably attributable to the performance of its duties under chapters 184, 196, and 198, and of its duties in relation to street and interurban railways under chapter 195, and shall deduct therefrom all amounts chargeable under subsection (1) of this section and of subsection (2) of section 184.10. The remainder shall be assessed by the commission to

the several public utilities, power districts, and street and interurban railways in proportion to their respective gross operating revenues during the last calendar year, derived from intrastate operations. Such assessment shall be paid within fifteen days after bill has been mailed, by registered mail, to the several public utilities, power districts, or street and interurban railways, which bill shall constitute notice of said assessment and demand of payment thereof. When paid said assessment shall be credited to the appropriation made in subsection (4) of section 20.51. The total amount which may be assessed to the public utilities, power districts, and street and interurban railroads, under authority of this subsection, shall not exceed one-fifth of one per cent of the total gross operating revenues of such public utilities, power districts, and railroads during such calendar year, derived from intrastate operations.

(3) If any public utility, power district or railroad against which a bill has been rendered either under subsection (1) or subsection (2) of this section, within fifteen days after the rendering of such bill shall (a) neglect or refuse to pay the same, or (b) shall fail to file objections to said bill with said commission, as provided hereinafter, it shall be the duty of the public service commission forthwith to transmit to the state treasurer a certified copy of said bill together with notice of neglect or refusal to pay said bill, and on the same day said commission shall mail by registered mail to the public utility, railroad or power district against which said bill has been rendered a copy of said notice which it has transmitted to the state treasurer. Within ten days after the receipt of such notice and certified copy of such bill the state treasurer shall proceed forthwith to levy the amount stated on such bill to be due, with interest, by distress and sale of any goods and chattels, including stocks, securities, bank accounts, evidences of debt, and accounts receivable belonging to such delinquent public utility, power district, or railroad. Such levy by distress and sale shall be governed by the provisions of section 74.10 except that it shall be made by the state treasurer and that said goods and chattels anywhere within the state may be levied upon.

(4) (a) Within 15 days after the date of the mailing of any bill as provided by subsections (1) and (2) the public utility, power district or railroad against which such bill has been rendered may file with the public service commission objections set-

ting out in detail the grounds upon which said objector regards said bill to be excessive, erroneous, unlawful or invalid. The commission, after notice to the objector, shall proceed forthwith to hold a hearing upon such objections, not less than five nor more than ten days after such notice. If after such hearing the commission finds any part of said bill to be excessive, erroneous, unlawful or invalid it shall record its findings upon its minutes and transmit to the objector by registered mail an amended bill, in accordance with such findings. Such amended bill shall have in all ways the same force and effect under this section as an original bill rendered under subsections (1) and (2).

(b) If after such hearing the commission finds the entire bill unlawful or invalid it shall notify the objector by registered mail of such determination, in which case said original bill shall be deemed null and void.

(c) If after such hearing the commission finds that the bill as rendered is neither excessive, erroneous, unlawful or invalid either in whole or in part it shall record such findings upon its minutes, and transmit to the objector by registered mail notice of such finding.

(d) If any bill against which objections have been filed shall not be paid within ten days after notice of a finding that such objections have been overruled and disallowed by the commission has been mailed to the objector as herein provided, the commission shall give notice of such delinquency to the state treasurer and to the objector, in the manner provided in subsection (3). The state treasurer shall then proceed to collect the amount of said bill as provided in subsection (3). If an amended bill is not paid within ten days after a copy thereof is mailed to the objector by registered mail, the commission shall notify the state treasurer and the objector as in the case of delinquency in the payment of an original bill. The state treasurer shall then proceed to collect the amount of said bill as provided in the case of an original bill.

(5) No suit or proceeding shall be maintained in any court for the purpose of restraining or in any wise delaying the collection or payment of any bill rendered under subsections (1) and (2) of this section. Every public utility, power district, or railroad against which a bill is rendered shall pay the amount thereof, and after such payment may in the manner herein provided, at any time within two years from the date the payment was made, sue

the state in an action at law to recover the amount paid with legal interest thereon from the date of payment, upon the ground that said assessment was excessive, erroneous, unlawful or invalid in whole or in part. If it is finally determined in such action that any part of the bill for which payment was made was excessive, erroneous, unlawful or invalid, the state treasurer shall make a refund to the claimant as directed by the court, which shall be charged to the appropriations to the public service commission.

(6) No action for recovery of any amount paid pursuant to this section shall be maintained in any court unless objections have been filed with the commission as herein provided. In any action for recovery of any payments made under this section the claimant shall be entitled to raise every relevant issue of law, but the commission's findings of fact made pursuant to this section shall be prima facie evidence of the facts therein stated.

(7) The following shall be deemed to be findings of fact of the commission, within the meaning of this section: (a) determinations of fact expressed in bills rendered pursuant to this section; (b) determinations of fact set out in those minutes of the commission which record the action of the commission in passing upon said bills, and in passing upon objections thereto.

(8) The provisions of this chapter for judicial review of orders and determinations of the public service commission shall not be applicable to any findings, determinations, bills or assessments made under this section thereof. The procedure by this section providing for determining the lawfulness of bills and the recovery back of payments made pursuant to such bills shall be exclusive of all other remedies and procedures.

(9) If any subsection of this section or any part thereof or the application thereof to any person or circumstances be held invalid, neither the validity of the remainder of the act nor that of any other clause, sentence or provision of this section or the application thereof to other persons or circumstances shall be affected thereby, inasmuch as the legislature hereby declares that the provisions of each subsection are desirable and feasible even though it may eventually be held that other subsections or any part thereof are invalid.

SECTION 3. Subsection (2) of section 184.10 of the statutes is amended to read: (184.10) (2) Whenever the commission deems it necessary to make an investigation of the books, accounts and

practices or to make an appraisal of the property of any public service corporation which has filed an application for authority to issue any securities to which this chapter is applicable, such public service corporation shall pay all expenses reasonably attributable to such special investigation, or to such an appraisal of the property. The procedure set up by section 196.85 for the rendering and collection of bills rendered under section 196.85 shall be in all ways applicable to the rendering and collection of bills under this section. * * * All amounts paid under authority of this section shall be credited to the appropriation made in subsection (4) of section 20.51.

SECTION 4. This act shall take effect upon passage and publication.

Approved February 9, 1933.

No. 3, A.]

[Published February 11, 1933.]

CHAPTER 5.

AN ACT to amend section 14.43 and subsection (1) of section 34.06, and to create subsection (7) of section 34.06 of the statutes, relating to deposits of public funds in banks.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Section 14.43 and subsection (1) of section 34.06 (chapter 1, special session 1931-1932) of the statutes are amended to read:

14.43 The "Board of Deposits" shall consist of the commissioners of public lands and the governor. *The governor shall be the chairman thereof. The board shall be a body corporate, shall have a seal with the words, "Board of Deposits of Wisconsin", and such other design as the board may prescribe, engraved thereon, by which it may authenticate its proceedings, and may sue or be sued in said name.* The members of said board shall receive no additional compensation for the performance of their duties. The record of the proceedings of said board shall be kept by the secretary of state, and a duly certified copy thereof, or any part thereof, shall be admissible in evidence in any action or proceeding in any court of this state. *In addition to the powers expressly conferred by law upon the said board, it shall have all powers reasonably necessary and proper to the full and complete*