CHAPTER 200

METROPOLITAN SEWERAGE DISTRICTS

SUBCHAPTER I
DISTRICTS GENERALLY
200.01 Metropolitan sewerage districts, definitions.
200.03 Applicability.
200.05 Creation.
200.07 Dissolution.
200.09 Commissioners.
200.11 Powers and duties.
200.13 Financing.
200.15 Addition of territory.
SUBCHAPTER II
DISTRICTS INCLUDING 1ST CLASS CITIES
200.21 Definitions.
200.23 Establishing a district and a commission.
200.25 Commissioners.
200.27 Commission; organization.
200.29 Boundary; name; corporate status.
200.31 General duties of the commission.
200.33 Local sewers.
200.35 Sewerage construction, operation and maintenance.
200.37 Connections to the sewerage system.
200.39 Contract sewerage service.
200.41 Noncontractual sewerage service.
200.43 Acquisition of property.
200.45 Rules; special orders; special use permits.
200.47 Contracts.
200.49 Minority business development and training program.
200.51 Commission employees.
200.53 Capital budget.
200.55 Financing.
200.57 Minority financial advisers and investment firms and disabled veteran−owned businesses.
200.59 User charges for sewer operation.
200.61 Judicial review of compliance schedules.
200.63 Construction.
200.65 Validation of debt; liability for diverting funds.

SUBCHAPTER I

DISTRICTS GENERALLY

200.01 Metropolitan sewerage districts, definitions. Unless the context requires otherwise, for the purposes of this subchapter, the following terms have the designated meanings:

(1) "Commission" means a metropolitan sewerage district commission.

(2) "Department" means the department of natural resources.

(3) "District" means a metropolitan sewerage district.

(4) "Municipality" means town, village, city or county.

History: 1971 c. 276, 307; 1999 a. 150 s. 315; Stats. 1999 s. 200.01.

200.03 Applicability. This subchapter applies to all areas of the state except those areas included in a metropolitan sewerage district created under ss. 200.21 to 200.65.

History: 1971 c. 276; 1981 c. 282 s. 47; 1999 a. 150 s. 316; Stats. 1999 s. 200.03.

200.05 Creation. (1) Proceedings to create a district may be initiated by resolution of the governing body of any municipality setting forth:

(a) The proposed name of the district;

(b) A general description of the territory proposed to be included in the district;

(c) A general description of the functions which are proposed to be performed by such district;

(d) A general description of the existing facilities and works which are proposed to be placed under jurisdiction of the district; and

(e) Such other facts and statements as are deemed by the governing body to be relevant to the standards of sub. (4) (a) to (c).

(2) A governing body which adopts a resolution under sub. (1) shall immediately transmit a copy thereof to the department.

(3) Upon receipt of the resolution, the department shall:

(a) Schedule a public hearing in the county of the petitioning municipality, providing at least 30 days' written notice of the hearing and a copy of the resolution by mail to the clerk of all affected municipalities, town sanitary or utility districts, and to the affected regional planning commissions and state agencies; and publish an official notice of the hearing in a newspaper of general circulation in the proposed district as a class 1 notice under ch. 985;

(b) Conduct the hearing to permit any person to present any oral or written pertinent and relevant information relating to the purposes and standards of this subchapter; and

(c) Undertake research and collect other information and request advisory reports from regional planning commissions, other state agencies and citizen groups.

(4) Within 90 days following the hearing, the department shall either order or deny creation of the proposed district. An order creating the district shall be issued by the department if:

(a) The territory consisting of at least one municipality in its entirety and all or part of one or more other municipalities can be identified and can be determined to be conducive to fiscal and physical management of a unified system of sanitary sewage collection and treatment;

(b) The formation of the district will promote sewerage management policies and operation and will be consistent with adopted plans of municipal, regional and state agencies; and

(c) The formation of the district will promote the public health and welfare and will effect efficiency and economy in sewerage management, based upon current generally accepted engineering standards regarding prevention and abatement of environmental pollution and federal and state rules and policies in furtherance thereof.

(5) An order creating the district shall state the name and boundaries of the district, which may be different than those originally proposed if each municipality affected by the district received written notice of the hearing under sub. (3) (a) and if each municipality which jointly or separately owns or operates a sewerage collection and disposal system which has territory included in the revised district boundaries has filed with the department a certified copy of a resolution of its governing body consenting to the inclusion of that territory within the revised district. No territory of a city, village or town jointly or separately owning or operating a sewerage collection and disposal system may be included in the district unless it has filed with the department a certified copy of a resolution of its governing body consenting to inclusion of such territory within the proposed district. The order shall be effective on the date issued and the existence of the district shall commence on such date.

(6) No resolution for the formation of a district encompassing the same or substantially the same territory shall be made by any municipality for one year following the issuance of an order denying the formation under this subchapter.

(7) The orders of the department under this section shall be subject to review under ch. 227.

History: 1971 c. 276; 1993 a. 246; 1999 a. 150 s. 317; Stats. 1999 s. 200.05.

200.07 Dissolution. If a district has been inactive for at least 2 years and if the department receives certified copies of a resolution recommending the dissolution of the district adopted by the governing bodies of every municipality owning or operating the district, upon a finding that all outstanding indebtedness of the district has been paid and all unexpended funds returned to the municipality which supplied them, or that adequate provision has been made therefor, the department shall either order or deny dissolution of the district.

History: 1983 a. 27; 1999 a. 150 s. 318; Stats. 1999 s. 200.07.

200.09 Commissioners. (1) (a) Except as provided in par. (b), a district formed under this subchapter shall be governed by a 5−member commission appointed for staggered 5−year terms. Except as provided in par. (b) and sub. (11), commissioners shall be appointed by the county board of the county in which the district is located. Except as provided in par. (b), if the district contains territory of more than one county, the county boards of the counties not having the greatest population in the district shall appoint one commissioner each and the county board of the county having the greatest population in the district shall appoint the remainder. Of the initial appointments under this paragraph, the appointments for the shortest terms shall be made by the counties having the least amount of population, in reverse order of their population included in the district. Commissioners shall be residents of the district. Initial appointments shall be made no sooner than 60 days and no later than 90 days after issuance of the department order forming a district or after completion of any court proceedings challenging such order.

(b) A district that contains a 2nd class city with a population of 200,000 or more shall be governed by a 9−member commission appointed for staggered 3−year terms. The mayor of the 2nd class city shall appoint 5 individuals as members of the commission. An executive council composed of the elected executive officers of each city and village that is wholly or partly within the boundaries of the district, except the 2nd class city, shall appoint 3 members of the commission by a majority vote of the members of the executive council. An executive council composed of the elected executive officers of each town that is wholly or partly within the boundaries of the district shall appoint one member of the commission by a majority vote of the members of the executive council.

(2) Each member of the commission shall take and file the official oath.

(3) A majority of such commission shall constitute a quorum to do business; and in the absence of a quorum, those members present may adjourn any meeting and make announcement thereof. All meetings and records of the commission shall be published.

(3m) All actions of a commission under sub. (1) (b) shall be approved by a majority vote of the members present, except that the following actions require the affirmative vote of three−fourths of the members who are entitled to a seat on the commission:

(a) Any policy, rule, regulation, ordinance, rate, or charging structure that does not by its terms apply uniformly to all geographical areas of the district.

(b) Any change in the methods in effect on May 1, 2015, that are used to finance capital projects or to finance operations of the district.

(4) Such commission, when all of its members have been duly sworn and qualified, shall have charge of all the affairs of the district.

(5) Such commission shall organize by electing one of its members president and another secretary.

(6) The secretary shall keep a separate record of all proceedings and accurate minutes of all hearings.

(7) A per diem compensation may be paid to commissioners in an amount the commission specifies by resolution. Any change in the per diem amount after its initial establishment applies only to subsequently appointed or reappointed commissioners. Commissioners shall be reimbursed for actual expenses incurred as commissioners in carrying out the work of the commission.

(8) The treasurer of the city, village or town having the largest equalized valuation within the district shall act as treasurer of the district, shall receive such additional compensation therefor as the commission may determine, and shall at the expense of the district furnish such additional bond as the commission may require. Such treasurer shall keep all moneys of the district in a separate fund to be disposed of only upon order of the commission signed by the president and secretary.

(9) Chapter 276, laws of 1971, shall apply to every metropolitan sewerage district that had been operating, prior to April 30, 1972, under ss. 66.20 to 66.209, 1969 stats. Commissioners for such districts who were in office on April 30, 1972 shall continue to serve until their respective terms are completed. The county board of the county having the greatest population in the district shall appoint 2 additional members to each such commission no sooner than 60 days and no later than 90 days after April 30, 1972. One such member shall have a 5−year term and one such member shall have a 4−year term. The county board of those counties having population within the district that did not appoint the preceding 2 members if any shall, each in turn according to their population in the district, appoint successors to each of the 3 commissioners who held office on April 30, 1972, until their allotted number of appointments, as specified under sub. (1) is filled. The governor may adjust terms of the successors to the 3 original commissioners in order that the appointment schedules are consistent with this section.

(10) Sections 200.01 to 200.15 do not affect the continued validity of contracts and obligations previously entered into by a metropolitan sewerage district operating under ss. 66.20 to 66.209, 1969 stats., before April 30, 1972, nor the validity of the district.

(11) (a) Notwithstanding sub. (1) the governing bodies of cities, towns and villages comprising a sewerage district may make the initial appointments of the commissioners under this section.

(am) 1. If the governing bodies of each city, town and village comprising a district pass a resolution authorizing the election of commissioners to terms succeeding the initial appointments, commissioners shall be chosen to fill vacant seats at spring elections, as defined in s. 5.02 (21), of the district at large. Each commissioner may hold office until a successor is elected and qualified, except as provided in s. 17.27 (1m). Any commissioner elected for a regular or unexpired term shall take office after filing the official oath on the 4th Monday in April.

2. No resolution passed under subd. 1. may authorize election of commissioners sooner than 6 months after the date of passage. The metropolitan sewerage district commission shall immediately notify the elections commission under s. 5.05 upon passage of a resolution under subd. 1.

3. If the governing bodies of each city, town, and village comprising the district pass a resolution to discontinue election of commissioners, each commissioner may hold office until a successor is appointed and qualified. The metropolitan sewerage district commission shall immediately notify the elections commission under s. 5.05 upon passage of a resolution under this subdivision.

(b) This subsection shall apply only if all the governing bodies of the cities, villages and towns comprising the sewerage district agree by resolution to elect its provisions.

History: 1971 c. 276; 1973 c. 289; 1979 c. 221; 1987 a. 399; 1989 a. 359; 1993 a. 246; 1999 a. 150 s. 319; Stats. 1999 s. 200.09; 2001 a. 103; 2007 a. 1; 2011 a. 32; 2015 a. 55, 118.

200.11 Powers and duties. (1) GENERAL. (a) *Corporate status.* The district shall be a municipal body corporate and shall

be authorized in its name to contract and to be contracted with, and to sue and to be sued. The commission may employ persons or firms performing engineering, legal or other necessary services, require any employee to obtain and file with it an individual bond or fidelity insurance policy, and procure insurance. A commission may employ engineers or other employees of any municipality as its engineers, agents or employees.

(b) *Plans.* The commission shall prepare and by resolution adopt plans and standards of planning, design and operation for all projects and facilities which will be operated by the district or which affect the services to be provided by the district. Commissions may and are encouraged to contract with regional or area−wide planning agencies for research and planning services. The commission's plans shall be consistent with adopted plans of a regional planning commission or area−wide planning agency organized under s. 66.0309.

(c) *Research.* The commission may project and plan scientific experiments, investigations and research on treatment processes and on the receiving waterway to ensure that an economical and practical process for treatment is employed and that the receiving waterway meets the requirements of regulating agencies. The commission may conduct such scientific experiments, investigations and research independently or by contract or in cooperation with any public or private agency including any political subdivision of the state or any person or public or private organization.

(d) *Rules.* The commission may adopt rules for the supervision, protection, management and use of the systems and facilities operated by the district. Such rules may, in the interest of plan implementation, restrict or deny the provision of utility services to lands which are described in adopted master plans or development plans of a municipality or county as not being fit or appropriate for urban or suburban development. Rules of the district shall be adopted and enforced as provided by s. 200.45. Notwithstanding any other provision of law, such rules or any orders issued thereunder, may be enforced under s. 823.02 and the violation of any rule or any order lawfully promulgated by the commission is declared to be a public nuisance.

(e) *Annual report.* The commission shall prepare annually a full and detailed report of its official transactions and expenses and of all presently planned additions and major changes in district facilities and services and shall file a copy of such report with the department of natural resources, the department of health services and the governing bodies of all cities, villages and towns having territory in such district.

(2) METROPOLITAN SEWERAGE COLLECTION AND TREATMENT. The commission shall plan, project, construct and maintain within the district interceptor and other main sewers for the collection and transmission of sewage. The commission shall also cause the sewage to be treated, disposed or recycled and may plan, project, construct and maintain works and facilities for this purpose.

(3) CONNECTIONS WITH SYSTEM. The commission may require any person or municipality in the district to provide for the discharge of its sewage into the district's collection and disposal system, or to connect any sanitary sewerage system with the district's disposal system wherever reasonable opportunity therefor is provided; may regulate the manner in which such connections are made; may require any person or municipality discharging sewage into the system to provide preliminary treatment therefor; may prohibit and impose a penalty for the discharge into the system of any substance which it determines will or may be harmful to the system or any persons operating it; and may, with the prior approval of the department, after hearing upon 30 days' notice to the municipality involved, require any municipality to discontinue the acquisition, improvement or operation of any facility for disposal of any wastes or material handled by the commission wherever and so far as adequate service is or will be provided by the commission. The commission shall have access to all sewerage records of any municipality in the district and shall require all such municipalities to submit plans of existing systems and proposed extensions of local services or systems. The commission or its employees may enter upon the land in any municipality within the district for the purpose of making surveys or examinations.

