

# State of Wisconsin



2009 Assembly Bill 857

Date of enactment: **May 18, 2010**  
Date of publication\*: **June 1, 2010**

## 2009 WISCONSIN ACT 378

AN ACT *to renumber and amend* 66.0825 (3) (h) and 196.491 (4) (c) 1.; *to amend* 30.025 (3m), 66.0303 (3) (a), 66.0825 (3) (e), 66.0825 (3) (f), 66.0825 (4) (a), 66.0825 (18), 196.491 (4) (c) 2., 196.491 (4) (c) 3., 706.09 (3) (a) and 893.33 (5); and *to create* 196.491 (4) (c) 1e. and 196.491 (4) (c) 1m. of the statutes; **relating to:** exemption for interstate natural gas companies from certain requirements regarding real estate transactions and court actions, creation and powers of municipal electric companies, and exemption from certificate of public convenience and necessity for certain electric transmission line projects.

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

**SECTION 1.** 30.025 (3m) of the statutes is amended to read:

30.025 (3m) ENVIRONMENTAL ASSESSMENTS FOR CERTAIN PROJECTS. The department is not required to prepare an environmental impact statement under s. 1.11 (2) (c) for the construction of a project that is specified in s. 196.491 (4) (c) 1. 1m. or 1s. and for which one or more permits are required, but shall prepare an environmental assessment regarding the construction if the department's rules require an environmental assessment.

**SECTION 2.** 66.0303 (3) (a) of the statutes is amended to read:

66.0303 (3) (a) Except as provided in par. (b) and s. 66.0825 (18), an agreement made under this section shall, prior to and as a condition precedent to taking effect, be submitted to the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state. The attorney general shall approve any agreement submitted under this paragraph unless the attorney general finds that it does not meet the conditions set forth in this section and details

in writing addressed to the concerned municipal governing bodies the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted under this paragraph within 90 days of its submission constitutes approval. The attorney general, upon submission of an agreement, shall transmit a copy of the agreement to the governor who shall consult with any state department or agency affected by the agreement. The governor shall forward to the attorney general any comments the governor may have concerning the agreement.

**SECTION 3.** 66.0825 (3) (e) of the statutes is amended to read:

66.0825 (3) (e) "Municipality" means a city, village, or town, or an electric utility, or combined utility, owned or operated by a city, village, or town.

**SECTION 4.** 66.0825 (3) (f) of the statutes is amended to read:

66.0825 (3) (f) "Person" means a natural person, a public agency, a cooperative, an unincorporated cooperative association, or a private corporation, limited liability company, association, firm, partnership, or business trust of any nature, organized and existing under the laws of

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

any state ~~or of~~ the United States, or any foreign nation or any subdivision of any foreign nation.

**SECTION 5.** 66.0825 (3) (h) of the statutes is renumbered 66.0825 (3) (h) (intro.) and amended to read:

66.0825 (3) (h) (intro.) “Public agency” means any of the following:

1. Any municipality ~~or other~~, municipal corporation, political subdivision, governmental unit, or public corporation, created under the laws of this state ~~or of~~, another state ~~or of~~, the United States, and any or any foreign nation or subdivision of any foreign nation.

2. Any state ~~or~~, the United States, and or any foreign nation or subdivision of any foreign nation.

3. Any person, board, or other body, that is declared by the laws of any state ~~or~~, the United States, or any foreign nation or any subdivision of any foreign nation to be a department, agency, or instrumentality of the state ~~or~~, the United States, or the foreign nation or subdivision.

**SECTION 6.** 66.0825 (4) (a) of the statutes is amended to read:

66.0825 (4) (a) Any combination of municipalities of the this state or of this state and other states which operates facilities for the generation, transmission or distribution of electric power and energy may, by contract with each other, establish a separate governmental entity to be known as a municipal electric company to be used by the contracting municipalities to effect joint development of electric energy resources or production, distribution and transmission of electric power and energy in whole or in part for the benefit of the contracting municipalities. The municipalities party to the contract may amend the contract as provided in the contract.

**SECTION 7.** 66.0825 (18) of the statutes is amended to read:

66.0825 (18) OTHER STATUTES. The powers granted under this section do not limit the powers of municipalities to enter into intergovernmental cooperation or contracts or to establish separate legal entities under ss. 66.0301 to 66.0311 or any other applicable law, or otherwise to carry out their powers under applicable statutory provisions, nor do the powers granted under this section limit the powers reserved to municipalities by state law. Section 66.0303 (3) does not apply to a company’s contracts or agreements.

