

1979 Assembly Bill 458

Date published: December 8, 1979

CHAPTER 90, Laws of 1979

AN ACT to repeal 891.43 (2), (6), (8) (c), (9) to (11) and (13); to renumber 158.09 (5m); to amend 67.10 (6), 67.101, 227.16 (1) (a), 806.155 and 891.43 (title), (1), (3) to (5), (7), (8) (title) and (a), (12), (14) and (15); to repeal and recreate 891.43 (8), (b); and to create 71.046 (5) and 71.047 (3) of the statutes; to repeal section 115 of chapter 523, laws of 1927; and to renumber and amend chapter 335, laws of 1907, as amended by chapter 497, laws of 1939, and subsequently amended by chapter 54, laws of 1969, chapter 640, laws of 1911, as amended by chapter 759, laws of 1913, by chapter 399, laws of 1921, and by chapter 53, laws of 1969, section 315 of chapter 242, laws of 1921, section 727 (9) of chapter 39, laws of 1975, section 2 of chapter 196, laws of 1975 and section 2 of chapter 137, laws of 1977, relating to the incorporation of various laws into the statutes.

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

PREFATORY NOTE: The subcommittee on special, private and local laws of the legislative council's special committee on constitutional and statutory review identified a number of existing Wisconsin laws which are of sufficient statewide importance to merit inclusion in the statutes. This act contains a series of such laws.

Several of the laws affected by this act have not been amended for many years. The laws are amended in this act to reflect current statutory drafting practices, by updating obsolete cross-references, modernizing the language and improving the organization. These amendments are made without any intention of making substantive changes in the laws.

The majority of the laws affected by this act are session laws which have never been incorporated into the statutes. These laws are given statutory numbering and incorporated into the statutes.

Some of the laws affected by this act are statutes which have been withdrawn, and are no longer printed in the statutes. In this act, it is declared that these laws shall be printed in future editions of the statutes.

SECTION 1. 67.10 (6) of the statutes is amended to read:

67.10 (6) (title) ANTICIPATORY CONTRACTS IN 1ST CLASS CITIES. (a) ~~Whenever the common council of any 1. A 1st class city of the first class shall have authorized the issuance of bonds for any lawful purpose, and the commissioners of the public debt shall have certified to the comptroller of such city that in their opinion said bonds can be sold, if in the opinion of the comptroller there be on hand in the treasury of said city sufficient money other than that raised for the payment of interest and principal on bonds, mortgages, mortgage certificates, or similar instruments of indebtedness, to warrant entering into contracts or making expenditures for such purpose or purposes prior to the sale of said bonds, contracts may be entered~~ enter into a contract in anticipation of the sale of

said bonds, and ~~may make expenditures may be made by such city~~ prior to the sale of the bonds for the purposes for which ~~such the~~ bonds, have been authorized, if:

a. The common council has authorized the issuance of the bonds for any lawful purpose.

b. The commissioners of the public debt have certified to the comptroller of the city that the bonds can be sold if the comptroller determines that there is in the city treasury sufficient money, other than that raised for the payment of interest and principal on bonds, mortgages, mortgage certificates, or similar instruments of indebtedness, to warrant entering the anticipatory contract or making the expenditures prior to the sale of bonds.

2. Expenditures under this subsection may be made out of any money in the hands of the city treasurer of such city, except money raised for the payment of interest or principal on bonds, mortgages, mortgage certificates, or similar instruments of indebtedness, and the

3. A city under this subsection is not required to sell the bonds provided for in the initial resolution ~~need not be sold of the common council authorizing the issuance of the bonds~~ until the comptroller deems it necessary to replace ~~the whole all~~ or any part of the money paid out of the treasury ~~in accordance with the foregoing provision~~, or to meet maturing obligations of the city on ~~such a~~ contract entered into under this subsection which cannot be paid out of the general treasury. ~~When~~

4. If the comptroller deems it necessary to sell ~~the whole all~~ or a part of ~~such the~~ bonds, ~~he~~ under this subsection, the comptroller shall so advise the commissioners of the public debt, in writing, specifying how many of the bonds it will be necessary to sell, and the reason therefor, and the commissioners of ~~the public debt~~ shall ~~forthwith~~ sell ~~said the~~ number of bonds, or so many thereof as ~~the specified by the comptroller shall have specified in his communication. When any.~~

5. If a contract ~~shall have been~~ is entered into, or any ~~if an~~ obligation is incurred in anticipation of the sale of bonds for ~~such a~~ purpose, ~~so related to the contract or obligation, the commissioners shall sell as many thereof bonds as may be necessary to replace the money taken from the treasury, and to meet the obligations on any such contracts which have matured or may mature at any time in the future, must be sold within three years from the date of said bonds, and no.~~ The sale of bonds under this subdivision may not be sold ~~more later~~ than ~~three 3~~ years after the date of ~~said the~~ bonds. ~~Whenever~~

6. If any bonds have been provided for in the budget of any fiscal year, and ~~if the common council during said the fiscal year shall have authorized~~ authorizes the sale of ~~said the~~ bonds, but ~~said all or part of the bonds, or part of them, shall are~~ not have been sold during ~~said such~~ year, it shall not be necessary in order to sell the ~~said~~ bonds may be sold during the ensuing fiscal year ~~to make even if there is no provision for said the~~ unsold bonds in the budget of ~~said the~~ ensuing fiscal year.

(b) The common council of ~~such a~~ 1st class city may, by a majority vote, appropriate money in the budget and levy taxes for any purpose for which bonds may be lawfully issued by the city, ~~and such~~. Such taxes shall be in addition to all other taxes which the city is authorized by law to levy.

(c) ~~Whenever~~ If the common council of ~~any such a~~ 1st class city ~~shall have provided~~ provides in the budget of any year for the issuance of bonds for any lawful purpose, the common council of ~~said the~~ city may, in lieu of issuing bonds for such purpose, levy a tax in ~~said the~~ year for any such purpose, for ~~the whole all~~ or a part of the amount, ~~and such~~. Such tax shall be in addition to all other taxes which the city is authorized by law to levy. ~~Such determination~~ A decision to levy a tax under this paragraph shall be made by resolution passed at a regular meeting of the common council by at least a three-fourths vote of

all the members of the council-elect, and no. No contract shall may be entered into or any obligation incurred for the purpose specified in said the resolution, unless and until a tax shall have been is levied sufficient to pay the whole contract price.

(d) Money raised by levy of taxes, in lieu of bond issues, in accordance with the provisions of paragraphs under pars. (b) and (c) of this subsection, shall be governed by laws relating to the proceeds of bonds insofar as such laws may be applicable; provided, that whenever. If the purpose for which said the taxes were levied shall have been is accomplished or completed, any unexpended portion of the moneys so raised by the taxes shall become a part of the general revenues of such the city.

NOTE: In chapter 385, laws of 1925, the legislature withdrew s. 67.10 (6) from the statutes. Section 67.10 (6) is amended to reflect current statutory drafting practices, without any intention of making substantive changes in the law. In SECTION 26 of this act, it is declared that s. 67.10 (6) shall be printed in future editions of the statutes.

SECTION 2. 67.101 of the statutes is amended to read:

67.101 (title) Debt amortization in 1st class cities. (1) ~~There is hereby established in~~ In this section "amortization fund" means the public debt amortization fund established under this section and "commission" means the public debt commission created under section 5 of chapter 87, laws of 1861. In every 1st class city of the first class, however incorporated, and indebted on account of outstanding municipal bonds, a fund separate and distinct from every other fund and designated as the "Public Debt Amortization Fund." is established. Sources of said the fund shall be:

(a) All interest on moneys ~~on hand~~ in the city treasury or which may accrue to the city treasury of ~~such cities~~ as interest earned on cash advanced for funding street improvements or delayed special assessments;

(b) Beginning on the ~~first day of~~ January of 1, 1973, except interest which is received by the city as a part of the aggregate amounts from the sale of capital assets, one-third of all interest money received ~~from time to time~~ by the city treasury on any invested city funds ~~whatsoever~~ and one-third of all interest received by the city treasury on any other funds to the interest of which the city is entitled including one-third of all interest received on delinquent personal property taxes;

(c) All ~~such other moneys from any source whatsoever~~ as the common council may by resolution by a two-thirds vote ~~from time to time~~ direct to be paid into said the funds;

(d) Moneys received by gift or bequest to such the fund. ~~Provided, however, except~~ that as a condition precedent to the acceptance of any such gift or bequest, the city shall enter into a contract to be executed by ~~its the proper city officers and the custodians of said the fund~~ with the donor of any such gift, or the heirs of any testator making any such bequest, ~~by which.~~ In the contract the city and the custodians of said the fund shall in consideration of such the gift or bequest bind themselves and their successors in office to keep said the fund, and all of it, intact forever, except only as it that the fund may be used for the purposes for which by as provided under this section it is established. ~~Such The~~ contract shall be for the express benefit of such the donor, and his the donor's heirs and assigns, the heirs and assigns of such the testator, and also for the benefit of every taxpayer in such the city.

(2) The proper city officers shall segregate ~~such moneys~~ annually from the general fund and other funds of the city the moneys under sub. (1) (a) to (d) and credit the ~~same moneys~~ to the ~~public debt~~ amortization fund.

(3) ~~Said The~~ amortization fund shall may not be considered an offset to the constitutional debt limit.