(4) PROPERTY ACQUISITION. Commissions may acquire by gift, purchase, lease or other like methods of acquisition or by condemnation under ch. 32, any land or property necessary for the operations of the commission or in any interest, franchise, easement, right or privilege therein, which may be required for the purpose of projecting, planning, constructing and maintaining the system. Any municipality and state agency is authorized to convey to or permit the use of any facilities owned or controlled by the municipality or agency subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation, without an election or approval by any other government agency. Property, or any part or interest therein, when acquired, may be sold, leased or otherwise disposed of by the district whenever in the discretion of the commission the property or any part or portion thereof or interest therein is not needed to carry out the requirements and powers of the commission.

(5) CONSTRUCTION. (a) *General.* The district may construct, enlarge, improve, replace, repair, maintain and operate any works determined by the commission to be necessary or convenient for the performance of the functions assigned to the commission.

(b) *Roads.* The district may enter upon any state, county or municipal street, road or alley, or any public highway for the purpose of installing, maintaining and operating the system, and it may construct in any such street, road or alley or public highway necessary facilities without a permit or a payment of a charge. Whenever the work is to be done in a state, county or municipal highway, the public authority having control thereof shall be duly notified, and the highway shall be restored to as good a condition as existed before the commencement of the work with all costs incident thereto borne by the district. All persons, firms or corporations lawfully having buildings, structures, works, conduits, mains, pipes, tracks or other physical obstructions in, over or under the public lands, avenues, streets, alleys or highways which block or impede the progress of district facilities, when in the process of construction, establishment or repair shall upon reasonable notice by the district, promptly so shift, adjust, accommodate or remove the same at the cost and expense of such individuals or corporations, as fully to meet the exigencies occasioning such notice. Any entry upon or occupation of any state freeway right−of−way after relocation or replacement of district facilities for which reimbursement is made under s. 84.295 (4m) shall be done in a manner which is acceptable to the department of transportation.

(c) *Waterways.* The district shall have power to lay or construct and to forever maintain, without compensation to the state, any part of the utility system, or of its works, or appurtenances, over, upon or under any part of the bed of any river or of any land covered by any of the navigable waters of the state, the title to which is held by the state, and over, upon or under canals or through waterways, and if the same is deemed advisable by the commission, the proper officials of the state are authorized and directed upon application of the commission to execute, acknowledge and deliver such easements, or other grants, as may be proper for the purpose of carrying out the district operations.

(d) *Bids.* Whenever plans and specifications for any facilities have been completed and approved by the commission and by any other agency which must approve the plans and specifications, and the commission has determined to proceed with the work of the construction thereof, it shall advertise by a class 2 notice under ch. 985, for bids for the construction of the facilities. Contracts for the work shall be let to the lowest responsible bidder, or the agency may reject any and all bids and if in its discretion the prices quoted are unreasonable, the bidders irresponsible or the bids informal, it may readvertise the work or any part of it. All contracts shall be protected by such bonds, penalties and conditions as the district shall require. The commission may itself do any part of any of the works.

(6) ACQUISITION OF EXISTING FACILITIES. The commission may order that the district shall assume ownership of such existing utility works and facilities within the district as are needed to carry out the purposes of the commission. Appropriate instruments of conveyance for all such property shall be executed and delivered to the district by the proper officers of each municipality concerned. All persons regularly employed by a municipality to operate and maintain any works so transferred, on the date on which the transfer becomes effective, shall be employees of the district, in the same manner and with the same options and rights as were reserved to them in their former employment. The commission, upon assuming ownership of any works, shall become obligated to pay to the municipality amounts sufficient to pay when due all remaining principal of and interest on bonds issued by the municipality for the acquisition or improvement of the works taken over. Such amounts may be offset against any amounts due to be paid by the municipality to the district. The value of any works and facilities taken over by a commission may be agreed upon by the commission and the municipality owning the same. Should the commission and the governing body of the municipality be unable to agree upon a value, the value shall be determined by and fixed by the public service commission after a hearing to be held upon application of either party, and upon reasonable notice to the other party, to be fixed and served in such manner as the public service commission shall prescribe.

(7) STORM WATER DRAINAGE. The commission may plan, project, construct and maintain storm sewers, works and facilities for the collection, transmission, treatment, disposal or recycling of storm water effluent to the extent such is permitted for sewage.

(8) SOLID WASTE MANAGEMENT. The district may engage in solid waste management and shall for such purposes have all powers granted to county boards under s. 59.70 (2), except acquisition of land by eminent domain, if each county board having jurisdiction over areas to be served by the district has adopted a resolution requesting or approving the involvement of the district in solid waste management. County board approval shall not be required for the management by the district of such solid wastes as are contained within the sewage or storm water transmitted or treated by the district or as are produced as a by−product of sewerage treatment activities.

(9) EXTRATERRITORIAL SERVICE BY CONTRACT. A district may provide service to territory outside the district, including territory in a county not in that district, under s. 66.0301, subject to ss. 200.01 to 200.15 and 200.45, except that s. 200.09 (1) does not require the appointment of a commissioner from that territory.

History: 1971 c. 276; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 425; 1977 c. 29 s. 1654 (8) (c); 1977 c. 379 s. 33; 1981 c. 282 s. 47; 1987 a. 399; 1995 a. 27 s. 9126 (19); 1995 a. 201; 1999 a. 150 s. 320; Stats. 1999 s. 200.11; 2007 a. 20 s. 9121 (6) (a).

Sub. (5) (c) does not exempt a sewerage district from the requirements of s. 30.12. Cassidy v. DNR, 132 Wis. 2d 153, 390 N.W.2d 81 (Ct. App. 1986).

200.13 Financing. (1) SPECIAL ASSESSMENT. (a) The commission may make a special assessment against property which is served by an intercepting or main sewer or any other appropriate facility at any time after the commission votes, by resolution recorded in the minutes of its meeting, to construct the intercepting or main sewer or any other appropriate facility, either before or after the work of constructing the sewer or other appropriate facility is done.

(b) The commission shall view the premises and determine the amount properly assessable against each parcel of land and shall make and file, in their office, a report and schedule of the assessment so made, and file a duplicate copy of the report and schedule in the office of the clerk of the town, village or city wherein the land is situated.

(c) The commission shall give notice that the report and schedule are on file in its office and in the office of the clerk of the town, village or city in which the land is situated, and that the notice will remain in those offices for a period of 10 days after the date on which the notice is issued; that on the date named in the notice, which shall not be more than 3 days after the expiration of the 10 days, the commission will be in session at its office, the location of which shall be specified in the notice, to hear all objections to the report.

(d) The notice shall be published as a class 2 notice, under ch. 985, and a copy of the notice shall be mailed at least 10 days before the hearing or proceeding to every interested person whose post−office address is known, or can be ascertained with reasonable diligence.

(e) No irregularity in the form of the report, nor of such notice, shall affect its validity if it fairly contains the information required to be conveyed thereby.

(f) At the time specified for hearing objections to the report, the commission shall hear all parties interested who may appear for that purpose.

(g) The commission may at the meeting, or at an adjourned meeting, confirm or correct the report, and when the report is so confirmed or corrected, it shall constitute and be the final report and assessment against such lands.

(h) When the final determination has been reached by the commission it shall publish a class 1 notice, under ch. 985, that a final determination has been made as to the amounts assessed against each parcel of real estate.

(i) The owner of any parcel of real estate affected by the determination and assessments may, within 20 days after the date of such determination, appeal to the circuit court of the county in which the land is situated, and s. 66.0703 (12) shall apply to and govern such appeal, however the notice therein required to be served upon the city clerk shall be served upon the district, and the bond therein provided for shall be approved by the commission and the duties therein devolving upon the city clerk shall be performed by the president of the commission.

(j) The commission may provide that the special assessment may be paid in annual installments not more than 10 in number, and may, for the purpose of anticipating collection of the special assessments, and after said installments have been determined, issue special improvement bonds payable only out of the special assessment, and s. 66.0713 shall apply to and govern the installment payments and the issuance of said bonds, except that the assessment notice shall be substantially in the following form:

INSTALLMENT ASSESSMENT NOTICE

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvements) and that the amount of the special assessment therefor has been determined as to each parcel of real estate affected thereby, and a statement of the same is on file with the commission; that it is proposed to collect the same in .... installments, as provided by s. 66.0713, with interest thereon at ....% per year; that all assessments will be collected in installments, as above provided, except such assessments as the owners of the property shall, within 30 days from the date of this notice, file with the commission a statement in writing that they elect to pay in one installment, in which case the amount of the installment shall be placed upon the next ensuing tax roll.

(k) The installment assessment notice shall be published as a class 1 notice, under ch. 985.

(L) The commission shall, on or before October 1 in each year, certify in writing to the clerks of the several cities, towns or villages, the amount of the special assessment against lands located in their respective city, town or village for the ensuing year. Upon receipt of such certificate the clerk of each such city, town or village shall forthwith place the same on the tax roll to be collected as other taxes and assessments are collected. Such moneys when collected shall be paid to the treasurer of the district. The provisions of law applicable to the collection of delinquent taxes upon real estate, including sale of lands for nonpayment of taxes, shall apply to and govern the collection of the special assessments and the collection of general taxes levied by the commission.

(m) Section 66.0703 (14) shall be applicable to assessments made under this section.

(n) The commission may provide for a deferred due date on the levy of the special assessment as to real estate which is in agricultural use or which is otherwise not immediately to receive actual service from the sewer or other facility for which the assessment is made. Such assessments shall be payable as soon as such lands receive actual service from the sewer or other facility. Any such special assessments shall be a lien against the property from the date of the levy. For the purpose of anticipating collection of special assessments for which the due date has been deferred, the commission may issue special improvement bonds payable only out of the special assessments. Section 66.0713 shall apply to and govern the issuance of bonds, except that the assessment notice shall be substantially in the following form:

DEFERRED ASSESSMENT NOTICE

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvements) and that the amount of the special assessment therefor has been determined as to each parcel of real estate affected thereby, and a statement of the same is on file with the commission. It is proposed to collect the same on a deferred basis consistent with actual use of the improvements. All assessments will be collected in installments, as above provided, except such assessments for which the owners of the property, within 30 days from the date of this notice, file with the commission a statement in writing that they elect not to have the due date deferred, in which case the amount of the levy shall be placed upon the next ensuing tax roll.

(2) TAX LEVY. The commission may levy a tax upon the taxable property in the district as equalized by the department of revenue for state purposes for the purpose of carrying out and performing duties under this subchapter but the amount of any such tax in excess of that required for maintenance and operation and for principal and interest on bonds or promissory notes shall not exceed, in any one year, one mill for each dollar of the district's equalized valuation, as determined under s. 70.57. The tax levy may be spread upon the respective real estate and personal property tax rolls of the city, village and town areas included in the district taxes, and shall not be included within any limitation on county or municipality taxes. Such moneys when collected shall be paid to the treasurer of such district.

(3) SERVICE CHARGES. (a) The commission may establish service charges in such amount as to meet all or part of the requirements for the construction, reconstruction, improvement, extension, operation, maintenance, repair and depreciation of functions authorized by this subchapter, and for the payment of all or part of the principal and interest of any indebtedness incurred thereof.

(b) The district may charge to the state, county or municipality the cost of service rendered to any state institution, county or municipality.

(4) BORROWING. A district under this subchapter may borrow money and issue municipal obligations under ss. 66.0621 and 66.0713 and ch. 67.

(5) BORROWING; TAX COLLECTION. After the issue of any municipal obligation under ch. 67, the commission shall, on or before October 1 in each year, certify in writing to the clerks of the several cities, villages or towns having territory in the district, the total amount of the tax to be raised by each such municipality, and upon receipt of such certificate the clerk of each such municipality shall place the same on the tax roll to be collected as other taxes are collected, and such moneys, when collected, shall be paid to the treasurer of the district.

(12) EXEMPTION FROM LEVIES. Lands designated as permanent open space, agricultural protection areas or other undeveloped areas not to be served by public sanitary sewer service in plans adopted by a regional planning commission or other area−wide planning agency organized under s. 66.0309 and approved by the board of supervisors of the county in which the lands are located shall not have property taxes, assessments or service charges levied against them by the district.

(13) APPLICATION OF OTHER LAWS. Section 66.0821 shall apply to all districts now or hereafter organized and operating under this subchapter.

History: 1971 c. 276; 1973 c. 172; 1977 c. 26; 1979 c. 110 s. 60 (13); 1981 c. 314; 1983 a. 24, 27, 207, 294, 538; 1987 a. 197, 403; 1993 a. 246; 1999 a. 150 s. 321; Stats. 1999 s. 200.13; s. 35.17 correction in (1) (j) (form).

A metropolitan sewerage district cannot collect a service charge against a vocational school district. Green Bay Metropolitan School District v. VTAE District 13, 58 Wis. 2d 628, 207 N.W.2d 623 (1973).

200.15 Addition of territory. Territory not originally within a district may be added thereto in the following ways:

(1) (a) Except as provided in par. (b), upon receipt by the commission, and the regional planning commission of the region within which the district or the greatest portion of the district is located, of official notice from the city, village, or town sanitary district for any of the following territories:

1. Territory that is annexed to a city or village that is located entirely within the original district prior to the annexation.

2. Territory that is added to a town sanitary district under s. 60.785 (1) that is located entirely within the original district prior to the addition.

3. Territory that is annexed or attached to a city or village or added to a town sanitary district under s. 60.785 (1) if a portion of the city, village, or town sanitary district is located within a district that contains a 2nd class city with a population of 200,000 or more.