**SECTION 8m.** 196.491 (4) (c) 1. of the statutes is renumbered 196.491 (4) (c) 1s. and amended to read:

196.491 (4) (c) 1s. A certificate under sub. (3) is not required for a ~~person~~ cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light, power, or water to its members to construct a high-voltage transmission line designed for operation at a nominal voltage of less than 345 kilovolts if all related construction activity takes place entirely within the area of an existing electric transmission line right-of-way.

**SECTION 9.** 196.491 (4) (c) 1e. of the statutes is created to read:

196.491 (4) (c) 1e. In this paragraph, “centerline” means a line drawn through the centerline of an electric transmission line along its length.

**SECTION 10m.** 196.491 (4) (c) 1m. of the statutes is created to read:

196.491 (4) (c) 1m. Except as provided in subd. 1s., a certificate under sub. (3) is not required for a person to construct a high-voltage transmission line designed for operation at a nominal voltage of less than 345 kilovolts if the centerline of the new high-voltage transmission line is located within 60 feet on either side of the centerline of an existing electric transmission line operating at a nominal voltage of 69 kilovolts or more and the applicant demonstrates all of the following:

a. That the project will not have undue adverse environmental impacts.

b. That the new high-voltage transmission line requires the acquisition in total of one-half mile or less of rights-of-way from landowners from which rights-of-way were not required to be acquired for the existing electric transmission line.

**SECTION 11.** 196.491 (4) (c) 2. of the statutes is amended to read:

196.491 (4) (c) 2. The commission is not required to prepare an environmental impact statement under under s. 1.11 (2) (c) for construction that is specified in subd. ~~4.~~ 1m. or 1s., but shall prepare an environmental assessment regarding the construction if an environmental assessment is required under the commission’s rules.

**SECTION 12.** 196.491 (4) (c) 3. of the statutes is amended to read:

196.491 (4) (c) 3. If construction or utilization of a high-voltage transmission line described in subd. ~~4.~~ 1m. or 1s. is precluded or inhibited by a local ordinance, the construction and utilization of the line may nevertheless proceed.

**SECTION 13.** 706.09 (3) (a) of the statutes is amended to read:

706.09 (3) (a) *Public service corporations, railroads, electric cooperatives, trustees, natural gas companies, governmental units.* While owned, occupied or used by any public service corporation, any railroad corporation as defined in s. 195.02 (1), any water carrier as defined in s. 195.02 (5), any electric cooperative organized and operating on a nonprofit basis under ch. 185, any natural gas company, as defined in 15 USC 717a (6), or any trustee or receiver of any such corporation ~~or~~, electric cooperative, or natural gas company, or any mortgagee or trust deed trustee or receiver thereof; nor any such interest while held by the United States, the state or any political subdivision or municipal corporation thereof; or

**SECTION 14.** 893.33 (5) of the statutes is amended to read:

893.33 (5) This section bars all claims to an interest in real property, whether rights based on marriage, remainders, reversions and reverter clauses in covenants

restricting the use of real estate, mortgage liens, old tax deeds, death and income or franchise tax liens, rights as heirs or under will, or any claim of any nature, however denominated, and whether such claims are asserted by a person sui juris or under disability, whether such person is within or without the state, and whether such person is natural or corporate, or private or governmental, unless within the 30-year period provided by sub. (2) there has been recorded in the office of the register of deeds some instrument expressly referring to the existence of the claim, or a notice pursuant to this section. This section does not apply to any action commenced or any defense or counterclaim asserted, by any person who is in possession of the real estate involved as owner at the time the action is commenced. This section does not apply to any real estate or interest in real estate while the record title to the real estate or interest in real estate remains in a railroad corporation, a public service corporation as defined

in s. 201.01, an electric cooperative organized and operating on a nonprofit basis under ch. 185, a natural gas company, as defined in 15 USC 717a (6), or any trustee or receiver of a railroad corporation, a public service corporation ~~or~~ an electric cooperative, or a natural gas company, or to claims or actions founded upon mortgages or trust deeds executed by that cooperative ~~or~~ corporation, company, or trustees or receivers of that cooperative ~~or~~ corporation, or company. This section also does not apply to real estate or an interest in real estate while the record title to the real estate or interest in real estate remains in the state or a political subdivision or municipal corporation of this state.

**SECTION 15. Initial applicability.**

(1) CLAIMS BARRED. The treatment of section 893.33 (5) of the statutes first applies to an action commenced or defense or counterclaim asserted on the effective date of this subsection.