(4) ~~The commissioners of public debt are hereby constituted the custodians~~ commission shall be custodian of said public debt ~~the~~ amortization fund subject to the limitations in provisions of this chapter provided.

(5) All necessary work incident to the administration of ~~said~~ the amortization fund shall be done by the city comptroller's office.

(6) Expenses incident to the administration of ~~said~~ the amortization fund shall be paid from the ~~public debt~~ amortization fund.

(7) The secretary of ~~said~~ the commission shall keep ~~books of a record of all proceedings of said custodians~~ relating to ~~said~~ the amortization fund, and an accurate account of the transactions, investments, earnings and expenditures and shall make a report annually on or about January ~~fifteenth~~ 15 of each year to the common council, and shall permit examination of ~~its~~ the accounts and records by ~~the common council, the city treasurer and by any interested party person.~~

(8) The ~~public debt~~ amortization fund shall be audited annually as part of the annual independent audit of the city's financial records. The ~~commissioners of public debt~~ commission shall provide annually an independent certified audit of the ~~public debt~~ amortization fund.

(9) ~~Said~~ The commission is ~~hereby authorized and enjoined~~ shall, when necessary, to demand and enforce by proper proceeding the appropriation, segregation and payment of any amortization moneys due under this ~~act~~ section.

(10) Disbursements, investments, sale or transfer of securities in the amortization fund shall be by resolution of ~~said custodians~~ the commission by majority vote on checks signed by the chairman of ~~said public debt~~ the commission and the city treasurer and countersigned by the city comptroller.

(11) (a) ~~The public debt~~ commission shall, ~~from time to time,~~ cause investment of ~~said~~ the proper officer to invest the amortization fund or part thereof as it accrues, ~~to be made by the proper officer in city of Milwaukee bonds or the bonds~~ any of the following:

1. City bonds.

2. Bonds or securities or other evidences of indebtedness of the United States, ~~or in bonds.~~

3. Bonds or securities of any instrumentality of the United States or agency thereof ~~where~~ if the indebtedness and interest are guaranteed by the United States either primarily or secondarily, ~~or in certificates.~~

4. Certificates of time deposit, ~~or in bonds that.~~

5. Bonds which are the general obligations of cities or other municipal subdivisions of ~~the~~ this state of Wisconsin after ~~said~~ the bonds have been approved as to the regularity of their issue by the city attorney of ~~such~~ the city ~~or in tax.~~

6. Tax certificates of ~~such~~ the city or of the county in which ~~it~~ the city is located, ~~or in securities.~~

7. Securities of ~~such~~ the city whether a direct obligation thereof or not secured by such tax certificates; ~~and from time to time.~~

(b) ~~The commission shall cause the proper officer to sell, dispose of, or exchange any such securities in which the said amortization fund may be is invested and to reinvest the proceeds thereof in any other of the securities herein security enumerated under par. (a). Whenever~~ If the investment is made in tax certificates of ~~such~~ the city or county, the ~~public debt commission shall be entitled to the services of the city treasurer, tax commissioner and such other city officers and employes as the commission may be required require~~ for the prudent selection, protection and enforcement of such the investment and the

shall serve the commission. The time limitations of ~~time~~ for all actions, proceedings and applications for tax deeds upon such certificates shall be ~~such the same as are~~ the time limitations applicable to certificates owned or held by ~~such the~~ city.

(12) All interest earned by ~~said the~~ amortization fund on its investments shall, when it accrues, be added to ~~said the~~ fund to augment the ~~same~~ fund for the purposes for which ~~said the~~ fund is provided.

(13) ~~When~~ If the total of principal and accrued interest in ~~such the~~ amortization fund is substantially equal to the outstanding general obligation bonds or notes of ~~such the~~ city, ~~then said the~~ fund shall be applied to pay the interest on any outstanding general obligation bonds or notes of ~~such the~~ city, and to meet the annual payments on the principal of ~~such the~~ debt until maturity thereof. The ~~public debt~~ commission may, however, at any time apply the fund, ~~not to exceed in any one year 40 per cent of the balance in said fund on the preceding December 31,~~ to acquire for cancellation general obligation bonds or notes prior to their maturity dates at except that:

(a) The amount of the fund applied may not exceed in any one year 40% of the balance in the fund on the preceding December 31.

(b) The prices of the acquired bonds or notes may not to exceed principal plus accrued interest to date of maturity, but the,

(c) The commission may not decrease the fund shall not be decreased below \$2,000,000, as a result of such purchases and cancellations under this subsection.

(14) ~~Nothing herein contained shall in this section may~~ be construed to amend, abolish, or take the place of any other sinking fund provided by statute.

NOTE: In chapter 385, laws of 1925, the legislature withdrew s. 67.101 from the statutes. Section 67.101 is amended to reflect current statutory drafting practices, without any intention of making substantive changes in the law. In SECTION 26 of this act, it is declared that s. 67.101 shall be printed in future editions of the statutes.

SECTION 3. 71.046 (5) of the statutes is created to read:

71.046 (5) This section is effective until January 1, 1988.

SECTION 4. 71.047 (3) of the statutes is created to read:

71.047 (3) This section is effective until January 1, 1988.

NOTE: Chapter 31, laws of 1977, established a net proceeds tax on mining of metallic minerals. Sections 18 and 24 (2) of chapter 31, laws of 1977, pertaining to repeal of the depletion allowance, were not incorporated into the statutes. This act incorporates the provisions of sections 18 and 24 (2) of chapter 31, laws of 1977, into the statutes.

SECTION 5. 158.09 (5m) of the statutes is renumbered 158.09 (5m) (a).

SECTION 6. 227.16 (1) (a) of the statutes is amended to read:

227.16 (1) (a) Proceedings for review shall be instituted by serving a petition therefor personally or by registered mail upon the agency or one of its officials, and by filing the petition in the office of the clerk of the circuit court for the county where the trial is to be held within 30 days after the service of the decision of the agency upon all parties as provided in s. 227.11 or, in cases where a rehearing is requested, within 30 days after service of the order finally disposing of the application for such rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The proceedings shall be in the circuit court of the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court of the county where the respondent resides and except as provided in ss. 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court of Dane county if the peti-

tioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceeding may be in any circuit court.

SECTION 7. 806.155 of the statutes, as last printed in the statutes of 1973, and as last affected by section 708s of chapter 39, laws of 1975, is now printed and amended to read:

806.155 Civil action judgments. All judgments of entered before the first Monday in January, 1962, in the civil court of Milwaukee county or of in any other court functioning under chapter 254 of the [1959] statutes or of any other court which ceases ceased to function on the first Monday in January, 1962, and which were entered prior to said date shall, as of said date, become that date, or in any court functioning under chapter 254, 1959 stats., are, as of that date, judgments of the county circuit court in the county where said judgment was entered for all purposes, but no such judgment shall have any other effect than when originally entered.

NOTE: In Supreme Court Order, 67 W. (2d) 761, Appendix II, s. 43, s. 806.155 was withdrawn from the statutes. Section 806.155 is amended to reflect current statutory drafting practices, without any intention of making substantive changes in the law. In SECTION 26 of this act, it is declared that s. 806.155 shall be printed in future editions of the statutes.

SECTION 8. 891.43 (title) and (1) of the statutes, as last printed in the statutes of 1925, and as last affected by chapter 66, laws of 1965, are now printed and amended to read:

891.43 (title) Relief from destruction of public records. (1) RERECORDING INSTRUMENTS. ~~Whenever it shall appear that~~ If the records, or any material part thereof, of any county have been are destroyed, any map, plat, deed, conveyance, contract, mortgage, deed of trust or other instrument in writing affecting real estate in such county or certified copy of such instrument which affects title to land in that county and which has been recorded, or certified copies thereof, may be rerecorded; and in. Upon rerecording the same, the register of deeds shall record the certificate of the previous record, and the date of filing for record appearing in said the original certificate so recorded shall be taken as the date of the record. And copies Copies of any such record of such instrument so authorized to be made, duly, certified by the register of deeds of any such county under his seal of office, shall be received in evidence and have the same force and effect as certified copies of the original record.

SECTION 9. 891.43 (2) of the statutes, as last printed in the statutes of 1925, and as affected by chapter 66, laws of 1965, is repealed.

SECTION 10. 891.43 (3) to (5) of the statutes, as last printed in the statutes of 1925, and as affected by chapter 66, laws of 1965, are now printed and amended to read:

891.43 (3) (title) COURT RECORDS. ~~Whenever~~ If, in any court of record in this or any other state or of the United States, there is any original deed, conveyance, contract, mortgage, deed of trust or other instrument in writing affecting real estate in such county, or certified copies thereof, a copy of such instrument, which affects title to land in any county of this state where the records have been destroyed, a copy of an such the instrument certified by the clerk of such court of record under his seal of office may be made and recorded in such the county where the records have been so destroyed, and in. Upon recording the same certified copy the register of deeds shall record all the attached certificates attached thereto; and if any such certificates show the previous recording of the instrument in the county where the records have been destroyed, the date of filing the same for record in such county appearing in said the certificate so recorded shall be taken as the date of the record thereof. Copies of any such record so authorized to be made, duly, certified by the register of deeds of any such county under his seal of office, shall be received in evidence and have the same force and effect as certified copies of the original record.