(b) If, within 30 days after receipt of a notice under par. (a), the regional planning commission files with the commission a written objection to any part of the annexation or addition or the commission issues a written determination disapproving the addition of the territory, the territory proposed to be added or annexed under this subsection may be added or annexed only under sub. (2).

(c) Failure of the commission to disapprove the addition of the territory under this subsection is subject to review under ch. 227.

(2) Proceedings leading to the addition of other territory to a district may be initiated by petition from a municipal governing body or upon motion of the commission. Upon receipt of the petition or upon adoption of the motion, the commission shall hold a public hearing preceded by a class 2 notice under ch. 985. The commission may approve the annexation upon a determination that the standards of ss. 200.05 (4) (b) and (c) and 200.15 (3) are met. Approval actions by the commission under this section shall be subject to review under ch. 227.

(3) Annexations under subs. (1) and (2) may be subject to reasonable requirements as to participation by newly annexed areas toward the cost of existing or proposed district facilities.

(4) Section 200.09 (1) does not require the appointment of a commissioner from territory annexed under this section if that territory, on the day before the annexation, has a population of less than 8.5 percent of the total population served by the district.

History: 1971 c. 276; 1987 a. 399; 1991 a. 39; 1999 a. 150 s. 322; Stats. 1999 s. 200.15; 2015 a. 55.

SUBCHAPTER II

DISTRICTS INCLUDING 1ST CLASS CITIES

200.21 Definitions. In this subchapter:

(1) "Capital costs" means the cost of acquiring, purchasing, adding to, leasing, planning, designing, constructing, extending and improving all or any part of a sewerage system and of paying principal, interest or premiums on any indebtedness incurred for these purposes.

(2) "Combined sewer overflow abatement" means decreasing discharges of a combination of storm and sanitary wastewater or storm and industrial wastewater directly or indirectly to the waters of the state that occur when the volume of wastewater flow

exceeds the transport capacity of a combined storm and sanitary sewer system.

(3) "Commission" means the metropolitan sewerage commission created under s. 200.23.

(4) "District" means the metropolitan sewerage district created under s. 200.23.

(5) "Interceptor sewer" means a sewer that:

(a) Is constructed, maintained and operated by the district;

(b) Is either a force main sanitary sewer with a diameter greater than 12 inches or a gravity flow sanitary sewer with a diameter greater than 24 inches; and

(c) Performs any of the following functions:

1. Receives and conveys sanitary sewage from a sanitary sewage collection system directly or indirectly to a sewage treatment facility.

2. Temporarily collects and stores excessive sewage flow until existing treatment plant capacity is available.

(6) "Local sewer" means any sewer constructed, operated or maintained by any municipality. "Local sewer" does not include any sewer that has been incorporated into the sewerage system under s. 200.37 (2). If the classification of any sewer is unclear, the presumption shall be that the sewer is local.

(7) "Municipality" means any city, town, village, sanitary district organized under subch. IX of ch. 60 or metropolitan sewerage district organized under ss. 200.01 to 200.15 that is located wholly or partially within the district or that contracts for services under s. 200.39.

(8) "Operating costs" means the costs of controlling, operating, managing or maintaining the sewerage system. "Operating costs" also includes replacement costs.

(9) "Replacement costs" means the costs of obtaining and installing equipment, accessories or appurtenances that are necessary during the service life of the district's sewerage system to maintain the capacity and performance for which the sewerage system was designed and constructed.

(10) "Sewerage service area" means the area of the district and the area for which service is provided by contract under s. 200.39.

(11) "Sewerage system" means all facilities of the district for collection, transportation, storage, pumping, treatment and final disposition of sewage. "Sewerage system" does not include any private on−site wastewater treatment system, as defined in s. 145.01 (12), or any local sewer.

(12) "User" means any owner or occupant of any building or lot that is located within the sewerage service area and is furnished with sewerage service.

History: 1981 c. 282; 1983 a. 189 ss. 70, 329 (8); 1983 a. 532 s. 36; 1999 a. 150 s. 576; Stats. 1999 s. 200.21; 2011 a. 146.

NOTE: See ss. 62.175, 62.18 and 62.185 for other provisions relating to city sewers.

200.23 Establishing a district and a commission. (1) ESTABLISHMENT BY RESOLUTION OR REORGANIZATION. (a) Except as provided in par. (b), a commission is established under this subchapter if the common council of any 1st class city passes a resolution of necessity by a majority vote of the members−elect.

(b) 1. On April 27, 1982, each metropolitan sewerage district organized under s. 59.96, 1979 stats., is reorganized as a district under this subchapter and a commission is created under this subchapter.

2. Commencing in 1983, the district reorganized under this paragraph shall, on or before November 1, annually pay or provide for the payment to any county obligated on account of bonds or bond anticipation notes issued on behalf of a district under s. 59.96 (7), 1979 stats., an amount sufficient to pay the interest and principal falling due in the succeeding year on the bonds and notes pursuant to the original terms of the bonds and notes. The county shall deposit amounts paid to it under this subdivision in the debt service funds for the bonds and notes established under s. 67.11. The county shall pay to the district any surplus in a debt service fund remaining after the bonds or notes for which the debt service fund was created are paid.

(2) COMPOSITION OF THE COMMISSION. The commission is composed of 11 members, who are appointed as follows:

(a) Except as provided in s. 200.25 (7), the mayor of the 1st class city shall appoint 7 individuals as members of the commission, each of whom shall have his or her principal residence in the 1st class city. Three of the commissioners appointed under this paragraph shall be elected officials. Each commissioner appointed under this paragraph may take his or her seat immediately upon appointment, pending confirmation or rejection by a majority of the members−elect of the common council. An appointee whose confirmation is pending may act within the scope of authority of a commissioner until the mayor withdraws the appointment or the common council rejects the appointment, whichever is earlier. The mayor shall withdraw any appointment that the common council rejects and may only resubmit the appointment for confirmation after at least one subsequent appointment is rejected. For the purposes of this paragraph, "elected official" means:

1. The mayor of the 1st class city.

2. Members of the common council of the 1st class city.

3. Members of the county board of supervisors of the county in which the 1st class city is located who reside in the city.

4. State legislators who reside in the 1st class city.

5. The city attorney, comptroller or treasurer of the 1st class city.

6. Members of the board of school directors in charge of the public schools of the 1st class city.

(b) Except as provided in s. 200.25 (7), an executive council composed of the elected executive officer of each city, village and town that is wholly or partly within the boundaries of the district under s. 200.29 (1), except a 1st class city, shall appoint 4 members of the commission by a majority vote of the members of the executive council. Each of these members shall have his or her principal residence within the district but outside the 1st class city. Three of these members shall be elected officials. Each commissioner appointed under this paragraph may take his or her seat immediately upon appointment.

(c) The mayor and the executive council shall appoint the members of a commission that governs a district created under sub. (1) within 90 days after the passage of the resolution under sub. (1) (a) or within 90 days after the reorganization under sub. (1) (b).

History: 1981 c. 282; 1983 a. 27; 1983 a. 207 s. 93 (8); 1999 a. 150 s. 577; Stats. 1999 s. 200.23.

200.25 Commissioners. (1) TERM. (a) Except as provided in par. (b) and sub. (8):

1. Each commissioner appointed by the mayor of the 1st class city under s. 200.23 (2) (a) who is not an elected officer serves for a 3−year term or until a successor is appointed, whichever is later.

2. Each commissioner appointed by the mayor of the 1st class city under s. 200.23 (2) (a) who is an elected officer serves for a one−year term or until a successor is appointed, whichever is later.

3. Each commissioner appointed by the executive council under s. 200.23 (2) (b) serves for a 3−year term or until a successor is appointed, whichever is later.

(b) Each term commences on the 2nd Tuesday of July. No commissioner may serve more than 9 consecutive years.

(c) Of the initial commissioners who are not elected officers appointed by the mayor of the 1st class city under s. 200.23 (2) (a), one commissioner has a term of one year, one commissioner has a term of 2 years and 2 commissioners have a term of 3 years. One of the initial commissioners appointed by the executive council under s. 200.23 (2) (b) has a term of one year, one of the initial commissioners has a term of 2 years and 2 of the initial commissioners have terms of 3 years.

(2) SUCCESSORS. The mayor shall appoint successors to commissioners appointed under s. 200.23 (2) (a) and the executive council shall appoint successors to commissioners appointed under s. 200.23 (2) (b), as provided in s. 200.23. Each successor shall be appointed at least 6 weeks before the expiration of the preceding commissioner's term.

(3) CHANGE OF RESIDENCE OR LOSS OF ELECTED STATUS. Any commissioner appointed under s. 200.23 (2) (a) who moves his or her principal residence outside the 1st class city and any commissioner appointed under s. 200.23 (2) (b) who moves his or her principal residence outside the district or into the 1st class city shall resign. Any commissioner who is an elected official and who is not reelected or who otherwise leaves the elected office may serve not more than an additional 90 days after leaving office or until a successor is appointed, whichever occurs first.

(4) VACANCIES. Vacancies occurring during the term of any commissioner shall be filled as provided under s. 200.23, but only for the balance of the unexpired term. All vacancies shall be filled within 90 days. The balance of the unexpired term constitutes one term for the commissioner appointed to fill the vacancy. A commissioner appointed to fill a vacancy may be reappointed for subsequent full terms, as provided in sub. (1) (a).

(5) OATH OF OFFICE. Before assuming the duties of the office, each commissioner shall take and subscribe the oath of office required under s. 19.01 and file the oath with the secretary of state, duly certified by the official administering the oath.

(6) EXPENSES; SALARY. Each commissioner, including any commissioner who serves as a member of the legislature, shall receive actual and necessary expenses incurred while in the performance of the duties of the office and, in addition, shall receive a salary in an amount the commission specifies by resolution. Any change in salary after its initial establishment applies only to subsequently appointed or reappointed commissioners. The salary shall be paid at the time and in the same manner that the salaries of employees of the commission are paid.

(7) REAPPORTIONMENT. (a) Commencing in 1990, in the year immediately following the date when the federal decennial census of population becomes available in printed form, the commission shall reapportion the allocation of appointments between s. 200.23 (2) (a) and (b) to reflect as nearly as possible the proportionate populations within the district of the 1st class city and of the cities, villages and towns that are represented on the executive council. As part of its reapportionment the commission may increase the number of seats to not more than 13 and may decrease the number of seats to not less than 9.

(b) If the commission fails to reapportion itself under par. (a), any municipality, any aggrieved person or any county in which the district is initially created may petition the circuit court for the county in which the district is initially created for an order compelling reapportionment. After reasonable notice to the commission the court may order reapportionment.

(8) REMOVAL FROM OFFICE. Any commissioner appointed by the mayor under s. 200.23 (2) (a) may be removed by the mayor. Any commissioner appointed by the executive council under s. 200.23 (2) (b) may be removed by the same process as is used for appointment.

History: 1981 c. 282; 1987 a. 417; 1999 a. 150 s. 578; Stats. 1999 s. 200.25.

Section 13.625 does not prohibit the Milwaukee Metropolitan Sewerage District from paying normal expenses and salaries to commissioners who are legislators and does not prohibit those legislators from accepting those payments. 78 Atty. Gen. 149.

200.27 Commission; organization. (1) QUORUM. Six commissioners constitute a quorum for the transaction of business. If after reapportionment under s. 200.25 (7) the number of commissioners is increased to 12 or 13, 7 commissioners constitute a quorum. If after reapportionment under s. 200.25 (7) the number of commissioners is reduced to 9 or 10, 5 commissioners constitute a quorum.

(2) ACTION CONCERNING FINANCING FOR THE DISTRICT. (a) Except as provided in par. (b):

1. No resolution adopted by the commission under s. 200.55 (1), (3) (c) or (6), 67.05 (1) or 67.12 (12), no schedule of charges under s. 66.0821, 200.39 (4), 200.41 or 200.55 (5) (b) 3., no decision to borrow against taxes under s. 67.12 (1) and no decision to borrow under s. 24.61 (3) (a) 7. is valid unless adopted by an affirmative vote of at least a two−thirds majority of all commissioners.

2. No resolution adopted by the commission under s. 67.12 (1) (b) is valid unless adopted by an affirmative vote of at least a three−fourths majority of all commissioners.

(b) If one or more resolutions authorizing full financing of the capital budget adopted under s. 200.53 are not adopted on or before October 15 succeeding the annual adoption of the budget, the commission may by a vote of a simple majority of all commissioners annually levy taxes under s. 200.55 (6) (a) 4. or otherwise appropriate a sum from any source for the purpose of financing the capital budget. The total levy and appropriation may not exceed $40,000,000.

(3) CHAIRPERSON. The commission shall elect one commissioner as chairperson of the commission, for a term specified by rule by the commission. The chairperson is removable at pleasure by the commission. The chairperson shall preside over the meetings of the commission and shall perform other duties imposed upon the chairperson by this subchapter or assigned by the commission. The commission may also appoint a vice chairperson who may exercise the powers and shall perform the duties of the chairperson in the absence or disability of the chairperson.

(4) SECRETARY. The commission shall appoint a secretary who is not a member of the commission. The secretary is removable at pleasure by the commission and shall receive the compensation the commission determines. The compensation shall be paid at the time and in the same manner that the salaries of other employees of the district are paid. The secretary shall maintain all records concerning the district and shall perform the other duties that are imposed upon the secretary by this subchapter or that are assigned by the commission.

(5) TREASURER. The commission shall appoint a treasurer who shall oversee and be responsible for the receipt and disbursement of all money received by the district and for the investment of money received by the district.

(6) RECORDS; MEETINGS. All records of the commission are subject to subch. II of ch. 19. Subchapter V of ch. 19 governs all meetings of the commission.

(7) ANNUAL AUDIT. The commission shall annually audit the financial transactions of the district and shall include a summary of the audit in its annual report under sub. (9).

