

1969 Senate Bill 714

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CHAPTER 430, LAWS OF 1969

AN ACT to amend 66.066 (2) (b) (intro.), 1, 2, 3 and 5 of the statutes, relating to refinancing municipal bonds and notes issued for the purchase, construction and operation of public utilities.

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

66.066 (2) (b) (intro.), 1, 2, 3 and 5 of the statutes are amended to read:

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66.066 (2) (b) (intro.) All moneys received from any bonds issued pursuant thereto shall be applied solely for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility, and in the payment of the cost of any subsequent necessary additions, improvements and extensions, ~~and~~. There is created a statutory mortgage lien upon the public utility to the holders of the bonds and to the holders of the coupons of said bonds. The public utility shall remain subject to such statutory mortgage lien until the payment in full of the principal and interest of the bonds. Any holder of the bonds or of any coupons attached thereto may either at law or in equity protect and enforce the statutory mortgage lien hereby conferred and compel performance of all duties required by this section of the municipality. If there is any default in the payment of the principal or interest of any of the bonds, any court having jurisdiction of the action may appoint a receiver to administer the public utility on behalf of the municipality, and the bondholders, with power to charge and collect rates lawfully established sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations outstanding against the utility, and to apply the income and revenues thereof in conformity with this statute and the ordinance, or the court may declare the whole amount of the bonds due and payable and may order and direct the sale of the public utility. Under any sale so ordered, the purchaser shall be vested with an indeterminate permit to maintain and operate the public utility. Any municipality may provide for additions, extensions and improvements to a public utility owned by said municipality by additional issue of bonds as herein provided, ~~but~~. Such additional issues of bonds shall be subordinate to all prior issues of bonds which may have been made hereunder, but a municipality may in the ordinance authorizing bonds hereunder permit the issue of additional bonds on a parity therewith. Any municipality may issue new bonds as herein provided and secured in the same manner, to provide funds for the payment of the principal and interest of any bonds or *promissory notes issued for any of the purposes stated in sub. (1)* then outstanding, such refunding or refinancing being additionally provided for as follows:

1. Refunding bonds may be issued to refinance more than one issue of outstanding bonds or *promissory notes* notwithstanding that such outstanding bonds or *promissory notes* may have been issued at different times and may be secured by the revenues of more than one public utility ~~and~~. Any such public utilities may be operated as a single public utility, subject however to contract rights vested in holders of bonds or *promissory notes* being refinanced. The principal amount of any issue or refunding bonds shall not exceed the sum of: a. the principal amount of the bonds or *promissory notes* being refinanced, b. applicable redemption premiums thereon, c. unpaid interest on such bonds or *promissory notes* to the date of delivery or exchange of the refunding bonds, d. in the event the proceeds are to be deposited in trust as provided in subd. 3, interest to accrue on such bonds or *promissory notes* from the date of delivery to the date of maturity or to the redemption date selected by the board or council as hereinafter provided, whichever is earlier, and e. expenses of the municipality deemed by the board or council to be necessary for the issuance of the refunding bonds. A determination by the board or council that any refinancing is advantageous or necessary to the municipality, or that any of the amounts provided in the preceding sentence should be included in such refinancing shall be conclusive.

2. If the board or council determines to sell any refunding bonds, ~~such refunding bonds~~ they shall be sold as provided in par. (a). If the board or council determines to exchange any refunding bonds, ~~such refunding bonds~~ they may be exchanged privately for and in payment and

discharge of any of the outstanding bonds or *promissory notes* being refunded. The refunding bonds may be exchanged for a like or greater principal amount of the bonds or *promissory notes* being exchanged therefor except that the principal amount of the refunding bonds may exceed the principal amount of the bonds or *promissory notes* being exchanged therefor only to the extent determined by the board or council to be necessary or advisable to fund redemption premiums and unpaid interest to the date of exchange not otherwise provided for. The holders of the bonds or *promissory notes* being refunded need not pay accrued interest on the refunding bonds if and to the extent that interest is due or accrued and unpaid on the bonds or *promissory notes* being refunded and to be surrendered. If any of the bonds or *promissory notes* to be refunded are to be called for redemption, the board or council may determine which redemption dates shall be used, if more than one such date is applicable and shall, prior to the issuance of refunding bonds, provide for notice of redemption to be given in the manner and at the times required by the proceedings authorizing such outstanding bonds or *promissory notes*.

3. The principal proceeds from the sale of any refunding bonds shall be applied either to the immediate payment and retirement of the bonds or *promissory notes* being refunded or, if such bonds or *promissory notes* have not matured and are not presently redeemable, to the creation of a trust for the payment of the bonds or *promissory notes* being refunded. If such trust is created, a separate deposit shall be made for each issue of bonds or *promissory notes* being refunded. Each such deposit shall be with a bank or trust company that is then a member of federal deposit insurance corporation. If the total amount of any such deposit, including money other than such sale proceeds but legally available for such purpose, is less than the principal amount of the bonds or *promissory notes* being refunded and for the payment of which such deposit shall have been created, together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption, then such application of the sale proceeds shall be legally sufficient only if such money so deposited is invested in securities issued by the United States of America or one of its agencies, or securities fully guaranteed by the United States of America, and only if the principal amount of such securities at maturity and the income therefrom to maturity is sufficient, without the need for any further investment or reinvestment, to pay at maturity or upon redemption the principal amount of such bonds or *promissory notes* being refunded together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption. The income from the principal proceeds of such securities shall be applied solely to the payment of the principal of and interest and redemption premiums on such bonds or *promissory notes* being refunded, but provision may be made for the pledging and disposition of any surplus. Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of bonds or *promissory notes* being refunded but which have not matured and which are not presently redeemable.

5. The board or council ~~shall have power~~ *may* in addition to other powers conferred by this section ~~to~~, include a provision in any ordinance authorizing the issuance of refunding bonds pledging all or any part of the revenues of any public utility or utilities or combination thereof originally financed or extended or improved from the proceeds of any of the bonds or *promissory notes* being refunded, and pledging all or any part of the surplus income derived from the investment of any trust created pursuant to subd. 3.

Approved February 12, 1970.