(4) (title) RECORDS OF LOST PLATS OR MAPS. (a) ~~Whenever~~ ~~If~~ the public record of any plat or map ~~required by law to be kept by any register of deeds has been or may be~~ injured, lost or destroyed, ~~it shall be the duty of the district attorney of the county in which such injury, loss or destruction has occurred or shall occur, forthwith to file in the circuit court an information in the name of the state, setting forth substantially the facts of such injury, loss or destruction, with the circumstances attending the same, as near as may be; and thereupon the clerk of such court shall cause such information to be published in full in one or more newspapers published in such county for the period of four weeks~~ the clerk of the circuit court shall, upon notification by the register of deeds of the injury, loss or destruction of the records, publish a class 3 notice under ch. 985 setting forth the facts of the injury, loss or destruction, together with a notice addressed to all whom it may concern that said the circuit court will, at a term therein designated, to be held specified time not less than four 4 weeks from the first publication of such information and the notice, proceed to hear and determine the matters in said information set forth, and take testimony for the purpose of reproducing and reestablishing such the record of maps or plats as it shall find to be injured, lost or destroyed. Upon such publication being made, all All persons interested shall be deemed defendants, and may appear in person or by counsel and be heard touching such proceedings.

(b) If the court ~~shall be~~ is satisfied that any public record of maps or plats has been injured, lost or destroyed, an order to that effect shall be entered ~~of record, and thereupon formation set forth, and the court shall take testimony for the purpose of reproducing and reestablishing such the record. The proceedings may be continued from time to time, whether in term or not, and orders~~ Orders and judgments shall be made as to each map or plat separately. The clerk shall cause all maps or plats adjudged to be correct copies of the records lost, injured or destroyed, ~~as often and as soon as they are so adjudged, to be filed and recorded in the office of the register of deeds, with a an attached certified copy of the order or judgment in the premises attached thereto, and recorded in a book or books to be provided for that purpose. And the said.~~ The record shall be taken in all courts and places as a public record, and prima facie as a true and correct reproduction of the original record. All costs and expenses incurred in such the proceedings, including copies of maps or plats and recording the same, shall be taxed as costs against the county in which such the proceedings are had held.

(5) (title) CHAINS OF TITLE. ~~Whenever it shall appear that~~ If the record, or any part ~~thereof, of the records~~ of any county ~~have been~~ are destroyed, so that a connected chain of title cannot be ~~deduced therefrom shown, certified~~ certified copies duly certified by the ~~proper officers, of all deeds, patents, certificates, plats and legal subdivisions of land in such the county, in the custody or control of any officer of this state or of the United States, may be recorded in the register of deed's office of such the county, and the record so made shall have the same force and effect as the record of the originals of such instruments.~~

SECTION 11. 891.43 (6) of the statutes, as last printed in the statutes of 1925, and as affected by chapter 66, laws of 1965, is repealed.

SECTION 12. 891.43 (7) and (8) (title) and (a) of the statutes, as last printed in the statutes of 1925, and as last affected by chapter 66, laws of 1965, are now printed and amended to read:

891.43 (7) (title) ABSTRACTS OF TITLE. ~~Whenever~~ If the records of any county ~~shall have been~~ are injured, lost or destroyed by fire ~~it shall be, the duty of the judge of the circuit court in which such of the county is situated, and of the county judge of such county, to shall examine into the state of such the records, and in case if they find the court finds that~~ any abstracts, copies, minutes or extracts ~~therefrom existing exist~~ after such injury, loss or destruction, and that the said abstracts, copies, minutes or extracts were fairly made before such injury, loss or destruction by any person ~~or persons~~ in the ordinary course of business, and that they contain a material and substantial part of said

~~the records, the said judges court shall certify the facts in regard to such abstracts of titles as found by them; and if they are of the opinion that such. If the abstracts, copies, minutes and extracts tend to show a connected chain of title to the land in said the county, they the judges court shall file such certificate, finding or an opinion with the clerk of the circuit court thereof, and thereupon said the abstracts, copies, minutes and extracts, or certified copies thereof, shall be admissible as prima facie evidence in all the courts of this state. And it shall be the duty of the The owner or keeper of such the abstracts to shall furnish to all parties so requesting upon being paid the charges herein provided for, certified copies of the same or parts thereof. And in all cases in which any abstracts, copies, minutes and extracts, or copies thereof, which are admissible in evidence under the provisions of this section, shall be received in evidence, all deeds or other instruments of writing, appearing thereby to have been executed by any person or persons, or in which they appear to have joined, shall (except as against any person or persons in the actual possession of the lands or lots described therein at the time of the injury, loss or destruction of the records of such county, claiming title thereto, and except, also, as against infants and persons of unsound mind) be presumed to have been duly witnessed, executed and acknowledged; and all sales under powers of attorney, judgments, decrees or other legal proceedings shall be presumed to be regular and correct, except as against such person or person; and any person alleging any defect or irregularity in any such conveyance, acknowledgment, sale, judgment, decree or other legal proceeding shall be held bound to prove the same; provided, that nothing in this section contained shall impair the effect of said injured, lost or destroyed records as notice abstracts.~~

(8) (title) REESTABLISHMENT OF TITLE. (a) ~~In case of the injury, loss or destruction of such records any court in such county having equity jurisdiction If the records of any county are injured, lost or destroyed, any court in the county with equity jurisdiction may inquire, upon due notice to the parties interested, into the condition of any title to or interest in any land in such the county, and make all such necessary orders and judgments as may be necessary to determine and establish such title or interest, legal or equitable, against all persons, known or unknown, and all liens existing on such land, whether by statute, judgment, mortgage, deed of trust or otherwise. Any person claiming title to any lands in such county at the time of the injury, loss or destruction of the records thereof, or under any such person, may file a summons and complaint in any such court, praying in the latter for a judgment establishing and confirming his title. Any number of parcels of land to which the plaintiff claims title may be included in one complaint, or separate complaints may be filed, as he may elect.~~

SECTION 13. 891.43 (8) (b) of the statutes, as last printed in the statutes of 1925, and as last affected by chapter 66, laws of 1965, is repealed and recreated and printed to read:

891.43 (8) (b) Any person claiming an interest in land in the county at the time of the injury, loss or destruction of the records may maintain an action for a declaration of interest in real property under ch. 841. The complaint under s. 841.02 shall be published by the clerk of the court in which the complaint is filed as a class 3 notice under ch. 985.

SECTION 14. 891.43 (8) (c) of the statutes, as last printed in the statutes of 1925, and as last affected by chapter 66, laws of 1965, is repealed.

SECTION 15. 891.43 (9), (10) and (11) of the statutes, as last printed in the statutes of 1925, and as last affected by chapter 66, laws of 1965, are repealed.

SECTION 16. 891.43 (12) of the statutes, as last printed in the statutes of 1925 and as affected by chapter 66, laws of 1965, is now printed and amended to read:

891.43 (12) (title) RECORD OF NEW INSTRUMENTS. ~~Whenever If any deed or other instrument in writing affecting the title to any of the land in any such county shall have been is filed for record so short a time before such the injury, loss or destruction of the records as aforesaid that no proof of it remains either on such the records or among the~~

abstracts, copies, minutes or extracts ~~specified in subsection under sub. (7), it shall be the duty of the person having filed the same or who claims the benefit thereof~~ instrument, within one year after such the injury, loss or destruction, to ~~refile for record such deed or other~~ rerecord the instrument or copies thereof, or, if that cannot be done, he or she may ~~make and file a complaint to establish the same title under the provisions of this and the preceding sections. In all cases when an original deed or other such instrument shall have been lost or destroyed, it shall be lawful for any person having a duly certified copy of such record to cause the same to be recorded, which record shall have the same force and effect as the records of such originals now have~~ sub. (8) (b).

SECTION 17. 891.43 (13) of the statutes, as last printed in the statutes of 1925, and as last affected by chapter 68, laws of 1965, is repealed.

SECTION 18. 891.43 (14) and (15) of the statutes, as last printed in the statutes of 1925 and as last affected by chapter 66, laws of 1965, are now printed and amended to read:

891.43 (14) (title) EVIDENCE TO SHOW TITLE. In all cases under ~~the provisions of subsection (1) and the intermediate sections~~ this section, and in all proceedings or actions ~~pending or which may be instituted as to concerning any estate, interest or right in or lien or incumbrance upon any lots, pieces or parcels of in land, when any party to such action or the proceeding or his agent or attorney in hsi behalf, shall orally in court or by affidavit or be filed in such action or proceeding testify under oath~~ testifies that the original of any deed, conveyance or other written or recorded evidence relating to the title to such land has been lost or destroyed, or it is not in the power of the party wishing to use it on trial to produce ~~the same it~~, and the record thereof has been injured, lost or destroyed, the court shall receive all such any evidence as that may have a bearing on the case to establish the execution or contents of the deed, conveyance, record or other written evidence ~~so lost or destroyed, and shall receive as evidence including~~ any abstract of title made in the ordinary course of business ~~prior to such~~ before the injury, loss or destruction, showing the title to such land or any part of title thereto; provided, that any writing in the hands of any person which ~~may become admissible in evidence under the provisions of this section shall be rejected unless the same appear upon its face without erasure, blemish, alteration, interlineation or interpolation in any material part, unless such erasure, blemish, alteration, interlineation or interpolation be explained to the satisfaction of the court and be shown to have been fairly and honestly made in the ordinary course of business. And any person or persons making any such erasure, blemish, alteration, interlineation or interpolation in any such writing with the intent to change the same in any substantial manner after the same has been once made as aforesaid shall be guilty of forgery and be punished accordingly; and any and all persons who may be engaged in the business of making writings or written entries concerning or relating to lands and real estate in any county to which this section applies, and furnishing persons applying therefor abstracts or copies of writings or written entries as aforesaid for a fee, reward or compensation, and shall not make the same truly and without alteration or interpolation in any matter of substance, shall be guilty of forgery and be punished accordingly; and any and all such persons shall furnish said abstracts or copies as aforesaid to the person or persons from time to time applying therefor in the order of the applications and without unnecessary delay, and for a reasonable consideration, which in no case shall exceed the sum of one dollar for the first conveyance and thirty cents for each and every subsequent conveyance or other like change of title shown upon such abstract or copy; and any and all persons so engaged shall, within thirty days after the filing of the opinion of the circuit and county judges in accordance with subsection (7), file with the clerk of the circuit court his or their assent to the provisions contained herein, and no abstract or certified copies of the same (except such certified copies as have been made prior to the seventh day of June, 1878) shall be received in evidence until such assent is so filed to the land.~~

(15) RECORD OF DEED IN CHAIN OF TITLE. ~~Whenever it shall appear that~~ If the records ~~or any part thereof~~ of any county have been injured, lost or destroyed to such an extent so that a connected chain of title to any land therein cannot be shown ~~therefrom~~, any person who can produce a deed or deeds showing such a chain running back for ten 10 years or more may make an affidavit before the county judge of such county circuit court of the county to the effect that he or she is the person named as grantee in the last conveyance in such the chain of title; and that as such grantee he or his his or her immediate grantor or grantors has or have been in the continual occupation and possession of the premises, which the affidavit shall fully and completely describe, for not less than ten 10 years, and may cause such affidavit and the deed or deeds showing such chain of title to be recorded in the office of the register of deeds of such county, and thereupon such deed or deeds and affidavit or the record thereof shall be prima facie evidence that the affiant is the owner in fee of the premises described in such deed or deeds and affidavit. If any of the deeds described in such affidavit have been rerecorded since the injury, loss or destruction of such records, they need not be rerecorded. If such land is owned or held in the name of a corporation or company, in joint tenancy or in common, such affidavit may be made by the president or secretary of the corporation or by one of such owners in behalf of the company or joint owners. The provisions of section 330.07 shall apply for the purposes of constituting the possession required by this section and he or she may record the affidavit and the deeds showing the chain of title in the office of the register of deeds. The deeds and affidavit or the record shall then be prima facie evidence that the affiant holds title to the land described in the deed or affidavit. For the purposes of constituting the possession required under this subsection, s. 893.07 shall apply.

NOTE: In chapter 523, laws of 1927, the legislature withdrew s. 891.43 from the statutes. Section 891.43 is amended to reflect current statutory drafting practices, without any intention of making substantive changes in the law. In SECTION 26 of this act, it is declared that s. 891.43 shall be printed in future editions of the statutes.

SECTION 19. Chapter 335, laws of 1907, as amended, revised and consolidated by chapter 497, laws of 1939, and subsequently amended by chapter 54, laws of 1969, is renumbered 182.70 of the statutes and amended to read:

~~Section 1A. DEFINITIONS. Unless the context requires otherwise:~~

182.70 Wisconsin Valley Improvement Company. (1) (title) DEFINITIONS. In this section:

(1) (a) "Company" means the Wisconsin Valley Improvement Company, its successors and assigns.

(2) "Commission" means the public service commission of Wisconsin.

(3) (b) "Capital invested" or "invested capital" shall mean means capital actually paid in and the par value of all negotiable bonds or other obligations issued by the company.

~~Section 2. (1) Subject to the supervision and control hereinafter provided for, authority is granted unto the company, in order to promote the purposes hereinafter set forth, to~~

(c) "Commission" means the public service commission.

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

(2) (title) PURPOSE OF THE COMPANY. (a) The company shall produce as nearly a uniform flow of water as practicable in the Wisconsin and Tomahawk rivers by storing in reservoirs surplus water for discharge when the water supply is low to improve the usefulness of the rivers for all public purposes and to reduce flood damage.

(b) If maintaining uniform flow in the Wisconsin river below and above the north line of Lincoln county at the same time is impracticable, the company shall give preference to maintaining uniform flow in portions of the river above this line.

(3) RIGHTS, POWERS AND AUTHORITY. Subject to chs. 30 and 31:

(a) 1. The company may create, construct, acquire, purchase, or lease, (which lease shall not be less than of the an entire reservoir project) or otherwise maintain, operate or control a system of water reservoirs located in or along the Wisconsin river at points. These reservoirs shall be located north of township thirty-seven 37 north, in Wisconsin in or along the Wisconsin river, and in or along any or all the direct or indirect tributaries tributary of the Wisconsin river that discharge discharges into said the river at any point north of the south line of township twenty-three 23 north, and to. The company may create, construct, acquire, maintain and operate waterways for the purpose of diverting to divert flood waters from or to the Wisconsin river to or from reservoirs on other rivers. Diversion of flood waters shall be subject to necessary approval by the commission, and subject to requirements of chapter 31 of the statutes, excepting that part of the Eagle river and lakes lying between the point where Eagle river enters Cranberry lake, in section thirty-one, township forty north, range eleven east, and the Wisconsin river, and for that purpose said grantee department. The company may construct, acquire and maintain all such dams, booms, sluiceways, locks and other structures in, along or across any and all of said this portion of the Wisconsin river and its tributaries, not above excepted, and the said portion of the Wisconsin river, as may be necessary or reasonably convenient to accomplish the purposes of this grant, and section. The company may clean out, straighten, deepen or otherwise improve any of said tributaries, in order tributary to improve the navigation thereof and of said of the tributary or of the Wisconsin river, and or to prevent injury to property bordering on said waters the rivers.

(2) 2. The company may not exercise the authority granted in subd. 1 on that part of the Eagle river and lakes lying between the point where the Eagle river enters Cranberry lake, in section 31, township 40 north, range 11 east, and the Wisconsin river.

(b) 1. All franchises, other than corporate franchises, and all riparian rights and rights of flowage, either perfected or inchoate, acquired by purchase or grant, by any person or by any corporation organized to improve the navigation for any purpose, of either of said of the Wisconsin or Tomahawk river, or any of their tributaries, not above excepted, shall be and are made assignable may be assigned to the company, and shall be of the same force and effect in the possession and ownership of such assignee to accomplish the purposes of this act as the same may be before assignment to accomplish their original purpose. But this act.

2. Subdivision 1 shall not amend or repeal chapter 532 of the, laws of 1887, nor chapter 252 of the, laws of 1889, nor chapter 483 of the, laws of 1905, nor chapter 26 of the, laws of 1903, nor or any amendment thereof, nor abridge the rights, powers or duties conferred by said acts, nor authorize the taking by the company by the power of to those chapters. The company may not exercise eminent domain of over any property used under or pursuant to said acts those chapters, nor any other property devoted to public uses; except that the as authorized in pars. (c) and (f).

(c) The dam authorized by and now maintained under said chapter 532 of the, laws of 1887, may be raised, or a new dam or dams, which are hereby authorized, may be constructed and maintained, in an across the Eagle river between Long and Cranberry lakes at any convenient point or points in townships thirty-nine 39 and forty 40 north, range eleven 11 east, so as to raise and hold the water in Long lake aforesaid six 6 inches, and no more, higher than the high water mark to which the water has been customarily raised and held by means of said present dam; provided, however, that between established by the dam authorized by chapter 532, laws of 1887. Between May first 1 and the suc-

ceeding November ~~first of each year~~ 1 the waters shall not be drawn down in Long lake more than ~~eighteen~~ 18 inches below ~~said the~~ high water mark as established by ~~said dam now constructed and maintained, and provided further that the.~~ The company shall, prior to June 1, 1909, by ~~such dam or dams, and by locks, marine slides or other safe and convenient means, make and thereafter maintain the navigability of Eagle river between said Long and Cranberry lakes navigable for the safe and convenient passage of boats of all kinds and sizes up to and including boats fifty~~ 50 feet in length and of ~~twelve~~ with 12- foot beam and drawing ~~five~~ 5 feet of water. ~~And provided further that in case~~ If the construction, maintenance or operation of ~~such the new dam or dams shall require re-~~ quires the removal of the dam ~~now maintained under said chapter 532 of the, laws of 1887, or shall impair or destroy~~ impairs the use of ~~said the dam, or its appurtenances, superstructure, or approaches as a bridge across said the~~ Eagle river, the company shall either provide:

1. ~~Provide a suitable and sufficient bridge for H 15 loading, as provided in the standard specifications for highway bridges, adopted by the American association of state highway and transportation officials (1977), with suitable and sufficient approaches, for safe and convenient passage of teams and foot men over and across such the new dam, or in case if more than one dam is built, over the dam nearest to the dam now maintained under said chapter 532 of the, laws of 1887; or it shall at~~

2. ~~At its election provide a suitable and sufficient new bridge and approaches across said the river at such a point as that will conveniently connect with the highway crossing said the river.~~