(8) DEMAND AUDIT. (a) On the demand of any municipality or county located wholly or partly within the boundaries of the district, the district shall request an audit by the public service commission of its books, records and practices. The district shall pay the costs of the audit. The audit shall determine the district's compliance with generally accepted accounting principles. The public service commission may contract with an auditing firm to perform the audit if the public service commission cannot complete a requested audit in a timely manner. Under no circumstances is the district subject to a further demand audit under this subsection until at least one year elapses from the date the report of the previous demand audit under this subsection is filed.

(b) Upon completion of the demand audit and receipt of the audit report, the district shall hold a public hearing within 45 days in the municipality or county that demanded the audit. The district shall arrange for summaries of the report to be made available for the hearing.

(9) ANNUAL REPORT. The commission shall prepare annually a full report of its official transactions and expenditures and shall mail the report to the governor, to the secretary of natural resources and to the governing body of each municipality.

History: 1981 c. 282, 391; 1983 a. 27; 1983 a. 207 s. 95; 1985 a. 29, 49; 1991 a. 39; 1999 a. 150 s. 579; Stats. 1999 s. 200.27.

200.29 Boundary; name; corporate status. (1) BOUNDARY. (a) Except as provided in pars. (b) to (d), the initial boundary of the district is the boundary of the county in which the 1st class city is located.

(b) The initial boundary of a district created under s. 200.23 (1) (b) is the same as the boundary of the district created under s. 59.96 (5), 1979 stats.

(c) 1. The commission shall, by resolution, exclude areas from the district that it finds are not likely to receive sewerage service from the district within 25 years.

2. The commission may, by resolution, redefine the boundary of the district initially defined under sub. (1) (b) in accordance with subds. 3. to 5. If an area is likely to receive sewerage service from the district within 10 years, the area shall be included within each boundary redefined under this subdivision.

3. Within 90 days after all commissioners have been appointed under s. 200.23, the commission shall adopt rules concerning the factors to be considered in determining the redefined boundary of the district under subd. 2. The commission may also establish conditions by rule that shall apply if an area is not within the district after the boundary is redefined but is subsequently added to the district under par. (d). When adopting rules under this subdivision the commission shall consider, among other considerations:

a. The weight to be given to the need for private on−site wastewater treatment systems, as defined in s. 145.01 (12), to maintain the public health and welfare in any area located within the district prior to a redefinition of the boundary but located outside the district after any redefinition of the boundary.

b. The weight to be given to the effects of excluding any area from the district by a redefinition of the boundary on property taxation of the area excluded, on the use of the area and on property taxation of the district as a whole.

c. The need to maintain the consistency of any redefined boundary of the district with a regional water quality management plan established or approved under ss. 281.12 (1) and 283.83 or any facilities plan established and approved under s. 281.41.

d. The equity of providing similar treatment of properties located within a common drainage basin.

e. The weight to be given to plans approved by any municipality for expansion of its local sewers and for general development.

4. a. Within 45 days after adopting rules under subd. 3., the commission shall determine whether to redefine the boundary under subd. 2. Before the commission adopts a final resolution that would redefine the boundary, the commission shall first obtain the consent of the governing body of the city, village or town in which the area is located and shall hold a public hearing on the proposed resolution. The commission shall mail a notice that states the time and place of the hearing and is accompanied by a copy of the proposed resolution to the clerk of each municipality at least 30 days before the hearing. The commission shall also publish a copy of the notice and of the proposed resolution as a class 2 notice under ch. 985 within the district. The date of the first publication shall be at least 30 days prior to the date of the hearing. The proposed resolution shall contain the description by metes and bounds of each area to be affected by redefining the boundary.

b. Any area not included within the redefined boundary under subd. 1. or 2. ceases to be a part of the district for all purposes upon the filing of a certified copy of the resolution describing the area not within the district with the clerk of each county in which the district is located. The commission shall also record the resolution with the register of deeds for each county in which the district is located, and file a certified copy of the resolution with the clerk of each city, village and town in the district and with the department of natural resources.

5. The commission shall biennially review the redefinition of the boundary under subd. 4. a. If, after any biennial review, the commission finds that an area is likely to receive sewerage service from the district within the following 10 years, the commission shall redefine the boundary to include the area in the district. Additions to the district under this subdivision are not subject to par. (d).

(d) 1. The commission shall, by resolution, add any area to the district if all of the following conditions are met:

a. Sewage from the area to be added drains or may drain into any lake or into any river or stream flowing into a lake that is used or may be used as a source of drinking water for a municipality.

b. The commission has authorized the addition to the sewerage system of all facilities needed to treat and dispose of the sewage from the area to be added.

c. The municipality in which the area to be added is located requests that the commission add the area to the district.

d. Adding the area to the district is consistent with any regional water quality management plan.

2. Before the commission adopts a final resolution to add area to the district, the commission shall first obtain the consent of the governing body of the city, village or town in which the area is located and shall hold a public hearing on the proposed resolution. The commission shall mail a notice stating the time and place of the hearing along with a copy of the proposed resolution to the clerk of each municipality at least 30 days before the hearing. The commission shall also publish a copy of the notice and of the proposed resolution as a class 2 notice under ch. 985 within the district. The date of the first publication shall be at least 30 days prior to the date of the hearing. The proposed resolution shall contain the description by metes and bounds of each area to be added to the district.

3. Any area added to the district under this paragraph becomes a part of the district for all purposes upon the filing of a certified copy of the resolution describing the area being added with the clerk of each county in which the district is located. The commission shall also record the resolution with the register of deeds for each county in which the district is located, and file certified copies with the clerk of each city, village and town in the district and with the department of natural resources.

(2) NAME. (a) Except as provided in par. (b), the name of the district is the metropolitan sewerage district of the county or counties in which it is established.

(b) The name of a district created under s. 200.23 (1) (b) is the Milwaukee metropolitan sewerage district.

(3) CORPORATE STATUS. The district is a municipal body corporate that may enter into binding contracts and that may sue and be sued in its own name. The district is a special district under article XI, section 3, of the constitution.

History: 1981 c. 282; 1983 a. 189 s. 329 (8); 1983 a. 192; 1993 a. 301; 1995 a. 227; 1999 a. 150 s. 580; Stats. 1999 s. 200.29; 2011 a. 146.

Sub. (1) (c) 2. to 5. is constitutional. Brookfield v. Milwaukee Metropolitan Sewerage District, 171 Wis. 2d 400, 491 N.W.2d 484 (1992).

200.31 General duties of the commission. Subject to ss. 200.21 to 200.65, the commission shall:

(1) SEWERAGE SYSTEM FUNCTIONS. Project, plan, design, construct, maintain and operate a sewerage system for the collection, transmission and disposal of all sewage and drainage of the sewerage service area including, either as an integrated or as a separate feature of the system, the collection, transmission and disposal of storm water and groundwater.

(2) COMBINED SEWER OVERFLOW ABATEMENT. Abate combined sewer overflows to the extent necessary to comply with federal or state law.

History: 1981 c. 282, 391; 1999 a. 150 s. 581; Stats. 1999 s. 200.31.

200.33 Local sewers. (1) DUTIES OF MUNICIPALITIES. (a) Each municipality shall construct, operate and maintain local sewers and appurtenant facilities and shall repair and rehabilitate local sewers and appurtenant local facilities.

(b) Except as provided in sub. (2), ss. 200.21 to 200.65 do not authorize the commission to operate, maintain, rehabilitate or pre-

serve local sewers or appurtenant local facilities constructed by a municipality or to separate combined storm and sanitary sewers.

(c) This subsection does not prohibit the commission from operating, maintaining, rehabilitating or preserving its sewerage system.

(2) SEPARATING COMBINED SEWERS. (a) Except as provided in pars. (b) to (d) and subject to s. 281.41, no commission may separate combined storm and sanitary sewers.

(b) 1. If the commission undertakes abatement of combined sewer overflows, it shall use the most cost−effective method available.

2. If partial or complete separation of combined storm and sanitary sewers is the most cost−effective method of abating combined sewer overflows, the commission may separate the combined sewers.

3. If 2 or more methods of abating combined sewer overflows are approximately equally cost−effective, the commission shall select the method of abatement that involves separating the fewest linear feet of combined storm and sanitary sewers.

(c) If separation of a combined storm and sanitary sewer is authorized under par. (b), the commission shall adopt an authorizing resolution before commencing the separation. The resolution shall include a statement that any person aggrieved may petition for judicial review under par. (d). Before adopting the resolution, the commission shall first obtain the consent of the governing body of the city, village or town in which the combined storm and sanitary sewer is located and shall hold a public hearing on the proposed resolution. The commission shall mail a notice that states the time and place of the hearing and is accompanied by a copy of the proposed resolution to the clerk of each municipality at least 30 days before the hearing. The notice shall include a statement that judicial review of the commission's decision is available, as provided in par. (d). The commission shall also publish a copy of the notice and the proposed resolution as a class 2 notice under ch. 985 within the district. The date of the first publication shall be at least 30 days prior to the date of the hearing.

(d) Any person aggrieved by the decision of the commission to separate a combined storm and sanitary sewer may file a petition for judicial review in the circuit court for the county in which the district is located. Nothing in this paragraph affects any review under s. 281.41.

History: 1981 c. 282, 391; 1995 a. 227; 1999 a. 150 s. 582; Stats. 1999 s. 200.33.

200.35 Sewerage construction, operation and maintenance. (1) GENERAL POWERS OF THE COMMISSION. To the extent necessary to carry out its duties under s. 200.31, the commission may project, plan, design, adopt, construct, operate and maintain:

(a) District, interceptor and outfall sewers.

(b) Conduits, drains and pumping and other plants for the collection and transmission of residential, industrial and other sanitary sewage from local sewers to and into the interceptor sewers of the district.

(c) Facilities for the treatment and disposal of sewage transmitted into the interceptor sewers of the district.

(d) Pumping stations and tunnels for the purpose of flushing any of the rivers flowing through the district.

(e) Storm sewers and other facilities and structures for the collection and transmission of storm water and groundwater.

(f) Buildings, structures and facilities appurtenant to structures authorized under pars. (a) to (e).

(2) RIVER AND LAKE BEDS. (a) Except as provided in par. (b), the commission may lay, construct and maintain, without compensation to the state, any part of the sewerage system or of its works or appurtenances over, upon or under any part of the bed of any river or its branches flowing through the district, or of any land that has not been the subject of a state lake bed grant to a county in which a 1st class city is located and that is covered by any of the outlying waters, as defined in s. 29.001 (63).

(b) Nothing in this subchapter authorizes the commission to lay or construct any part of the sewerage system after April 27, 1982, over, upon or under any land covered by any outlying waters, as defined in s. 29.001 (63), unless the commission first obtains the prior consent of both houses of the legislature and the governor.

(3) WATERWAYS. The commission may lay, construct and maintain any part of the sewerage system over, upon or under canals or other waterways.

(4) DELIVERY OF DEEDS; DNR PERMITS. Upon application of the commission the proper officers of this state shall execute, acknowledge and deliver to the proper officers of the district any deed or other instrument as may be proper for the purpose of fully confirming the grants under subs. (2) and (3). Notwithstanding s. 30.05, the district may not commence an action under sub. (2) or (3) without obtaining all of the necessary permits from the department of natural resources under ch. 30.

(5) COMPLIANCE WITH LOCAL ZONING; DEVIATIONS. (a) In its actions under this subchapter, the commission shall comply with local zoning and land use ordinances unless it finds that, in carrying out its responsibilities under this subchapter, deviation from these ordinances meets the test of public necessity, as that term is used for the purposes of ch. 32. The commission may only make determinations of public necessity by resolution. This paragraph does not authorize the commission to deviate from floodplain or shoreland zoning ordinances.

(b) If the commission makes a determination of public necessity to deviate from a local zoning or land use ordinance, it shall serve a copy of the resolution by certified mail upon the clerk of the municipality whose ordinance is involved, including a statement that judicial review is available only for 90 days. Any aggrieved person may commence an action in the circuit court of the county in which the municipality is located to challenge the commission's determination within 90 days from the date of postmark. Any action under this paragraph shall name the district as a defendant. An action under this paragraph is the only manner by which the commission's determination of public necessity for deviating from such an ordinance may be challenged. The circuit court shall give precedence to a trial of the issues raised in such an action over all other actions not then on trial in the court. Failure to commence an action within 90 days from the date of postmark bars the raising of any objection by any person to the commission's determination of public necessity. This subsection does not limit any proceeding under s. 32.05.

(6) REMOVING OBSTRUCTIONS. (a) The commission may require that any owner of any building, structure or other physical obstruction in, over or under the public lands, avenues, streets, alleys or highways in the district that blocks or impedes the construction, operation or maintenance of the sewerage system, upon reasonable notice by the commission, promptly shift, adjust, accommodate or remove the obstructions as needed to permit the commission to carry out its responsibilities. The district shall pay 50 percent of the owner's costs of complying with this subsection.

(b) If the owner fails after reasonable notice to discharge any duty imposed under par. (a) the owner may, in addition to any other available remedy or remedies, be fined $100 for each offense plus an additional $50 for each day that the owner's failure continues.

(c) This subsection also applies to any building, structure or other physical obstruction in, over or under the public highways of any county of this state into which the sewerage system extends.

(7) ROAD ALTERATIONS AND TRAFFIC CONTROL. The commission may, in a manner acceptable to the department of transportation, excavate in or otherwise alter any state, county or municipal street, road, alley or public highway in the district for the purpose of constructing, maintaining and operating the sewerage system or to construct in the street, road, alley or public highway an interceptor or district sewer or any appurtenance thereof, without pro-

viding a bond. The commission shall notify the public authority that controls the street, road, alley or public highway at least 45 days prior to the date the commission intends to advertise for bids as to the location where the excavation or alteration will take place. The public authority shall prepare a reasonable traffic control plan and provide the plan to the commission within 30 days after receiving the notice. The commission shall pay a reasonable fee for development of the plan and shall include the plan in its bidding documents. The commission shall pay the costs of implementing the traffic control plan during the period of construction. Upon completing the work the commission shall restore the street, road, alley or public highway at its own expense to a condition as good as or better than existed before the commencement of the work.

