State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-2814/1
KP:skw

2025 ASSEMBLY BILL 254

May 8, 2025 - Introduced by Representatives SUMMERFIELD, DOYLE, GREEN, MOSES, O'CONNOR, PIWOWARCZYK and STROUD, cosponsored by Senators JAMES, PFAFF, QUINN and SMITH. Referred to Committee on State Affairs.

AN ACT ***to renumber*** 182.71 (1) (a); ***to amend*** 182.71 (5) (b), 182.71 (5) (c), 182.71 (5) (f), 182.71 (6) (intro.), 182.71 (6) (a), 182.71 (6) (f), 182.71 (7) (c), 182.71 (7) (d) and 182.71 (8); ***to create*** 182.71 (1) (ag) of the statutes; **relating to:** regulation of the Chippewa and Flambeau Improvement Company.

Analysis by the Legislative Reference Bureau

Current law requires the Chippewa and Flambeau Improvement Company to produce as nearly as practicable a uniform flow of water on certain rivers by storing in reservoirs surplus water for discharge when the water supply is low, to improve the usefulness of the rivers and to reduce flood damage. To do so, the company may construct, maintain, or operate reservoirs, dams, and other improvements located along certain rivers and their tributaries, divert flood waters, and deepen or otherwise improve tributaries to improve navigation. If the company operates water reservoirs meeting certain requirements, the company may charge tolls to the operators of water power located on certain rivers or tributaries below the reservoir and benefitted by the reservoir. The Public Service Commission determines the amount of these tolls based on certain criteria and provides notice to each water power operator to be charged with tolls.

This bill makes the following changes regarding the Chippewa and Flambeau Improvement Company:

1. Allows tolls to be levied and used to pay for acquisition and improvement of

the company's reservoir system. Current law prohibits levying and using tolls for those purposes and prohibits tolls from exceeding the reasonable costs of operation and maintenance, including rent paid for leased properties, and a net annual return of 6 percent on capital invested in the company, including the par value of negotiable bonds issued by the company.

2. Allows tolls to be levied to recover the costs of taxes and depreciation and to provide a reasonable allowance for working capital.

3. Makes a water power operator that operates for at least two months of a six-month toll period subject to tolls for the entire six-month toll period. Under current law, such a water power operator is not subject to tolls for the entire six-month toll period.

4. Eliminates the restriction under current law that restricts negotiable interest-bearing bonds issued by the company from funding no more than half of the cost of acquiring dams, reservoirs, and rights.

5. Eliminates the prohibition under current law against the company from paying dividends to its stockholders while any of its bonds are outstanding, and also eliminates the current law requirement that if any company bonds are outstanding, subject to PSC approval, the earnings of the capital stock must be invested in a sinking fund to retire the outstanding bonds.

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

SECTION 1. 182.71 (1) (a) of the statutes is renumbered 182.71 (1) (ar).

SECTION 2. 182.71 (1) (ag) of the statutes is created to read:

182.71 **(1)** (ag) "Capital invested" means capital actually paid in and the par value of all negotiable bonds or other obligations issued by the company.

SECTION 3. 182.71 (5) (b) of the statutes is amended to read:

182.71 **(5)** (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 <u>taxes, depreciation, and</u> rent paid for leased properties ~~and~~, plus a net annual return on the ~~cash capital actually paid in on the stock subscriptions to the company and on the par value of all negotiable bonds issued by the company~~ capital invested and a reasonable allowance for working capital. The commission shall determine the net annual return.

SECTION 4. 182.71 (5) (c) of the statutes is amended to read:

182.71 **(5)** (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.

SECTION 5. 182.71 (5) (f) of the statutes is amended to read:

182.71 **(5)** (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.

SECTION 6. 182.71 (6) (intro.) of the statutes is amended to read:

182.71 **(6)** (intro.) On or before June 15 and December 15 of each year, the company shall provide the commission with a statement showing all of the following:

SECTION 7. 182.71 (6) (a) of the statutes is amended to read:

182.71 **(6)** (a) All expenditures made or necessary to be made for the 6-month period preceding the next July 1 or January 1 for maintenance ~~and~~<u>,</u> operation<u>, and depreciation</u> of the reservoir system.

SECTION 8. 182.71 (6) (f) of the statutes is amended to read:

182.71 **(6)** (f) A recommendation of the amount of tolls necessary to pay the cost of maintenance ~~and~~<u>,</u> operation ~~and~~<u>, taxes and depreciation,</u> a net return of 6 percent per year on the capital invested, ~~including the par value of the outstanding negotiable bonds~~ <u>and a reasonable allowance for working capital</u>, together with a recommendation as to the apportionment of the tolls against the owners or operators of improved powers under sub. (5)~~; and~~<u>.</u>

SECTION 9. 182.71 (7) (c) of the statutes is amended to read:

182.71 **(7)** (c) The company may, after certification from the commission according to the procedures under ss. 201.03 to 201.04, issue capital stock or negotiable bonds. The money received by the company upon account of capital stock or sale of its negotiable bonds shall be used to pay the original cost of purchase, construction<u>,</u> or improvement of the reservoir system. ~~All tolls collected 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 so that the capital stock and bonds of the corporation shall be maintained at par value at all times.~~

SECTION 10. 182.71 (7) (d) of the statutes is amended to read:

182.71 **(7)** (d) Subject to approval of the commission, the company may issue negotiable interest-bearing bonds to provide funds to acquire dams, reservoirs<u>,</u> and rights under this section. ~~The issue shall not exceed one-half of the total cost of the~~

~~improvement.~~ The company may secure payment by mortgage of its property. ~~If any bonds are issued and outstanding, all earnings of the capital stock shall be invested subject to the approval of the commission as a sinking fund for the purpose of retiring outstanding bonds, and while any bonds are outstanding, no dividends shall be paid to the stockholders of record.~~

SECTION 11. 182.71 (8) of the statutes is amended to read:

182.71 **(8)** This state 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, under this section, by paying therefor the ~~cash capital actually paid on the capital stock of~~ <u>total capital invested by</u> 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 goodwill of the business, such actual value to be determined by the commission.

(END)