~~(3) (d) The company shall have the right to charge and may collect reasonable and uniform tolls for the passage of boats through and over said works the dam the company builds under par. (c), proportioned to the size of the boat, not, however, exceeding in the aggregate the actual. The total fees collected may not exceed the cost of the care, maintenance and operation of said locks, marine slides or other the means of passage.~~

~~Section 3. PURPOSES OF RESERVOIRS. (1) The said authority is granted for the purpose of producing as nearly a uniform flow of water as practicable in the Wisconsin and Tomahawk rivers, through all seasons, by holding back and storing up in said reservoirs the surplus water in times of great supply, and discharging the same in times of drought and scarcity of water, and thereby, and by other means, improving the navigation of said Wisconsin and Tomahawk rivers throughout their entire length, and for the purpose of improving the usefulness of said streams for all public purposes, and of diminishing the damage and injury by floods and freshets to property, both public and private, located along said waters.~~

~~(2) It shall be the duty of the company to so manage, operate and maintain all of its said reservoirs and other works, that the purposes aforesaid shall be accomplished to the greatest practicable extent, and so that as nearly a uniform flow of water as practicable shall be maintained at all times and at all points on said Wisconsin and Tomahawk rivers, and during the times when it may be found to be impracticable to maintain at the same time such uniform flow in the Wisconsin river, both below the north line of Lincoln county and above the same line, the portions of said streams above said line shall be given preference.~~

~~Section 4. CONDEMNATION — STATE LANDS. (1) For the purpose of creating, acquiring, maintaining and operating the dams and other works authorized as aforesaid, and subject to the supervision and control hereinafter provided for, the company, except as herein otherwise excepted or provided, is hereby authorized to take and use any lands, riparian or other rights that may be required for the creation, construction, maintenance and operation of any and all reservoirs, dams and other structures and improvements that may be necessary to accomplish the purposes of this act, and whenever it cannot agree with the owner or owners of such required lands or other property for the~~

purchase thereof and for the compensation to be paid therefor, the company may acquire title to any such lands and other property above specified, or the right to use same for said purposes, by the exercise of the power of eminent domain, pursuant to chapter 32 of the statutes of the state of Wisconsin.

~~(2) Any owner whose lands and premises, or access thereto, are injured by being divided, surrounded by water, flooded or waterlogged, or whose natural drainage is destroyed or injured by any dam or other construction built or operated by the company, its successors or assigns, shall not be confined to the remedy by condemnation herein provided, but may bring action for damages and have injunction, if the facts warrant, in the circuit court or other court of the county in which his damaged lands or some part thereof is located, and shall have the right to trial by jury.~~

~~(3) In case any lands of the state of Wisconsin are required to be taken or overflowed for any of the purposes of this act, the commission shall appraise, determine and fix the damage caused by such taking or overflow, and the amount thereof shall be paid into the state treasury by the company.~~

~~Section 5. (1) In case~~

(e) The company may acquire by condemnation any property, interest in property or other right necessary to create, maintain or operate any reservoir, dam or other improvement, if the property cannot be purchased at an agreed price.

(f) The commission shall appraise the damage caused by a taking or overflow of state lands occurring under this section. The company shall pay the amount appraised to the state treasury.

(4) (title) PRIVATE REMEDIES. Any owner whose premises or access to the premises are injured by being divided, surrounded by water, flooded or waterlogged, or whose natural drainage is destroyed or injured by any dam or other construction built or operated by the company, may sue for damages or an injunction in the circuit court for the county where some part of the damaged lands are located. The injured party may choose a trial by jury.

(5) TOLLS. (a) If the company shall improve improves any navigable tributary of the Wisconsin river, not herein excepted, or shall acquire except that part of the Eagle river designated in sub. (3) (a) 2, or acquires the improvements, or control of the improvements of any river improvement company already operating on any such streams, and shall so keep in repair and operate these tributaries, and operates the works as to render to allow the driving of logs and other floatables to the mouth of such the tributary reasonably practical and certain, it may, the company:

1. May charge and collect reasonable and uniform tolls upon all such logs, timber and other for floatables driven or floated on said stream, the tributary; and shall

2. Shall have all of the rights and remedies granted to river improvement companies by law.

~~(2) The (b) If the company having acquired, created and maintained in successful operation operates water reservoirs in accordance with the original acts and the several amendments thereof, of a capacity sufficient to store up in times of abundance, and retain and discharge in times of scarcity, two under this section capable of storing and discharging 2 billion cubic feet of water that would not be so naturally stored up and retained by nature, it shall, subject to the supervision and control hereinafter provided for, be entitled to may charge, collect and receive reasonable and uniform tolls from to the owner or owners, lessee or lessees, or operators of each and every improved and operated water power located upon the Wisconsin river, or any of its tributaries thereof below any of said these reservoirs benefited thereby, but not exceeding in the aggregate of all its revenues sufficient to pay all and benefited by the operation of these reservoirs. The sum of the~~

~~tolls may not exceed the reasonable costs of operation and maintenance, including taxes and depreciation, and plus a net return of not exceeding seven per cent 7% on the capital invested; and a reasonable allowance for working capital. Said The tolls shall be a first lien, subject only to taxes, and shall remain as such lien until the same are fully paid for upon on the water power, dam, franchise and flowage rights of the person or corporation chargeable therewith, and in case such tolls shall not be paid at the time and in the manner provided for, the reservoir company shall be entitled to bring an action in equity for the enforcement of said lien and for the sale of the property affected thereby as the judgment of the court may provide charged with the tolls.~~

~~(3) Said tolls shall be semiannually ascertained, fixed and determined by the commission, as hereinafter provided. Said tolls shall be fixed The company may sue to enforce the lien or for sale of the encumbered property.~~

~~(c) The commission shall fix the tolls semiannually in proportion to the benefits conferred by received from the reservoir system upon by each of the improved and operated water powers aforesaid power. Each A water power liable to tolls as above provided, which shall be and operated two 2 months or more during any six months a 6-month toll period, shall be subject to tolls for the whole of the same entire period; otherwise, no tolls for that period shall be chargeable. It shall be the duty of the. A water power operating for less than 2 months during a 6-month period shall not be subject to a toll. The company to shall employ competent hydraulic engineers to assist the company and the commission in determining the tolls to be charged as aforesaid, and the. The expense thereof of employing the engineers shall be treated as a part of the cost of maintenance and operation of said reservoirs and the works.~~

~~(4) If any such (d) The owners or operators of the improved water power shall pay tolls charged under this subsection, unless the improved water power be is operated by a lessee or lessees under lease or a contract made prior to the enactment and publication of this act, then such lessee or October 6, 1939. In that case the lessees shall be chargeable with the payment of such pay the tolls; otherwise the same shall be paid by the owner, owners or operators of the water power.~~

~~Section 6. REPORTS TO PUBLIC SERVICE COMMISSION; TOLL RATES FIXED; REVIEW. (1)~~

~~(e) The commission shall provide notice and a hearing, in accordance with s. 227.07, to each water power operator to be charged with tolls. The commission shall determine and certify the amount of the tolls to be collected from each water power operator for the period under consideration. The tolls shall then be due the company.~~

~~(6) (title) JUDICIAL REVIEW. A party aggrieved by the determination of tolls to be collected may petition for a rehearing under s. 227.12. A person whose substantial interests have been adversely affected by the commission's decision may seek judicial review under ss. 227.16 to 227.21, in the circuit court in the county where the property affected is located.~~

~~(7) (title) REPORTS TO THE COMMISSION. On or before June thirtieth 30 and December thirty-first 31 of each year, the company shall lay before provide the commission with a statement showing all:~~

~~(a) All expenditures made or necessary, including depreciation, to be made for the next six months 6-month period next preceding July first and January first respectively, of each year, for preceding the next July 1 or January 1. Expenditures itemized shall include maintenance, operation and depreciation of such the reservoir system or systems; also showing the.~~

~~(b) The location of each reservoir and all.~~

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(c) All reports and data obtained from engineers employed as provided herein, and such other to determine tolls charged.

(d) A recommendation of the amount of tolls necessary to pay the cost of maintenance, operation, taxes and depreciation, a net return not exceeding 7% on the capital invested, and a reasonable allowance for working capital, together with a recommendation on the apportionment of costs against the owners or operators of improved powers.

(e) Other information and statements as the commission shall may require, together with a recommendation of the amount of tolls necessary to pay such costs of maintenance, operation, taxes and depreciation, and a net return of not exceeding seven per cent on the capital invested, and a reasonable allowance for working capital, together with a recommendation as to the apportionment thereof against the owner or owners, or operators of improved powers, in accordance with the provisions of this chapter.