(8) RIVER AND STREAM ALTERATIONS. (a) Subject to s. 30.20 and to any applicable rule of the department of natural resources, the commission may improve any river or stream within the district by deepening, widening or otherwise changing it as the commission finds necessary in order to carry off surface or drainage water.

(b) The commission may make improvements outside the district of any river or stream that flows from within the district to a point outside the district. The commission may contract with any governmental body that owns or controls any lands through which such a river or stream flows for the payment of that part of the cost of the improvement in the territory governed by the body that is wholly or partially outside the district.

(9) WATER DIVERSION. (a) Within the district, the commission may divert storm water, groundwater and water from lakes, rivers or streams into drains, conduits or storm sewers but no surplus waters or floodwaters shall be diverted or bypassed into any lake, river or stream in another watershed. Before diverting water from any lake, river or stream into an enclosed drain, conduit or storm sewer or similar structure, the commission shall comply with pars. (b) and (c).

(b) The commission shall apply to the department of natural resources for a permit for the diversion. Upon receipt of an application for a permit, the department shall fix a time, not more than 8 weeks after receiving the application, and a convenient place for a public hearing on the application. The department shall notify the commission of the time and place and the commission shall publish a notice of the time and place of the hearing once each week for 3 successive weeks before the hearing in at least one newspaper designated by the department of natural resources and published in the district.

(c) In addition to the publication required under par. (b) the commission, not less than 20 days prior to the hearing, shall mail a notice of the hearing to every person who has recorded an interest in any lands that are likely to be affected by the proposed diversion and whose post−office address can be ascertained by due diligence. The notice shall specify the time and place of the hearing, shall be accompanied by a general statement of the nature of the application and shall be forwarded to these persons by registered mail in a sealed and postpaid envelope properly addressed. The commission shall file proof of the publication and mailing of notice with the department of natural resources. At the hearing or any adjournment thereof, the department of natural resources shall consider the application and shall take evidence offered by the commission and other persons in support of or in opposition to the application. The department may require that the application be amended. If the department finds after the hearing that the application is in the public interest, will not violate public rights and will not pose an unreasonable risk to life, health or property, the department shall issue a permit to the commission.

(10) PRELIMINARY WORK. The commission may make all preliminary investigations and perform all preliminary work as should, in the commission's judgment, precede the actual projection, construction and establishment of the sewerage system.

(11) EXAMINATIONS AND TESTS. (a) The commission may enter upon any land or water in the district for the purpose of making examinations, test borings, tests or surveys in the performance of its responsibilities under this subchapter. The commission shall compensate for damage caused by its examinations, test borings, tests or surveys. The commission may examine any sewer or sewerage system to determine if the sewer or sewerage system is defective in operation, construction, design or supervision.

(b) Except as provided in par. (c), prior to entry onto land under this subsection the district shall obtain the consent of the owner.

(c) If the consent of the owner cannot be obtained, the district shall obtain a special entry warrant prior to entry onto the land. To obtain a special entry warrant, the district shall petition the circuit court for the county in which the land to be entered is located and shall mail a copy of the petition by registered mail to the owner's last−known address, if any. If the court determines that entry onto the land is reasonably related to the performance of the district's responsibilities under this subchapter, the court shall issue the warrant on the district's affidavit that the district intends to enter the land under this subsection, that the district has mailed, at least 5 days prior to the affidavit, a copy of the petition for the warrant to the owner as required in this paragraph and that the district has been otherwise unable to obtain the owner's consent.

(12) DISPOSAL OF TREATED SEWAGE. Subject to any applicable rule of the department of natural resources, the commission may dispose of treated sewage by commercial or charitable means and may expend an amount reasonably necessary for this purpose.

(13) LABORATORY TESTING. The commission may operate laboratory facilities for testing sewage for any municipality or user, but may not require that any municipality or user use these facilities.

(14) SHORE PROTECTION PROJECTS. (a) In this subsection:

1. "Political subdivision" means a county, city, village or town.

2. "Project" means a shore protection or erosion control project which consists, in whole or in part, of waste rock produced by construction projects undertaken by the commission and which has been requested, by resolution, by a political subdivision with territory in the district's service area.

(b) The commission may construct a project. This paragraph does not apply to the construction of any project on or after January 1, 1992.

(c) Prior to construction of a project under this subsection, the commission and the political subdivision requesting the project shall obtain all necessary permits and approvals from the state and from any governmental unit with jurisdiction of the area where the project is proposed to be located. If the project is proposed to be located on an area of lake bed the title of which has been granted by the state to a political subdivision, the commission may not construct the project unless that political subdivision approves the location of the project.

(d) 1. The commission shall pay for the portion of the cost of a project constructed by the commission under this subsection which equals the difference between the cost of disposing of the waste rock at a disposal site which is approved by the department of natural resources and which is outside of the district's service area and the cost of disposing of the waste rock in the project.

2. If the cost of a project exceeds the amount paid by the commission under subd. 1., the political subdivision which requests the project shall pay 15 percent of the excess cost or $300,000, whichever is less, and the commission shall pay the remainder, except as provided under subd. 3.

3. The commission may not pay under subd. 2. a total of more than $2,690,000 for all projects constructed under this subsection.

4. A political subdivision which requests a project under this subsection may not charge the commission a fee for disposing of the waste rock in the project.

(e) If water no more than 300 feet in distance separates a completed project from the shore, the political subdivision which requests the project shall construct facilities to provide pedestrian access between the completed project and the shore.

(f) The political subdivision which holds title to the lake bed on which a project is constructed by the commission under this subsection holds title to that project and is responsible for any maintenance required after the project is completed. The commission may not make any claim relating to an ownership interest in that project.

(g) Paragraphs (d) to (f) do not apply to any project which includes a solid waste disposal facility which requires an operating license under s. 289.31.

History: 1981 c. 282, 391; 1983 a. 27 s. 2202 (38); 1985 a. 187; 1987 a. 130; 1989 a. 366; 1995 a. 227; 1997 a. 248; 1999 a. 150 s. 583; Stats. 1999 s. 200.35; 2015 a. 55.

200.37 Connections to the sewerage system. **(1)** APPROVAL OF THE COMMISSION. The commission may approve or disapprove any connection with or use of the sewerage system by any town, city or village or by any private person or corporation. The commission shall examine proposed connections or uses and shall hear all the parties in interest. If the commission finds that any sewer connected or to be connected to the sewerage system is defective in construction, design, supervision or operation, the commission may not permit any connection to be made or continued until the alterations, new construction and changes in supervision or operation required by the commission have been made.

(2) INCORPORATION OR USE OF EXISTING SEWERS. (a) The commission may temporarily use any public sewer or drain, including any storm sewer or drain, in the district for the purposes of this subchapter. The commission may incorporate with the sewerage system for use as an outfall sewer into a channeled watercourse or as an interceptor sewer any public sewer or drain, including any storm sewer or drain, and any of their appurtenances, either in their existing condition or with repairs or modifications as the commission may determine. The commission may condemn, close up, abolish, destroy, alter the functions or increase the flow of any of those public sewers and drains incorporated with the sewerage system as it deems necessary to carry out the purposes of this subchapter. If the commission decides to incorporate or utilize a sewer or drain under this subsection, it shall use the procedures specified in par. (b).

(b) The commission shall act under par. (a) by resolution. Before the commission adopts a final resolution to incorporate or utilize a sewer or drain, the commission shall first obtain the consent of the governing body of the city, village or town in which the sewer or drain is located and shall hold a public hearing on the proposed resolution. The commission shall mail a notice that states the time and place of the hearing and is accompanied by a copy of the proposed resolution to the clerk of each municipality at least 30 days before the hearing. The commission shall also publish a copy of the notice and of the proposed resolution as a class 2 notice under ch. 985 within the district. The date of the first publication shall be at least 30 days prior to the date of the hearing.

(3) POWER TO REQUIRE CONNECTION. The commission may compel any owner or occupant of any premises located along the line of any interceptor sewer or along the line of any sewer of a municipality that is discharging sewage, refuse or industrial wastes of any kind into any river or canal within the drainage area of the district to change or rebuild any outlet, drain or sewer so as to discharge all the sewage, refuse or industrial wastes into the sewers of the town, city or village or into the district's interceptor sewer under rules adopted by the commission under s. 200.45.

History: 1981 c. 282, 391; 1999 a. 150 s. 584; Stats. 1999 s. 200.37.

200.39 Contract sewerage service. **(1)** GENERAL POWER OF THE COMMISSION. Subject to subs. (2) to (6), the commission may contract with any city, town, village, sanitary district organized under subch. IX of ch. 60 or metropolitan sewerage district organized under subch. I wholly or partially outside the boundaries of the district, but wholly or partially within the same general drainage area as the district for the transmission, treatment or disposal of sewage from any territory located in the city, town, village, sanitary district or metropolitan sewerage district. Each contract executed under this section shall specify the terms of payment of sewerage service charges by the contracting party.

(2) PRIOR APPROVALS. Before permitting any city, town, village, sanitary district or metropolitan sewerage district to connect its sewers with or use any of the district's interceptor sewers under this section, the sewers shall be approved as provided in s. 200.37 (1). The governing body of the city, town, village, sanitary district or metropolitan sewerage district may enter into a contract under this section only by a vote of three−fourths of its members.

(3) SERVICE CHARGES FOR OPERATION AND MAINTENANCE. As part of any contract executed under this section, the commission may assess reasonable and just sewerage service charges against the contracting party with respect to operating and maintenance costs. These charges shall be established in accordance with s. 200.59 and are subject to review under s. 200.59. The schedule of service charges may, but need not, be uniform with any other schedule of charges established by the commission.

(4) SERVICE CHARGES FOR CAPITAL COSTS. (a) As part of any contract executed under this section, the commission may assess reasonable and just sewerage service charges against the contracting party with respect to capital costs. These sewerage service charges are subject to review under s. 200.59. The schedule of sewerage service charges with respect to capital costs used in contracts executed under this section shall be uniform with the system used to recover capital costs within the district.

(b) Except as provided in par. (c), the charges assessed under this subsection shall be established in accordance with s. 66.0821 or 200.55 (5). In computing the schedule of charges under this subsection, the commission may consider the factors specified in s. 66.0821 (5) or 200.55 (5). In computing the schedule of charges under this subsection, the commission may also consider the fact that sewerage service may not be available to or may be available to but not utilized by a part of the property located within the territorial limits of a contracting party at the time of computing the schedule.

(c) If the commission adopts a system with respect to capital costs within the district on the basis of the value of the property in the area to be served, as equalized under s. 70.57, the commission shall adopt a system of sewerage service charges with respect to capital costs used in contracts executed under this section that shall equal the amount the commission would be able to levy as taxes upon the area to be served by the contract, if the area was within the district boundary.

(5) PAYMENT OF ASSESSED CHARGES. (a) Any city, town, village, sanitary district organized under subch. IX of ch. 60 or metropolitan sewerage district organized under subch. I that contracts under this subsection may provide for the payment of charges from any available source, including:

1. Tax levy.

2. Assessments upon and assessments of charges against the whole city, town, village, sanitary district organized under subch. IX of ch. 60 or metropolitan sewerage district organized under subch. I or upon or against any part thereof that the governing body determines to be benefited by the service.

3. Borrowing under s. 67.12 (12).

4. Disbursements from the general fund.

5. The proceeds of a sales tax.

6. The proceeds of its own schedule of service charges. The schedule of these charges may, but need not, be uniform with any schedule of charges established by the commission.

(b) A deficiency in the source of funds for payment does not relieve the contracting party of liability for failure to pay the commission in full at the time provided in the contract.

(6) INTEREST ON LATE PAYMENTS. Contracts executed under this section may provide for interest on late payments.

History: 1981 c. 282, 391; 1983 a. 27; 1983 a. 532 s. 36; 1999 a. 150 s. 585; Stats. 1999 s. 200.39.

Sub. (4) (c) is unconstitutional; it was passed in violation of Art. IV, s. 18. Brookfield v. Milwaukee Metropolitan Sewerage District, 144 Wis. 2d 896, 426 N.W.2d 591 (1988).

200.41 Noncontractual sewerage service. (1) Notwithstanding ss. 66.0821 and 200.55 (5), if the commission establishes a system to recover capital costs within the district on the basis of the value of property in the area to be served, as equalized under s. 70.57, the commission shall establish a system of sewerage service charges to recover capital costs which shall be used with respect to any area which is served by the district and which is outside the boundaries of the district and outside of any municipality which has contracted with the district under s. 200.39. The charges shall be equal to the amount the commission would be authorized to levy as taxes upon the area served if the area were within the district's boundaries.

(2) Any charge made by the district under this section is reviewable under s. 200.59 (5) if the charge has been paid.

(3) Section 200.55 (5) (b) and (d) apply to charges assessed under this section.

(4) The commission may charge municipalities assessed under this section reasonable interest for late payments.

History: 1985 a. 29; 1999 a. 150 s. 586; Stats. 1999 s. 200.41.

This section is unconstitutional; it was passed in violation of Art. IV, s. 18. Brookfield v. Milwaukee Sewerage District, 144 Wis. 2d 896, 426 N.W.2d 591 (1988).

200.43 Acquisition of property. (1) GENERAL POWER OF THE COMMISSION. The commission may acquire by gift, purchase, lease or other methods of acquisition or by condemnation, any real property situated in the state and all tenements, hereditaments and appurtenances belonging or in any way appertaining to, or in any interest, franchise, easement, right or privilege therein, that may be needed for the purpose of projecting, planning, constructing and maintaining the sewerage system, that may be needed for the collection, transmission or disposal of all sewage or drainage of the district or that may be needed for improving any river or stream within the district under s. 200.35 (8) (a) or (b).

(2) ALTERING STREAMS OVER PRIVATE LANDS. No stream over private lands may be altered unless the commission acquires the lands under sub. (1) or unless the governing body of the village, town or city in which the stream is located approves the proposed alteration.

(3) CONDEMNATION. Section 32.05 controls the process of condemnation under this section. The commission shall establish the public necessity for any acquisition by condemnation.

(4) CONVEYANCE OF PROPERTY ACQUIRED. All property, real or personal, acquired by the commission shall be taken for the benefit of and shall belong to the district. The commission may convey any part of its interest in real or personal property it has acquired that is not needed to carry out the powers and duties of the commission.

History: 1981 c. 282, 391; 1999 a. 150 s. 587; Stats. 1999 s. 200.43.

200.45 Rules; special orders; special use permits. (1) GENERAL RULE–MAKING AUTHORITY. (a) The commission may adopt the rules both necessary and proper to promote the best results from the construction, operation and maintenance of the sewerage system, to prevent damage to the sewerage system from misuse, injury to employees, surcharging all or part of the sewerage system or interference with the process of sewage treatment or disposal or to comply with federal or state pretreatment requirements. Such rules are applicable to all users. The rules may, without limitation by enumeration:

1. Prohibit discharge into the sewerage system, either directly or indirectly, of any liquid, gaseous or solid waste deemed detrimental to the sewerage system, to the commission's employees or to the process of sewage treatment or disposal.

2. Prescribe the conditions upon which wastes may be discharged.

3. Prescribe standards of sewer design, construction, operation, alteration and maintenance applicable to any sewerage system connecting with or using the sewerage system and the conditions upon and the manner in which connections to interceptor sewers and replacement of existing district sewers shall be made.

4. Prohibit or restrict discharge into the sewerage system of the district's service area of any substance if the discharge of that substance would do any of the following:

a. Interfere with the district's ability to meet its obligations under a pollution discharge elimination permit or general permit issued under s. 283.31 or 283.35, or under an air pollution control permit issued under ch. 285.

b. Interfere with the marketing of treated sewage sludge by the district.

(b) The rules shall apply throughout the territory served by the sewerage system and, except as provided in s. 200.35 (5), shall have precedence over any conflicting ordinance, code or regulation of or permit issued by any municipality within the territory.

(c) The commission may adopt, amend or repeal a rule only after notice and public hearing, except that if the preservation of the public health, safety or welfare necessitates putting a rule into effect immediately, the commission may adopt any rule as an emergency rule. An emergency rule is effective for a period of 120 days after the date of adoption unless the commission specifies a shorter period of effectiveness. If the problem that necessitates adopting an emergency rule continues beyond 120 days the commission shall, after providing notice and a hearing, adopt a rule to deal with the problem. Except in the case of an emergency rule, the commission shall publish a notice of the hearing on a proposed rule that includes an informative summary of the proposed rule and specifies the time and place of the hearing at least 30 days prior to the hearing in a newspaper of general circulation in the district. The notice shall also include a statement that judicial review of a rule is available, as provided in par. (d). The commission shall also mail a similar notice to the clerk of each municipality at least 30 days prior to the hearing. The commission shall identify and take all other steps, if any, that it determines are necessary to convey effective notice to persons who are likely to have an interest in the proposed rule making. Failure of any person to receive notice of a hearing on proposed rule making is not grounds for invalidating the resulting rule if notice of the hearing was published and mailed as provided in this paragraph. Insofar as applicable, s. 227.18 governs the conduct of the hearings. A rule adopted by the commission takes effect upon its publication in a newspaper of general circulation in the district.

(d) Except as provided in s. 227.40 (2), the exclusive means of judicial review of the validity of a rule is an action for declaratory judgment as to the validity of the rule brought in the circuit court for the county in which the district is located or for the county in which the plaintiff resides. Upon the motion of any party the court may change the place of the trial under s. 801.52. If 2 or more petitions for review of the same rule are filed in different counties, the circuit court for the county in which a petition for review of a rule was first filed shall determine the venue for judicial review of the rule, to order transfer or consolidation where appropriate. The summons in the action for review shall be served by delivering a copy to the chairperson or secretary of the commission. The court shall render a declaratory judgment in the action only when it appears from the evidence presented that the rule or its threatened application unlawfully interferes with or impairs, or threatens to interfere with or impair, the rights and privileges of the plaintiff. A declaratory judgment may be rendered whether or not the plaintiff has first requested the commission to pass upon the validity of the rule in question. Insofar as applicable, s. 227.40 (2), (3) and (4) govern any declaratory judgment proceeding under this paragraph.

(e) If any person fails to comply with a rule of the district, the district may obtain an injunction under s. 823.02 or the district may initiate an action for the civil remedies under s. 283.91 (2) or (5). If the district acts under s. 283.91 (2) or (5), the district may recover the forfeiture in a civil action brought by the commission in the name of the district. Collected forfeitures shall be paid into the district's general fund. The forfeiture is in addition to and does not substitute for any damages recoverable by the commission.

(2) SPECIAL ORDERS. (a) The commission may issue special orders in the name of the district directing compliance with the rules of the district within a specified time. All special orders shall be in writing and shall specifically state the action by the user that is required to comply with the order. Service of any special order may be made in the manner provided for service of a summons under s. 801.11. The commission may designate commission employees to issue special orders in the name of the district in an emergency to prevent damage to the sewerage system from misuse, injury to employees, interference with the process of sewage treatment or disposal or substantial risk to the public health and welfare. Special orders are effective and enforceable upon service, unless the commission specifies a later effective date in the special order or agrees to a different effective date.

(b) Any person aggrieved by a special order of the district that directly affects the rights or duties of the person may secure a review of the necessity for and reasonableness of the order by filing with the commission, within 30 days after service of the special order, a verified petition specifying the person's objections to the order or the modification desired in the order. Upon receipt of the petition, the commission shall order a public hearing on the petition and make any further investigations it determines advisable. Insofar as applicable, ss. 227.44 (6), (7) and (8) and 227.45 to 227.48 govern the proceeding. The determination of the commission upon any petition is subject to review in a proceeding, brought within 30 days after service of notice of the final determination, in the circuit court of the county in which the district is located or of the county in which the plaintiff resides. Insofar as applicable, ss. 227.52 to 227.58 govern any proceeding for judicial review under this paragraph.

(c) If the commission does not stay compliance and a person fails to comply with a special order of the district within the time specified, or if a person fails to begin in good faith to obey, the person is creating a public nuisance enjoinable under s. 823.02. The district may also initiate an action for the civil remedies under s. 283.91 (2) or (5). If the district acts under s. 283.91 (2) or (5), the forfeiture may be recovered by the district in a civil action brought by the commission in the name of the district. Collected forfeitures shall be paid into the district's general fund. The forfeiture is in addition to and does not substitute for any damages recoverable by the commission.

(3) SPECIAL USE PERMITS. The commission may issue permits for the special use of the sewerage system to private persons, firms or corporations for the transmission and disposal of any liquid, gaseous or solid waste determined to be not detrimental to the sewerage system, to its employees or to the process of sewage treatment, upon terms and conditions specified by the commission. The commission may prescribe and collect an annual fee not to exceed $500 for any permit for special use. The permit is revocable by the commission summarily for violation of the terms or conditions of the permit. A holder of the permit does not acquire any vested right or privilege by being issued a special use permit under this subsection. Any private person, firm or corporation using the sewerage system without a permit for a use for which a permit may be issued under this subsection, or continuing to use the sewerage system after notice of revocation of the permit, shall forfeit to the district not more than $500 for each violation. The forfeiture may be recovered by the district in a civil action brought by the commission in the name of the district. Collected forfeitures shall be paid into the general fund of the district.

(4) HEARINGS; DESIGNATED REPRESENTATIVES. The commission may designate representatives to conduct any hearings required under this section and, except as provided in s. 227.46 (5), may designate any member or employee of the commission for that purpose. If more than one person is designated, the commission shall specify the presiding officer for the hearing. All testimony or other evidence taken, appearances for and against the matter involved and a summary of the arguments of all parties shall be reported to the commission in the manner the commission prescribes.

(6) COMBINED SEWER OVERFLOW ABATEMENT. The commission shall not establish by rule or enforce by special order or other means a duty on the part of any municipality to abate combined sewer overflows.

History: 1981 c. 282, 391; 1983 a. 228 s. 16; 1985 a. 29; 1985 a. 182 s. 57; 1989 a. 337, 356; 1995 a. 227; 1999 a. 150 s. 588; Stats. 1999 s. 200.45.

200.47 Contracts. (1) GENERAL POWERS OF THE COMMISSION. The commission may enter into contracts, agreements or stipulations necessary to perform its duties and exercise its powers under this subchapter, including contracts to purchase, lease or otherwise obtain the use of all necessary equipment, supplies and labor.

(2) BIDDING REQUIREMENTS. (a) Except as provided in par. (b), all work done and all purchases of supplies and materials by the commission shall be by contract awarded to the lowest responsible bidder complying with the invitation to bid, if the work or purchase involves an expenditure of $20,000 or more. If the commission decides to proceed with construction of any sewer after plans and specifications for the sewer are completed and approved by the commission and by the department of natural resources under ch. 281, the commission shall advertise by a class 2 notice under ch. 985 for construction bids. All contracts and the awarding of contracts are subject to s. 66.0901.

(b) The commission may purchase without public advertisement or competitive bidding if the article, appliance, apparatus, material or process to be purchased is patented or made or manufactured by one party only or if damage or threatened damage to the sewerage system creates an emergency in which public health or welfare is endangered.

(c) The commission shall accept the bid of the person who it finds is the lowest responsible bidder complying with the invitation to bid for the contract unless it rejects all bids or relets the contract.

(cm) 1. Except as provided under subd. 4., in determining the lowest responsible bid for any contract awarded prior to December 31, 1993, the commission may evaluate the multiplier effect on state revenues and tax receipts of contract moneys which will be spent in this state under the contract. The commission shall promulgate by rule any condition and evaluation criterion which it applies to a bid evaluated under this subdivision. If the commission accepts a bid evaluated under this subdivision, it shall file with the secretary of the commission a written report detailing the reasons for its acceptance. The secretary shall make the report available for public inspection. The commission shall include in the annual report prepared under s. 200.27 (9) a summary of all bids accepted after an evaluation under this subdivision.

2. In determining the lowest responsible bid for any contract awarded under this subsection, the commission may use life−cycle cost estimates as part of any evaluation under this subdivision, including the applicable costs of energy efficiency, acquisition and conversion, money, transportation, warehousing and distribution, training, operation and maintenance and disposition or resale.

3. The commission shall include in any advertisement for bids which it intends to evaluate under this paragraph notice of the conditions and evaluation criteria which it intends to apply to the bids.

4. This paragraph does not apply to any contract financed in whole or in part by federal funding if any condition of the funding prohibits acceptance of a bid based on the type of evaluation authorized under this paragraph.

5. Notwithstanding any other provision of law, this state may not deem any contract awarded by the commission under this paragraph ineligible for funding by this state because the dollar amount of the contract awarded by the commission is higher than the lowest dollar bid received by the commission.

(d) Notwithstanding pars. (a) to (c) and in addition to any rights the commission may have under the provisions of the contract, the commission may amend any contract let under par. (a) with the agreement of the contractor, upon making the following findings:

1. The proposed amendment results in a reduction of the total contract price.

2. The changes do not substantially change the general scope or purpose of the contract work.

(e) Paragraphs (a) to (d) do not apply to contracts awarded under s. 200.49.

(3) BID DEPOSITS; CONTRACT PROVISIONS. (a) The commission may permit or require a sum of money or a certified check payable to the order of the district or a bond for the benefit of the district to be filed with any bid or proposal as liquidated damages in an amount that, in the judgment of the commission, will protect the district from any loss if the bid is accepted, the contract is awarded to the bidder and the bidder fails to execute a contract in accordance with the terms of the bid.

(b) Every contract made by the commission shall contain an agreement on the part of the contractor and the contractor's sureties requiring the contractor to pay to the district:

1. Actual damages if the contractor breaches the contract; or

2. Liquidated damages in a definite sum, to be named in the contract, for each day's delay in completing the contract after the time specified for its completion. The daily sum shall be an amount that, in the judgment of the commission, will protect the district from loss and will ensure the prompt completion of the contract.

(c) The commission may require any construction contract and any other contract specified by the commission's executive director to include a bond, which shall guarantee one of the following:

1. The full performance of the contract by the contractor to the satisfaction of the commission, according to the plans and specifications of the commission.

2. The full payment by the prime contractor of all claims for labor performed and materials furnished or used under the contract.

(4) DAY LABOR. The commission may use day labor to do any work if the executive director of the district in writing so recommends. All bids or part of a bid for any such work, supplies or materials may be rejected by the commission or may be subsequently relet.

(5) WORKER'S COMPENSATION. The commission may require that all contracts be let subject to ch. 102.

History: 1981 c. 282, 391; 1985 a. 29; 1999 a. 9; 1999 a. 150 s. 589 to 591; Stats. 1999 s. 200.47.

This section does not abrogate the applicability of the 1−year statute of limitations applicable to public works contracts under s. 779.14. Frietsh v. Refco, Inc. 56 F.3d 821 (1995).

When a mistake of omission in a bid was not material and was quickly cured, an award to the bidder was proper. Dillingham Construction, Inc. v. Milwaukee Metropolitan Sewerage District, 629 F. Supp. 406 (1986).