~~(2) The commission shall, thereupon, give to each water power operator proposed to be charged with tolls ten days' notice by mail of the amount of tolls recommended to be charged against him, and of the time when, and place where, the commission will hear objections to the proposed tolls. The commission shall, at the time appointed, hear all persons, and any and all objections made, and may take evidence and make or cause to be made an independent investigation of the proposed tolls, and may adjourn, from time to time, and shall, as soon as practicable, on or about July first and January first of each year, determine and certify the amount of the tolls to be collected from each water power operator for the period under consideration, and such tolls shall, thereupon, be due and payable to the company.~~

~~(3) Any person in interest being dissatisfied with any order of the commission authorized to be made under this act, may commence an action in the circuit court in the county where the property affected is located, against the commission as defendant, to vacate and set aside any such order within thirty days from the date of mailing to such person a copy of such order by the commission, on the ground that such order is unlawful or unreasonable, in which case the complaint shall be served with the summons. The commission shall immediately notify the said company by mail of the service of said complaint. Within twenty days after the mailing of such notice to said company, the said company or the commission shall file its answer to said complaint, and said action shall be at issue and stand ready for trial, the same as any other action. In all trials under this section the burden of proof shall be upon the plaintiff to show by clear and satisfactory evidence that the order of the commission complained of is unlawful or unreasonable, as the case may be. Every party to said action, within sixty days after the service of a copy of the order or judgment of the circuit court, may appeal therefrom to the supreme court.~~

~~Section 7. APPROVAL OF COMMISSION ON PLANS AND SECURITIES REQUIRED. (1) No dam or reservoir not now in existence or heretofore authorized, shall be constructed or created until the plan therefor, showing the form and location of the dam and a description of the lands to be overflowed thereby, be first submitted to the commission and approved thereby, after first giving reasonable notice and opportunity to be heard to all persons interested, by publication in one or more newspapers most likely to give such notice, or such other notice as the commission shall deem advisable.~~

~~(2) (8) (title) DUTIES OF THE DEPARTMENT. The commission department shall cause mark the height to which the water may be raised by any dam to be marked may raise the water level by permanent monuments and bench marks, and shall have supervision super- vide and control of the times and extent of the drawing of the water from the reservoirs, and the power to may compel the maintenance of all reservoirs established. No capital stock or bonds or other obligations of the company shall be issued until the proposed issue thereof shall have been submitted to the commission, and the commission shall have ascertained, determined and certified that the proposed issue will be in consideration of money, labor or property estimated at its true money value actually received by said com-~~

pany, and it shall be the duty of the commission to act promptly on any such proposition submitted.

~~Section 8. ISSUE OF SECURED BONDS. (1) (9) (title) ISSUE OF CAPITAL STOCK AND SECURED BONDS APPROVED BY THE COMMISSION. (a) The company shall have the power, upon procuring authority therefor may, after certification from the commission according to the procedures under ss. 184.03 and 184.04, to issue for its corporate purposes its bonds or other obligations in such amount as the company shall determine and the commission approve, and to secure payment thereof secured by pledge, assignment, mortgage or trust deed of its property.~~

~~(2) The company may, by action of its board of directors, provide that in the retirement of said bonds or other obligations, (principal and interest) it may issue stock of the company to the amount of said payments which may have been heretofore, and shall be hereafter made, retiring said bonds or other obligations as they become due, at such times and in such manner as said board may determine.~~

~~Section 9. ACT TO BE LIBERALLY CONSTRUED. This act is declared to be a public act and for the accomplishment of public purposes, and shall be favorably construed to the accomplishment of said purpose.~~

~~Section 10. REPEAL OR AMENDMENT RESERVED; STATE ACQUISITION. (1) The right is reserved to the legislature to repeal or amend this act.~~

~~(2) The (b) The company may retire its secured obligations by issuing stock as payment.~~

~~(10) (title) STATE ACQUISITION. This state of Wisconsin shall have the right, whenever it may have the constitutional power, to take over to itself, and become the owner of all reservoirs and other works and property acquired by the company, pursuant to under this act section, by paying therefor the total capital invested, including outstanding bonds or other obligations of said the company lawfully issued and outstanding, (computation to include outstanding bonds or other obligations and stock or stocks plus undistributed earned surplus) or the actual value of the physical properties so taken over, without any allowance for franchise or good-will goodwill of the business; and if such the actual value cannot be agreed upon by the state and such the owner, then the same shall be determined by the commission. This act shall take effect upon passage and publication.~~

NOTE: The Wisconsin valley improvement company was created by ch. 335, laws of 1907, for the purpose of building, maintaining and operating dams and reservoirs on the Wisconsin river and its tributaries. These improvements on the river serve to improve navigation, decrease the hazard of flooding and provide a uniform flow for all public purposes.

Chapter 335, laws of 1907, as amended, is incorporated into the statutes and amended to reflect current statutory drafting practices, without any intention of making substantive changes in the law.

SECTION 20. Chapter 640, laws of 1911, as amended by chapter 759, laws of 1913, by chapter 399, laws of 1921, and by chapter 53, laws of 1969, is renumbered 182.71 of the statutes and amended to read:

~~Section 1. 1. Subject to the supervision and control hereinafter provided for, authority is hereby given unto the Chippewa and Flambeau Improvement Company, in order to promote the purposes hereinafter set forth, to~~

182.71 (title) The Chippewa and Flambeau Improvement Company. (1) In this section:

(a) "Commission" means the public service commission.

(b) "Company" means the Chippewa and Flambeau Improvement Company.

(c) “Department” means the department of natural resources.

(2) (a) The company shall produce as nearly a uniform flow of water as practicable in the Chippewa and Flambeau rivers, by storing in reservoirs surplus water for discharge when the water supply is low, to improve the usefulness of the rivers for all public purposes, and to reduce flood damage.

(b) If maintaining uniform flow throughout the length of these rivers is impracticable, the company shall maintain as nearly a uniform flow in the upper portions of these rivers as is practicable.

(3) (a) The company may create, construct, acquire by purchase, lease or otherwise, maintain, and operate a system of water reservoirs located in or along the:

1. The Court Oreilles river and its direct or indirect tributaries above the north line of town 38 north, the.

2. The east and west forks of the Chippewa river and their direct or indirect tributaries above a point located one mile below the junction of such east and west forks, the.

3. The Thornapple river and its direct or indirect tributaries above its mouth,.

4. Butternut creek and its direct or indirect tributaries above its mouth, the.

5. The north fork of the Flambeau river and its direct or indirect tributaries above a point located one mile below the junction of the Manitowish and Turtle rivers,.

6. The south fork of the Flambeau river and its direct or indirect tributaries, including the Elk river, above the junction of said the south fork of the Flambeau river and said the Elk river, in this state, and for that purpose said grantee.

(b) The company may construct, acquire, maintain, and operate all such dams, booms, sluiceways, locks, and other structures in, along, or across any and all of said portions of said of these portions of the rivers and their said tributaries as may be necessary or reasonably convenient to accomplish the purposes of this grant, and section. The company may clean out, straighten, deepen, or otherwise improve any of said these rivers and tributaries in order to improve the navigation thereof and or to prevent injury to property bordering on said waters the rivers.

~~(2) (c) All franchises and all riparian rights and rights of flowage, either perfected or inchoate, howsoever acquired, by of any person or any corporation organized to improve the navigation for any purpose of either or any of said of these rivers or their tributaries, shall be and hereby are made assignable may be assigned to the Chippewa and Flambeau Improvement Company, and shall be of the same force and effect in the possession and ownership of such assignee to accomplish the purposes of this act, and the same may have and before assignment to accomplish their original purpose company.~~

~~Section 2. 1. The said authority is granted for the purpose of producing as nearly a uniform flow of water as practicable in the Chippewa and Flambeau rivers, through all seasons, by holding back and storing up in said reservoirs the surplus water in times of great supply, and discharging the same in times of drought and a scarcity of water, and thereby, and by other means, improving the navigation of said Chippewa and Flambeau rivers throughout their entire length, for boats, barges, and other water craft, and for the running, driving, rafting, booming, storing, sorting, and delivering of logs, timber, and lumber, and other forest products, and for the purpose of improving the usefulness of said streams for all public purposes, and of diminishing the damage and injury by floods and freshets to property, both public and private, located along said waters.~~

~~2. It shall be the duty of said Chippewa and Flambeau Improvement Company to so manage, operate, and maintain all of its said reservoirs and other works that the purposes aforesaid shall be accomplished to the greatest practical extent and so that as nearly a~~

~~uniform flow of water as practicable shall be maintained at all times and at all points on said Chippewa and Flambeau rivers; and during the times when it may be found impracticable to maintain at the same time such uniform flow of water throughout the entire length of said rivers, the upper portions of said rivers shall be given preference.~~

~~Section 3. For the purpose of creating, acquiring, maintaining, and operating the dams and other works, authorized as aforesaid, and subject to the supervision and control hereinafter provided for, the Chippewa and Flambeau Improvement Company is hereby authorized to take and use any lands, riparian or other right, that may be required for the creation, construction, and maintenance of any and all reservoirs, dams, and other structures and improvements that may be necessary to accomplish the purposes of this act, and whenever it cannot agree with the owner or owners of any such required lands, or other property, for the purchase thereof and the compensation to be paid therefor, the said Chippewa and Flambeau Improvement Company may acquire title to any such lands and other property above specified, or the right to use the same for said purposes, by the exercise of the power of eminent domain under and in pursuance of sections 1777a, 1777b, 1777c, and 1777d of the statutes and laws amendatory thereof and supplemental thereto; but the said company shall have no right to take or enter into possession or overflow any of the property condemned until it shall have first paid, in the manner provided by section 1777e, the damages awarded. And in case the possession or use of any such property shall be obtained by said Chippewa and Flambeau Improvement Company before acquiring the title thereto or the right to the use of thereof by purchase or condemnation, the owner or owners of the same property shall have the same right to institute proceedings for condemnation thereof and ascertainment of damages to be paid, as is granted by the aforesaid statutes relating to the exercise of eminent domain. In case any lands of the state of Wisconsin be required to be taken or overflowed for any of the purposes of this act the railroad commission of Wisconsin shall appraise and fix the damages to be caused by such taking or overflow, and the amount thereof shall be paid into state treasury by said Chippewa and Flambeau Improvement Company before the taking or overflow shall occur.~~

~~Section 4. 1. In case said Chippewa and Flambeau Improvement Company shall improve~~

~~(4) (a) The company may acquire by condemnation any property, interest in property or other right necessary to create, maintain or operate any reservoir, dam or other improvement, if the property cannot be purchased at an agreed price.~~

~~(b) The commission shall appraise the damage a taking or overflow of state lands may cause. The company shall pay the amount appraised into the state treasury prior to the taking or overflow.~~

~~(5) (a) If the company improves any tributary of the Chippewa river, or shall acquire acquires the improvements or the control of the improvements of any river improvement company already operating on any such stream tributary, and shall so keep in repair and operate the works as to render operates the works to allow the driving of logs and other floatables to the mouth of such the tributaries reasonably practicable and certain, it, the company may charge and collect reasonable and uniform tolls upon all such logs, timber, and other for floatables driven or floated on said stream, and shall have all of the rights and remedies granted to river improvement companies by section 1777 of the statutes, and all amendments thereof, including the right of lien therein provided for, and shall be charged with all of the duties and obligations imposed upon such river improvement companies under like circumstances.~~

~~2. When said Chippewa and Flambeau Improvement Company shall have created or acquired and maintained in successful operation water reservoirs in accordance with this act, of a capacity sufficient to store up in times of abundance and retain and discharge in times of scarcity one billion five hundred millions cubic feet of water that would not be so~~

~~stored up and retained by nature, it shall, subject to the supervision and control hereinafter provided for, be entitled to charge, collect, and receive reasonable and uniform tolls from the owner or owners, or lessee or lessees of each and every improved and operated water power located upon the said Chippewa or Flambeau river, or any tributary of either of said rivers below any of said reservoirs, the actual use and operation of which is benefited thereby, but not exceeding in the aggregate of all its revenues sufficient to pay all on the tributary.~~

(b) If the company operates water reservoirs under this section capable of storing and discharging 1.5 billion cubic feet of water that would not be naturally stored, it may charge uniform tolls to the owners, lessees or operators of every improved and operated water power located upon the Chippewa or Flambeau rivers or any of their tributaries below any of these reservoirs and benefited by the operation of these reservoirs. The sum of the tolls may not exceed the reasonable costs of operation and maintenance including rent paid for leased properties and a net annual return on the cash capital actually paid in on the stock subscriptions to the grantee company and on the par value of all negotiable bonds issued by the grantee. Such net annual return shall be reasonable and just and shall be determined by the railroad commission of Wisconsin in the manner that rates are determined for public utilities under the provisions of sections 1797m-1 to 1797m-109, inclusive, of the statutes.

~~3. Said tolls shall be semi-annually fixed, ascertained, and determined by the railroad commission of Wisconsin on or about the first day of July and the first day of January of each year, for the six months' period preceding each of said dates. Said tolls shall be fixed in proportion to the benefits conferred by the reservoir system upon the actual use and operation of each of the improved and operated water powers aforesaid. It shall be the duty of the grantee to employ competent hydraulic engineers to be selected by the railroad commission of Wisconsin to assist in determining the tolls to be charged as aforesaid and the expense thereof shall be treated as a part of the cost of maintenance and operation of said work. If any such improved water power be operated by a lessee or lessees under lease or contract made prior to the enactment and publication of this act, then said lessee or lessees shall be chargeable with the payment of such tolls; otherwise the same shall be paid by the owner or owners of the water power. Each water power liable to tolls as above provided, which shall be operated two months or more during any six months' toll period, shall be subject to tolls for the whole of the same period; otherwise no tolls for that period shall be chargeable. Section 5. 1. company. The commission shall determine the net annual return.~~

(c) The commission shall fix the tolls semiannually in proportion to the benefits received from the reservoir system by each improved and operated water power. A water power liable to tolls and operated 2 months or more during a 6-month toll period shall not be subject to tolls for the entire period. A water power operating for less than 2 months during a 6-month toll period shall not be subject to a toll. The company shall employ hydraulic engineers, selected by the commission, to assist the company and the commission in determining the tolls to be charged. The expense of employing the engineers shall be a part of the cost of maintenance and operation of the works.

(d) The owners or operators of the improved water power shall pay tolls charged under this subsection, unless the improved water power is operated by lessees under a contract made prior to July 12, 1911. In that case the lessees shall pay the tolls.

(e) The commission shall provide notice and a hearing, in accordance with s. 227.07, to each water power operator to be charged with tolls. The commission shall determine and certify the amount of the tolls to be collected from each water power operator for the period under consideration. The tolls shall then be due the company.

(f) No tolls shall be levied or used to pay for any part of the original acquisition or improvement of the reservoir system. The tolls shall be a lien on the water power, dam, franchises and flowage rights of the person or corporation charged with the tolls. The company may sue to enforce the lien or for the sale of the encumbered property.

(g) A party aggrieved by the determination of tolls to be collected may petition for a rehearing under s. 227.12. A person whose substantial interests have been adversely affected by the commission's decision may seek judicial review under ss. 227.16 to 227.21, in the circuit court in the county where the property affected is located.

(6) On or before June 15th 15 and December 15th 15 of each year, said Chippewa and Flambeau Improvement Company shall lay before the railroad the company shall provide the commission of Wisconsin with a statement showing all:

(a) All expenditures made or necessary to be made for the ~~six months'~~ 6-month period next preceding ~~the next~~ July 1st and 1 or January 1st, respectively, of each year 1 for maintenance and operation of such ~~the~~ reservoir system, all.

(b) All capital stock of said ~~the~~ company issued and all outstanding negotiable bonds ~~then outstanding, the.~~

(c) The cash capital actually paid in, ~~the.~~

(d) The storage capacity and location of each reservoir, ~~and all.~~

(e) All reports and data obtained from engineers employed, ~~as provided by section four of this act, and such other information and statements as said commission shall require, together with a~~ to determine tolls charged.

(f) A recommendation of the amount of tolls necessary to pay such ~~the~~ cost of maintenance and operation and a net return of ~~six per cent per annum~~ 6% per year on the capital invested, including the par value of the outstanding negotiable bonds, and together with a recommendation as to the apportionment thereof of the tolls against the owners or operators of improved powers in accordance with section four of this act. The railroad commission shall, thereupon, give to each water power operator, proposed to be charged with tolls, ten days' notice by mail of the amount of tolls recommended to be charged against him and of the time when and the place where the railroad commission will hear objections to the proposed tolls. The railroad commission shall at the time and place appointed hear all objections made and may take evidence and make or cause to be made independent investigation of the validity of the same, and may adjourn, from time to time, and shall, as soon as practicable, on or about July 1st and January 1st of each year, determine and certify the amount of tolls to be collected from each water power operator for the period under consideration, and such tolls shall thereupon be due and payable to the Chippewa and Flambeau Improvement Company.

3. Any person in interest, being dissatisfied with any order of the commission authorized to be made by this act, may commence an action in the circuit court of the county where the property affected is located, against the commission as defendant, to vacate and set aside any such order within sixty days from the date of the mailing to such person of a copy of such order by the commission, on the ground that such order is unlawful or unreasonable, in which case the complaint shall be served with the summons. The commission shall immediately notify the said Chippewa and Flambeau Improvement Company by mail of the service of such complaint. Within twenty days after the mailing of such notice to said company, the said company or said commission shall file its answer to said complaint and said action shall be at issue and stand ready for trial the same as any other action.

4. In all trials under this section the burden of proof shall be upon the plaintiff to show by clear and satisfactory evidence that the order of the commission complained of is unlawful or unreasonable as the case may be. Every party to said action within sixty days

after the service of a copy of the order or judgment of the circuit court may appeal therefrom to the supreme court.

5. ~~No tolls shall be levied or used to pay for any part of the original construction or purchase or betterment of the reservoir system. The amount of such tolls shall be a lien upon the water power, dam, franchises, and flowage rights of the person or corporation chargeable with such tolls and in case such tolls shall not be paid when due the person or corporation entitled to collect the same shall be entitled to sue and collect the same, by an action at law, or by a suit in equity for the foreclosure and enforcement of said lien, and for the sale of the property affected thereby pursuant to such judgment of foreclosure.~~

Section 6. 1. ~~No dam, or lands or flowage rights necessary for its maintenance and operation, shall be purchased by said Chippewa and Flambeau Improvement Company until the railroad commission of Wisconsin shall estimate and appraise the value thereof; and the appraised value so established shall be the true value thereof; and, in purchasing or acquiring such dam, lands, and flowage rights, the purchase price thereof shall in no case exceed the appraised value so placed upon said property by said railroad commission. No rental of any leased property shall be paid until the lease providing for the payment of such rental shall have been approved by said railroad commission. No dam or reservoir not now in existence or heretofore authorized shall be constructed or created until the plans therefor, showing the form and location of the dam and the description of the lands to be overflowed thereby, shall have been submitted to the railroad commission of Wisconsin and approved thereby, after first having estimated and appraised the value of all lands required for the purposes of such dam and of lands to be overflowed by means thereof; and said railroad commission may require the state forester to assist it in ascertaining and determining the value of any such lands. When the right to overflow any such lands, which said railroad commission may deem necessary to overflow in carrying out the purposes of this act, cannot be purchased or procured from the owner or owners thereof for the appraised value thereof as determined by said railroad commission, said Chippewa and Flambeau Improvement Company shall institute proceedings to procure such rights by the exercise of the power of eminent domain under and in pursuance of the provisions of chapter 32 of the statutes. Such railroad commission under sub. (5); and~~

(g) Other information the commission may require.