200.49 Minority business development and training program. (1) DEFINITIONS. In this section:

(a) "Minority business" means a sole proprietorship, partnership, limited liability company, joint venture or corporation that is at least 51 percent owned and controlled by one or more minority group members and that is engaged in construction or construction−related activities.

(b) "Minority group member" has the meaning given under s. 16.287 (1) (f).

(2) PROGRAM CREATED. (a) From the amounts allocated for purposes of this section under s. 20.866 (2) (to), the district shall fund a development and training program for the purpose of developing the capability of minority businesses to participate in construction and construction−related projects funded under the combined sewer overflow abatement program under s. 281.63.

(b) From the amounts allocated for purposes of this section under s. 20.866 (2) (tc), the district shall fund a development and training program for the purpose of developing the capability of minority businesses to participate in construction and construction−related projects funded under the clean water fund program under ss. 281.58 and 281.59.

(c) The district may implement the training programs under pars. (a) and (b) directly, or may contract under this section for the implementation of these training programs.

(3) REQUEST FOR PROPOSALS. The executive director shall request proposals for prime contracts from bondable general contractors or construction contractors that are bona fide independent minority businesses. Each proposal submitted shall include all of the following conditions:

(a) A goal that at least 25 percent of the total number of workers in all construction trades employed on the project will be minority group members.

(b) A subcontracting plan that provides sufficient detail to enable the executive director to determine that the prime contractor has made or will make a good faith effort to award at least 20 percent of the total contract amount to bona fide independent minority business subcontractors.

(4) DETERMINATIONS BY EXECUTIVE DIRECTOR. (a) In determining whether a business is a bona fide minority business, the executive director shall take into consideration all of the following:

1. Whether the ownership and control of the business by minority group members is real, substantial and continuing.

2. Whether the minority owners enjoy the customary incidents of ownership and share the risks and profits to an extent commensurate with their ownership interests.

3. Whether the minority owners possess the power to make major decisions on policy and management and to direct the operations of the business on a day−to−day basis.

4. Whether there is any formal or informal restriction, including any provision of the bylaws, partnership agreement, joint venture agreement or corporate charter of the business, that provides for cumulative voting rights or other method of preventing minority owners from making decisions without the cooperation or vote of any nonminority owner.

5. Whether the securities constituting ownership of a corporation claiming to be a minority business are held directly by minority group members. No security held in trust or by a guardian for a child may be considered to be held directly by a minority group member.

6. Whether the contribution of capital or expertise by a minority owner of the business for the purpose of acquiring an interest in the business is real and substantial. If a contribution consists only of a promise to contribute capital or a note payable to the business or a nonminority owner, or mere participation as an employee of the business, the executive director shall not consider it a real and substantial contribution.

7. Whether nonminority owners of the business are disproportionately responsible for the operation of the business.

8. If the minority owners contract with another person for the management of the business, whether the ultimate power to hire and discharge managers rests with the minority owners or with the person with whom the minority owners contract.

(b) In determining whether a business is independent, the executive director shall consider all relevant factors, including the date the business was established, the adequacy of its resources for the work it is expected to perform under the contract and the degree to which financial, equipment leasing and other relationships with nonminority businesses vary from customary industry practices. Recognition of a business as a separate entity for a tax or corporate purpose is not necessarily sufficient to prove that a business is independent.

(5) AWARD OF CONTRACT. For each contract to be awarded under this section, the executive director shall select from among all applicants the proposal that best meets the requirements under sub. (3), taking into consideration the cost of implementing the proposal. The district shall award contracts to the applicants selected by the executive director under this subsection.

(6) REVIEW AND IMPLEMENTATION COMMITTEE. The executive director may establish a committee to assist him or her in all of the following areas:

(a) Reviewing proposals and selecting the prime contractors to which contracts will be awarded.

(b) Developing the implementation plan that is required under sub. (7).

(7) IMPLEMENTATION PLAN REQUIRED. (a) The executive director shall develop a plan for the expeditious implementation of the programs created under this section that does all of the following:

1. Provides for the training of minority group members in construction and construction−related trades and occupations.

2. Provides for management and technical assistance to minority group members in construction and construction−related businesses.

3. Provides other management services necessary to assist minority businesses in developing construction−related capabilities and opportunities for participation in construction projects.

4. Provides for the development of a program that enables minority participation in specific components of contracts awarded for the purpose of developing the technical capabilities of minority businesses.

(b) The executive director shall submit the plan to the secretary of natural resources for review and comment. The secretary of natural resources shall provide the executive director with comments or recommendations for changes in the plan, if any, within 30 days after the plan is submitted. No contracts may be awarded under sub. (5) until 30 days after the date the plan is submitted to the secretary of natural resources or until the date the executive director receives the secretary's comments or recommendations, whichever is earlier.

History: 1985 a. 29; 1987 a. 27; 1991 a. 39; 1993 a. 112; 1995 a. 227; 1999 a. 150 s. 592; Stats. 1999 s. 200.49; 2011 a. 32.

200.51 Commission employees. (1) GENERAL POWERS OF THE COMMISSION. The commission may appoint or employ professional or technical advisers and experts and other personnel the commission requires for the proper execution of its duties under this subchapter, fix their compensations and remove or discharge the employees at pleasure.

(2) FIXED PERIOD APPOINTMENTS. The commission may appoint or employ highly trained, experienced or skilled employees for fixed periods.

(3) INDEMNITY BONDS. The commission may require any employee to provide an indemnity bond in an amount the commission finds appropriate for the proper performance of the employee's duties. No law respecting civil service applies to the commission or to the commission's employees.

(4) RETIREMENT BENEFITS. Any employee of the district hired on or after April 26, 1982, is eligible to participate in any compensation or benefit program in which employees of a sewerage commission of a 1st class city under ss. 62.60 to 62.27, 1979 stats., participated, and such program shall treat the employee as eligible to participate in such program. If an employee of the district is receiving retirement benefits from such a program at the time of employment by the district, such employee is not eligible to participate in the program unless the employee elects to suspend his or her retirement benefit payments during his or her employment by the district.

History: 1981 c. 282, 391; 1985 a. 175; 1999 a. 150 s. 593; Stats. 1999 s. 200.51.

200.53 Capital budget. (1) ANNUAL ADOPTION. Annually on or before September 1, the commission shall adopt a capital budget for the benefit of the district, setting forth the anticipated revenues and expenditures for the ensuing fiscal year.

(2) CAPITAL TRANSFERS. During the budget year the commission may, with the concurrence of two−thirds of its members, transfer amounts from one capital account to another if it finds that the funds are not necessary to meet outstanding obligations payable from the account. Nothing in this subsection impairs, or authorizes the commission to impair, any contractual obligation entered into by the commission or the district.

History: 1981 c. 282, 391; 1999 a. 150 s. 594; Stats. 1999 s. 200.53.

200.55 Financing. The district may borrow money and issue and execute bonds, notes and other forms of indebtedness and may enter into agreements to secure its indebtedness in the manner specified in subs. (1) to (7):

(1) REVENUE BONDS AND NOTES. (a) The district may issue bonds, notes or certificates for the purposes provided in s. 66.0621. Except as provided in pars. (b) to (fa), the procedure for issuance of these bonds, notes or certificates is as specified in s. 66.0621.

(b) The commission has the powers and duties specified for a board or council in s. 66.0621. The district has the powers and duties specified for a municipality in s. 66.0621. If s. 66.0621 specifies that a board, council or municipality shall act by ordinance, the commission shall act by resolution.

(c) District bonds issued under s. 66.0621 (4) (a) shall be executed by the chairperson and secretary of the commission rather than by a chief executive and clerk.

(d) 1. Section 66.0621 (4) (a) 2. does not apply to district bonds. District bonds shall either mature:

a. Serially, commencing not later than 3 years from the date of issue;

b. In a specified term of years, if a sinking fund is created to pay the principal of these term bonds; or

c. In any combination of serial and term bonds.

2. A sinking fund created under subd. 1. b. shall provide for the retirement of the term bonds beginning not later than 3 years from the date of issue, or for deposit of money in the sinking fund, beginning not later than 3 years from the date of issue, to pay the principal of the term bonds at maturity.

3. Notwithstanding s. 66.0621 (4) (a) 1., district bonds shall be made payable within 50 years from the date of the bonds, whether the bonds mature serially or within a specified term of years.

(e) Notwithstanding s. 66.0621 (4) (c):

1. The commission may fix the proportion of revenues needed for operation and maintenance of the sewerage system and the proportion of revenues to be set aside as a depreciation fund.

2. The commission shall by resolution determine the proportion of revenues to be set aside for payment of principal and interest on the bonds as accurately as possible in advance. The commission may recompute the proportion of revenues set aside under this paragraph at any time, subject to the contract rights vested in holders of revenue obligations secured by the revenues.

(f) Deeds or mortgages that secure principal and interest of bonds under s. 66.0621 shall be executed by the commission chairperson and secretary rather than by a chief executive and clerk.

(fa) Notwithstanding any contrary provision of s. 66.0621, the district may issue bond anticipation notes under s. 66.0621 (4) (L)

in the form of commercial paper. If the district issues such commercial paper, the district may borrow to pay the interest on such paper, may obtain credit and liquidity facilities, and may delegate authority to any person to sell, execute, determine the interest rates, maturities, and amounts of such paper and to conduct the issuance of such paper as provided by the commission in the resolution under s. 66.0621 (4) (L) authorizing the issuance. Such issuance under a single resolution shall be deemed a single issue of securities issued as of the date of the sale of the first such paper and not as a series of refundings. A resolution authorizing the issuance of commercial paper under this paragraph and any taxes levied or any pledge made on such issuance is irrevocable as specified in the authorizing resolution.

(g) User charges and service charges established by the commission under sub. (5) or s. 66.0821 to comply with any covenant concerning the sufficiency of the charges contained in a resolution or ordinance providing for the issuance of revenue bonds or notes under s. 66.0621 shall be presumed reasonable in any review of the charges by the public service commission under s. 200.59 (5).

(1m) INVESTMENT OF FUNDS. Notwithstanding any of the limits or restrictions in ss. 66.0621 (4) (d) and (f), 66.0811 (2), and 67.11 (2) on the debt instruments in which the district or commission may invest any of its funds that are not immediately needed, the district may invest any such funds in a debt instrument listed under s. 66.0603 (1m).

(2) GENERAL OBLIGATION BONDS. The commission may issue bonds or notes of the district for the purposes and in the manner provided in ch. 67. The purposes for which the commission may issue bonds or notes shall be construed to include financing the cost of planning and designing any part of the sewerage system and the cost of issuing the bonds or notes. Notwithstanding s. 67.08 (2), the commission may sell bonds or notes of the district issued under ch. 67 at public or private sale. If the commission authorizes the private sale of bonds or notes, the commission shall specify in its minutes the reasons for its decision to authorize private rather than public sale.

(3) MARKETING REVENUE BONDS. To enhance the marketability of district bonds or notes issued under s. 66.0621, the commission may:

(a) Pledge to the issue unencumbered amounts to be received by the district as service charges.

(b) Establish in the district's treasury a fund in a determinable amount not exceeding the principal amount of the issue, to be built up and maintained until the issue is paid or utilized as otherwise provided in the resolution or ordinance establishing the fund. The commission shall designate a fund established under this paragraph as a debt service fund for the particular issue. Any surplus in the debt service fund upon its termination shall be transferred to the general fund of the district treasury. The source of the debt service fund shall be one or more appropriations from the general fund of the district treasury, a direct, irrepealable, annual, general tax, a sales tax or a borrowing under sub. (2). The unfunded portion of the debt service fund is a debt of the district and shall be included in determining its debt limit under article XI, section 3, of the constitution.

(c) Levy a direct, irrepealable, annual, general tax in an amount sufficient to provide for the payment of all the principal and interest on the issue as it matures. The amount of the levy entered on the tax roll and collected each year shall be reduced by the amount in the special redemption fund provided under s. 66.0621 or in any similar fund that is available for payment of principal and interest on the issue during the ensuing year. The portion of the principal of the issue not paid or provided for is a debt of the district and shall be included in determining its debt limit under article XI, section 3, of the constitution.

(4) BOND ANTICIPATION NOTES. (a) If the commission authorizes the issuance of bonds under ch. 67 it may, prior to the issuance of the bonds and in anticipation of their sale, authorize by resolution an issue of bond anticipation notes of the district in an aggregate principal amount not in excess of the authorized principal amount of the bonds. The resolution shall be adopted by two−thirds of the members of the commission and shall state that all conditions precedent to the authorization of the bonds have been complied with and that the notes are issued for the purposes for which bonds are authorized to be issued. The resolution shall pledge to the payment of the principal of and interest on the notes the proceeds of the sale of the bonds in anticipation of the sale of which the notes were issued. The resolution may provide, in addition to or in place of the pledge of bond proceeds, for the levy of a direct, annual, irrepealable tax upon all of the taxable property of the district in an amount sufficient to pay the interest on the notes as the interest falls due and to pay and discharge the principal of the notes at maturity.

(b) No note may be issued under this subsection unless the commission's treasurer first certifies to the commission that contracts with respect to improvements are to be let and that the proceeds of the notes are required for the payment of the contracts.

(c) Notes issued under this subsection shall be sold at public or private sale as determined by the resolution authorizing issuance. Notes issued under this subsection shall mature within 3 years of the date of issuance and shall be executed in the same manner as are district bonds. If the commission authorizes the private sale of notes, the commission shall specify in its minutes the reasons for its decision to authorize private rather than public sale. The notes shall state on their face that they are issued on behalf of the district and that they are payable from proceeds of bonds issued under ch. 67 or from a tax upon all of the taxable property in the district. The notes are not a general obligation of the district, except to the extent that a tax has been levied under par. (a).