(7) (a) The commission shall appraise and fix the price of any dam, land or flowage rights to be purchased by the company under this section. The commission shall approve any lease of property by the company prior to the payment of rent. The commission may require the department to aid in appraising the value of the land.

(b) If the company intends to acquire and overflow property, the commission shall approve the need to overflow the property. The department shall cause mark the height to which the water may be raised by any dam to be indicated may raise the water level by permanent monuments and bench marks, and shall have supervision supervise and control of the time and extent of the drawing of water from the reservoirs, and the power to may compel the maintenance of all reservoirs established. They shall have power to The commission and the department may employ, at the expense of said improvement the company, hydraulic engineers and other persons to assist them in obtaining information necessary to a proper discharge of their duties, such expense to be treated enforce this section. The cost of hiring the engineers shall be included as a part of the cost of construction or maintenance and operation of the reservoir system.

2. ~~No capital stock or negotiable bonds of said improvement company shall be issued until the proposed issue thereof shall have been submitted to the railroad commission of Wisconsin and said commission shall have ascertained, determined, and certified that the proposed issue will be in consideration of money or labor or property estimated at its true money value actually received by said company, equal to the par value thereof, and it shall be the duty of said commission to act promptly on any such proposition submitted.~~

(c) The company may, after certification from the commission according to the procedures under ss. 184.03 and 184.04, issue capital stock or negotiable bonds. The money received by said the company upon account of capital stock or sale of its negotiable bonds shall be used only in payment of to pay the original cost of purchase, construction, or ~~betterment~~ improvement of the reservoir system and of the work preliminary thereto and ~~necessary to prepare for or determine upon the same; and all.~~ All tolls collected as herein ~~before authorized under sub. (5) shall be applied only to the payment of cost of maintenance and operation of the system and payment of the net return on capital above provided for; to the end so that the capital stock and bonds of the corporation shall be maintained at par value at all times.~~

~~Section 6, Subdivision 3. For the purpose of providing funds with which to erect or acquire dams, reservoirs, rights and easements for the purpose of carrying out the purposes of this act, said Chippewa and Flambeau Improvement Company shall have the power, upon procuring authority from the railroad commission of Wisconsin so to do, to~~

(d) Subject to approval of the commission, the company may issue its negotiable interest-bearing bonds to an amount to provide funds to acquire dams, reservoirs and rights under this section. The issue shall not exceeding exceed one-half of the total cost of such the improvement, and. The company may secure payment thereof by mortgage of its property; provided that in the event. If any such bonds are issued and outstanding, all earnings of the capital stock shall be invested subject to the approval of the railroad commission as a sinking fund for the purpose of retiring such outstanding bonds, and while any such bonds are outstanding, no dividends shall be paid to the stockholders of record; anything herein contained to the contrary notwithstanding.

~~Section 7. All dams erected or acquired and maintained by the grantee shall be subject to all the requirements of the statutes now in effect, and all that may be hereafter enacted, relating to the providing of good and sufficient fishways in said dams, shall be equipped with all necessary slides, chutes, guide booms, and piers for the passage of logs and timber over or through the same.~~

~~Section 8. This act is hereby declared to be a public act and for the accomplishment of public purposes, and shall be favorably construed to the accomplishment of said purposes.~~

~~Section 9. The right is hereby reserved to the legislature to repeal or amend this act at any time; in case the Chippewa and Flambeau Improvement Company shall not by the first day of January, 1913, have in operations reservoirs of a storage capacity of at least one billion five hundred millions of cubic feet of water, then the rights and privileges granted by this act shall cease. The~~

(8) This state of Wisconsin shall have the right at any time, whenever it may have the constitutional power, to take over to itself and become owner of all reservoirs and other works and property acquired by the Chippewa and Flambeau Improvement Company, pursuant to under this act section, by paying therefor the cash capital actually paid on the capital stock of said the company theretofore lawfully issued and outstanding or the actual value of the physical properties so taken over and without any allowance for franchises or good-will goodwill of the business, such actual value to be determined by the railroad commission of Wisconsin.

~~Section 10. Nothing contained in this act shall be construed so as to divest or~~

(9) This section shall not release any right, title, or interest possessed or held by the state of Wisconsin that have been acquired by the state or that may be acquired under or by virtue of any federal law of the United States.

~~Section 11. This act shall take effect and be in force from and after its passage and publication.~~

NOTE: The Chippewa and Flambeau improvement company was created by ch. 640, laws of 1911, for the purpose of building, maintaining and operating dams and reservoirs on the Chippewa and Flambeau rivers. These improvements on the river serve to improve navigation, decrease the hazard of flooding and provide a uniform flow for all public purposes.

Chapter 640, laws of 1911, as amended, is incorporated into the statutes and amended to reflect current statutory drafting practices, without any intention of making substantive changes in the law.

SECTION 21. Chapter 242, laws of 1921, section 315 is renumbered 62.03 (3) of the statutes and amended to read:

62.03 (3) The revision of the general charter law by ~~this act~~ chapter 242, laws of 1921 shall not affect the application of any provisions of the general charter ~~heretofore~~ previously adopted by any 1st class city of ~~the first class~~ under special charter, but such provisions shall as to such cities retain the same force and application as they had before the enactment of ~~this act~~ chapter 242, laws of 1921.

NOTE: Chapter 242, laws of 1921, recodified the general charter law as ch. 62 of the statutes. Section 315 of chapter 242, laws of 1921, pertaining to the effect of the recodification on provisions of the general charter previously adopted by any 1st class city, was not incorporated into the statutes. This act incorporates section 315 of chapter 242, laws of 1921, into the statutes.

SECTION 22. Chapter 523, laws of 1927, section 115 is repealed.

NOTE: Chapter 523, laws of 1927, section 115 withdrew s. 891.43 from the statutes. This SECTION repeals that directive.

SECTION 23. Chapter 39, laws of 1975, section 727 (9) is renumbered 36.25 (20) and amended to read:

36.25 (20) SCHOOL OF ALLIED HEALTH PROFESSIONS. The board of ~~regents of the Wisconsin system~~ may establish a school of allied health professions at the university of Wisconsin-Milwaukee.

NOTE: The text of this act appeared in s. 727 (9) of chapter 39, laws of 1975.

Section 727 (9) of chapter 39, laws of 1975, gives the board of regents of the university of Wisconsin system authority to establish a school of allied health professions at the university of Wisconsin-Milwaukee. This act incorporates section 727 (9) of chapter 39, laws of 1975, into the statutes.

SECTION 24. Chapter 196, laws of 1975, section 2 is renumbered 84.30 (5) (bm) of the statutes and amended to read:

84.30 (5) (bm) Signs lawfully in existence on ~~the effective date of this act~~ April 10, 1976, but which do not conform to the requirements of ~~section 84.30 (3) (c) of the statutes, as affected by this act sub. (3) (c)~~, are declared nonconforming but are not subject to removal, except as otherwise provided in this ~~section~~ paragraph. To allow such signs to exist, to perform customary maintenance thereon or to change the advertising message thereof, does not constitute a violation of ~~section 84.30 (3) of the statutes sub. (3)~~, but to enlarge, replace or relocate such signs, or to erect additional signs after ~~the effective date of this act~~ April 10, 1976, shall constitute a violation subjecting the sign to removal without compensation, unless upon completion of such work all signs upon ~~such~~ the property conform to the requirements of ~~such section as affected by this act sub. (3)~~.

NOTE: Chapter 196, laws of 1975, outlined standards for outdoor advertising signs. Section 2 of chapter 196, laws of 1975, pertaining to existing signs which did not conform to the standards, was not incorporated into the statutes. This act incorporates section 2 of chapter 196, laws of 1975, into the statutes.

SECTION 25. Chapter 137, laws of 1977, section 2 is renumbered 158.09 (5m) (b) and amended to read:

158.09 (5m) (b) The ~~barbers~~ examining board may grant credit under ~~section 158.09 (5m) of the statutes, as created by this act~~ par. (a) to any person who is indentured as an apprentice or is attending an approved school or college teaching barbering, or a state penal institution offering barbering as a rehabilitation program, in this state on or after ~~the effective date of this act~~ November 8, 1977.

NOTE: Chapter 137, laws of 1977, specified prior training and experience which may be granted as credit to barber apprentice permit application. Section 2 of chapter 137, laws of 1977, pertaining to credit for time served as an apprentice, attendance at a school or participation in a rehabilitation program at a state penal institution, was not incorporated into the statutes. This act incorporates section 2 of chapter 137, laws of 1977, into the statutes.

SECTION 26. **Printing withdrawn statutes.** Sections 67.10 (6), 67.101, 806.155 and 891.43 of the statutes shall be printed in future editions of the statutes.