(d) Any funds derived from the issuance and sale of bonds under ch. 67 and issued subsequent to the execution and sale of notes issued under this subsection shall constitute a trust fund, which shall be expended first for the payment of principal and interest of the notes and then may be expended for other purposes set forth in the resolution authorizing the bonds.

(5) SERVICE CHARGES. (a) For service provided to any user, the commission may establish, assess and collect service charges under s. 66.0821 or under this subsection. For service to any user outside the district and not located in a municipality which has contracted with the district under s. 200.39, the commission may establish, assess and collect service charges under s. 200.41. Except as provided under s. 200.41 (2), any charge made by the district under this subsection is reviewable under s. 200.59 (5). The sewerage service charges established under s. 66.0821 or under this subsection with respect to capital costs for service to any user shall be uniform.

(b) 1. The commission may, as a complete or partial alternative to any other method of recovering capital costs, compute a schedule of charges based on capital costs to be recovered under this subsection from any user.

2. In making this computation, the commission may consider any improvement, addition or rehabilitation of any physical structure, including interceptor sewers and treatment plants, to be an improvement, addition or rehabilitation to the entire sewerage system.

3. The commission shall:

a. Adopt a schedule of charges computed under this paragraph. The commission may modify the schedule as it deems necessary.

b. Submit the schedule of charges it adopts and each modification of the schedule to each municipality subject to the charges.

c. Bill periodically each municipality subject to the charges for the charges due under this subsection.

(c) 1. Charges for sewerage service shall, to the extent practicable, be proportionate to the costs of the sewerage system that the district may reasonably attribute to the user.

2. The commission may classify users on the basis of uses and may establish separate charges for separate classes. In computing charges, the commission may consider any reasonable factor, including wastewater flow or drainage, delivery flow characteristics, water consumption, type and number of sewerage connections or plumbing fixtures, population served, lot size, portion of lot improved and assessed value of property served. The commission may also compute its fee schedules as needed to meet the requirements of s. 66.0821 or of title II of the water pollution control act, 33 USC 1251 et seq.

(d) 1. Each sanitary district organized under subch. IX of ch. 60 and each metropolitan sewerage district organized under subch. I that is billed by the commission under par. (b) shall, within 5 days of receipt of a bill from the commission, in turn bill each city, town or village served by the sanitary district or metropolitan sewerage district organized under subch. I. Each city, town or village located within the district and billed under this paragraph or billed by the commission under par. (b) or under s. 66.0821 shall, within 45 days of receiving the bill, pay the full amount billed to the district. Each municipality may levy a reasonable penalty for late payment by the user to the municipality. Each municipality may provide for the payment of charges to it by any means specified in s. 200.39 (5).

2. Any city, town or village may collect and tax charges made by it to users in the same manner as water rates are taxed and collected under s. 62.69 (2) (f) or 66.0809. Charges taxed under this subdivision are a lien upon the property served, as provided in s. 62.69 (2) (f) or 66.0809.

(e) The commission may separately compute, on any reasonable basis, both capital and operating costs of providing sewerage service to any federal, state, county or municipal facility and may directly bill the federal government, the state, the county or the municipality.

(6) TAX LEVIES. (a) The commission may levy a tax upon the taxable property in the district as equalized for state purposes:

1. To make payments to a county as provided in s. 200.23 (1) (b) 2.;

2. To pay principal, interest and any premiums on bonds or notes issued by the district under sub. (2) or (4) or under s. 67.12;

3. For the purposes provided in sub. (3); or

4. To acquire, extend, plan, design, construct, add to or improve land, waters, property or facilities for sewerage purposes.

(b) Within 10 days after receiving the equalized valuations from the department of revenue, the secretary of the commission shall file with the clerk of each city, town or village wholly or partially within the boundaries of the district a certified statement showing the amount of the district tax levy and the proportionate amount of the tax to be entered on the tax rolls for collection in each city, town or village. The proportionate amount shall be based on the ratio of full value of the taxable property of the part of the city, town or village located in the district to the full value of all taxable property in the district. Upon receiving the certified statement from the secretary of the commission, the clerk of each city, town or village shall enter the amount of the tax on the tax rolls of the area of the city, town or village included in the district for collection. This proportionate amount of the tax is not subject to any limitation on county, city, village or town taxes.

(6m) TAX STABILIZATION FUND. The commission may establish a tax stabilization fund for any purpose authorized by this subchapter.

(7) CONSIDERATION OF AREA DEBT MARKETING PLANS. Prior to exercising its authority under this section, the commission shall consider the debt marketing plans of any municipality or any county located wholly or partially within the district's boundary that notifies the commission of its debt marketing plans.

History: 1981 c. 282, 391; 1983 a. 27, 192; 1983 a. 207 ss. 35, 36, 93 (3), (8); 1983 a. 532 s. 36; 1985 a. 29 ss. 1209v to 1209wr, 3202 (56); 1989 a. 366; 1991 a. 39; 1999 a. 32; 1999 a. 150 s. 595; Stats. 1999 s. 200.55; 2001 a. 30.

A district's method of allocating capital costs based on property values was permissible under this section. City of Brookfield v. Public Service Commission, 186 Wis. 2d 129, 519 N.W.2d 718 (Ct. App. 1994).

200.57 Minority financial advisers and investment firms and disabled veteran−owned businesses. (1) In this section:

(a) "Disabled veteran−owned financial adviser" and "disabled veteran−owned investment firm" mean a financial adviser and investment firm, respectively, certified by the department of administration under s. 16.283 (3).

(b) "Minority financial adviser" and "minority investment firm" mean a financial adviser and investment firm, respectively, certified by the department of administration under s. 16.287 (2).

(2) The commission shall attempt to ensure that 5 percent of the total funds expended for financial and investment analysis and for common stock and convertible bond brokerage commissions in each fiscal year is expended for the services of minority financial advisers or minority investment firms.

(3) The commission shall make efforts to ensure that at least 1 percent of the total funds expended for financial and investment analysis and for common stock and convertible bond brokerage commissions in each fiscal year is expended for the services of disabled veteran−owned financial advisers or disabled veteran−owned investment firms.

History: 1991 a. 39; 1995 a. 27, s. 9116 (5); 1999 a. 150 s. 596; Stats. 1999 s. 200.57; 2009 a. 299; 2011 a. 32; 2011 a. 260 s. 80; 2013 a. 192.

200.59 User charges for sewer operation. (1) DECLARATION OF POLICY. In the interpretation and application of this section, it is declared to be the policy of this state to authorize a district to institute a system of user charges which is designed to recover all or part of the operating costs to the extent required by federal or state law in order to obtain federal or state funding from a user of the sewerage system in the proportion to which the user's waste water discharge contributes to such costs. It is intended that the system be instituted to satisfy but not exceed eligibility requirements of public grants under Title II of the water pollution control act (33 USC 1251 et seq.) or under any other state or federal law and to satisfy but not exceed any other applicable state or federal law requiring such a system.

(2) COLLECTION OF CHARGES AS USER FEES. A district may, as a complete or partial alternative to any other method of recovering operating costs:

(a) Compute a uniform schedule of charges based on operating expenses to be recovered from users under this subsection.

(b) Adopt the uniform schedule of charges computed under par. (a). The commission may modify the schedule periodically.

(c) Submit the schedule adopted under par. (b) and every modification to every municipality within the sewerage service area as early in every calendar year as practicable.

(d) Bill periodically each municipality within the sewerage service area for the charges due under this subsection.

(3) FACTORS IN CHARGE SCHEDULES. In computing a charge schedule under sub. (2) (a), the sewerage commission shall require each user to pay the proportion of total operating cost of the system incurred by the transmission and treatment of the user's wastewater. In determining such proportional costs, the sewerage commission shall consider such factors, without limitation because of enumeration, as strength, volume and delivery flow rate characteristics of each user's sewage.

(4) COLLECTION OF FEES BY MUNICIPALITIES. Every sanitary district organized under subch. IX of ch. 60 or metropolitan sewerage district organized under subch. I billed by a district under sub. (2) shall in turn bill every city, town or village served by the sanitary district or metropolitan sewerage district organized under subch. I. Every city, town and village billed by a district under sub. (2), by a sanitary district or metropolitan sewerage district organized under subch. I under this subsection shall collect such

charges from the individual sewer system users in the city, town or village and shall promptly remit the same to the district. The district may adopt rules for the establishment and administration of collection procedures and the settlement of such collections with the district as required by this section. Under such rules the district may provide for reimbursement of the municipality for the expense of collecting late payments of charges. Each municipality shall pay the district in full within 45 days after receiving a bill from the district. The district or, if the district does not act, every municipality is empowered to levy a penalty for late payment by the user to the municipality. Any city, town or village may collect under s. 66.0821 (7) any charge which is due under this section and which is delinquent. In the event that any municipality does not remit such charges to the district within 45 days of the billing date, the district may borrow moneys, repayable in not longer than 18 months, sufficient to offset such uncollected charges.

(5) REVIEW BY PUBLIC SERVICE COMMISSION. (a) Except as provided under s. 200.41 (2), upon complaint to the public service commission by any user that charges, rules and practices under this section are unreasonable or unjustly discriminatory, according to the standards and criteria which the commission is required to follow under state or federal law, including, without limitation because of enumeration, this section, 33 USC 1251 et seq. and ch. 283, or upon complaint of a holder of a revenue bond or other evidence of debt, secured by a mortgage on the sewerage system or any part thereof or pledge of the income of sewerage service charges, that charges are inadequate, the public service commission shall investigate the complaint. If sufficient cause therefor appears, the public service commission shall set the matter for a public hearing upon 10 days' notice to the complainant and the commission. After the hearing, if the public service commission determines that the charges, rules or practices complained of are unreasonable or unjustly discriminatory, it shall determine and by order fix reasonable charges, rules and practices and shall make such other order respecting such complaint as may be just and reasonable. The proceedings under this subsection shall be governed, as far as applicable, by ss. 196.26 to 196.40. The commission may submit the factual data, reports and analyses considered by it in establishing the charges, rules or practices subject to a complaint under this subsection. The public service commission shall give due weight to such data, reports and analyses. Judicial review of the determination of the public service commission may be had by any person aggrieved in the manner prescribed under ch. 227. If any user pays a charge and the public service commission or court, on appeal from the public service commission, finds such charge, after reviewing a complaint filed under this subsection, to be excessive, the district shall refund to the user the excess plus the interest thereon computed at the rate then paid by the district for borrowing funds for a term of one year or less.

(b) For purposes of this subsection, "user" includes a licensed disposer, as defined in s. 281.49 (1) (b), who disposes of septage in the district's facilities under a disposal plan under s. 281.49 (5) and initiates under s. 281.49 (11) (d) a review under par. (a) of a disputed septage disposal fee by the public service commission.

(c) If the public service commission determines in a proceeding under par. (a) that a septage disposal fee is unreasonable, the public service commission shall determine and fix under par. (a) a reasonable fee that conforms with s. 281.49 (5) (c) 4.

(d) Notwithstanding the statutes referenced in par. (a) governing a proceeding under par. (a), s. 66.0821 (5) (e) applies to the public service commission's allocation of its assessment under s. 196.85 (1) for any expense of the public service commission for a proceeding under par. (a) that is initiated under s. 281.49 (11) (d).

History: 1977 c. 382; 1979 c. 175; 1981 c. 282 ss. 7 to 13; Stats. 1981 s. 66.912; 1983 a. 207; 1983 a. 532 s. 36; 1985 a. 29; 1987 a. 403 s. 256; 1995 a. 227; 1999 a. 150 s. 597; Stats. 1999 s. 200.59; 2005 a. 347; 2015 a. 299.

NOTE: 2005 Wis. Act 347, which affected this section, contains extensive explanatory notes.

200.61 Judicial review of compliance schedules. If a court−ordered schedule of compliance affecting the district is reviewed by a court, the court shall take into consideration the availability of state and federal grant funds used to comply with the schedule, the timely achievement of state and federal clean water goals and equity with the efforts of other cities, villages, towns, sanitary districts and metropolitan sewerage districts to comply with the requirements to achieve these goals. In its review the court shall determine what, if any, effect the availability of state and federal grant funds has on the compliance schedule.

History: 1981 c. 282; 1999 a. 150 s. 598; Stats. 1999 s. 200.61.

Federal and state sewage law is discussed. Milwaukee v. Illinois, 451 U.S. 304 (1981).

200.63 Construction. Nothing in ss. 200.21 to 200.61 in any way limits or takes away any of the powers of any municipality located in the district, relating to the construction, extension or repair of local or sanitary sewers or drains except that all plans and specifications for the construction of any local or sanitary sewers or extensions thereof shall be submitted to and approved in writing by the district before the sewers are constructed.

History: 1981 c. 282; 1999 a. 150 s. 599; Stats. 1999 s. 200.63.

200.65 Validation of debt; liability for diverting funds.

(1) DEBT VALIDATION. No legislative, judicial or administrative determination that a district may not spend borrowed money or that a district has spent borrowed money for a purpose other than the stated purpose for which it was borrowed affects the validity of the obligation or the evidence of indebtedness therefor.

(2) LIMITATIONS ON ACTIONS TO CONTEST DEBTS. Section 893.77 applies to all borrowing by a district and to all evidences of indebtedness given therefor.

(3) IMPAIRMENTS OF BORROWED MONEY FUNDS. (a) Any person participating in any impairment of or diversion from a borrowed money fund, debt service fund, special redemption fund, bond security or similar fund of the district is liable in an action brought by a party listed under par. (b) for the cost of restoring the fund to its proper level.

(b) The commission, any taxpayer of the district or any holder of an evidence of indebtedness payable in whole or in part out of the fund that is impaired or diverted may commence an action under par. (a).

History: 1981 c. 282, 391; 1983 a. 207 s. 93 (8); 1999 a. 150 s. 600; Stats. 1999 s. 200.65.