

1971 Senate Bill 866

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CHAPTER 276, Laws of 1971

AN ACT to repeal 66.20 to 66.209 and 144.07 (4) (g); to amend 66.076 (1), (4), (6), (8) and (12), 144.05 (1), 144.07 (1) and (2) to (4) (b) and 280.02; and to create 66.076 (1m), 66.20 to 66.26, 67.04 (16) and 144.07 (4) (b) 3 of the statutes, relating to metropolitan sewerage districts and granting rule-making authority.

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

SECTION 1. STATEMENT OF POLICY. The legislature determines that in many urban and metropolitan areas of the state there are serious problems of water pollution, sewage disposal and water resource management which cannot effectively or economically be dealt with by existing municipalities under existing laws. The legislature therefore declares that for the protection of the public health, safety, comfort, convenience and welfare, for the preservation and best use of waters and other natural resources of the

state and for the efficient and economic collection, treatment and disposal of sewage in urban areas, it is necessary to provide for the creation and operation of metropolitan sewerage districts.

SECTION 2. 66.076 (1), (4), (6), (8) and (12) of the statutes are amended to read:

66.076 (1) In addition to all other methods provided by law any ~~town, village or city~~ municipality may construct, acquire or lease, extend or improve any plant and equipment within or without its corporate limits for the collection, treatment and disposal of sewage, including the lateral, main and intercepting sewers necessary in connection therewith, ~~or and any town, village or city~~ may arrange for such service to be furnished by a metropolitan sewerage district or joint sewerage system, ~~and provide payment.~~ Payment for the same or any part thereof may be provided from the general fund, from taxation, special assessments, sewerage service charges, or from the proceeds of either municipal bonds, mortgage bonds, mortgage certificates or from any combination of these enumerated methods of financing.

(4) The governing body of the municipality may establish sewerage service charges in such amount as to meet all or part of the requirements for the construction, reconstruction, improvement, extension, operation, maintenance, repair and depreciation of the sewerage system, and for the payment of all or part of the principal and interest of any indebtedness incurred thereof, including the replacement of funds advanced by or paid from the general fund of the municipality. Service charges made by a metropolitan sewerage district to any town, village or city shall in turn be levied by such town, village or city against the individual sewer system users within the corporate limits of such municipality, and the responsibility for collecting such charges and promptly remitting same to the metropolitan sewerage district shall lie with such municipality. Delinquent charges shall be collected in accordance with sub. (7).

(6) Any ~~town, village or city~~ municipality may pledge, assign or otherwise hypothecate the net earnings or profits derived or to be derived from a sewerage system to secure the payment of the costs of purchasing, constructing or otherwise acquiring a sewerage system or any part thereof, or for extending or improving such sewerage system, in the manner provided in ~~section s.~~ 66.066 (4) as the same has been and from time to time may be amended or recreated.

(8) The governing body of any ~~town, village or city~~ municipality, and the officials in charge of the management of the sewerage system as well as other officers of the municipality, shall be governed in the discharge of their powers and duties under this subsection by ~~the provisions of section s.~~ 66.069 or 66.071 (1) (e) as the same has been and from time to time may be amended or recreated, which are hereby made a part of this section so far as applicable and not inconsistent herewith.

(12) The authority hereby given shall be in addition to any power which ~~towns, villages or cities~~ municipalities now have with respect to sewerage or sewage disposal. Nothing in this section shall be construed as restricting or interfering with any powers and duties of the department of health and social services as prescribed by law.

SECTION 3. 66.076 (1m) of the statutes is created to read:

66.076 (1m) In this section, "municipality" means town, village, city or metropolitan sewerage district.

SECTION 4. 66.20 to 66.209 of the statutes, as affected by chapters 42, 164 and _____ (Senate Bill 8), laws of 1971, are repealed.

SECTION 5. 66.20 to 66.26 of the statutes are created to read:

66.20 DEFINITIONS. Unless the context requires otherwise, for the purposes of ss. 66.20 to 66.26, the following terms have the designated meanings:

- (1) "Commission" means a metropolitan sewerage district commission.
- (2) "Department" means the department of natural resources.
- (3) "District" means a metropolitan sewerage disposal district.
- (4) "Municipality" means town, village, city or county.

66.21 APPLICABILITY. Sections 66.20 to 66.26 shall apply to all areas of the state except those areas included in a metropolitan sewerage district created under s. 59.96.

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

- (a) The proposed name of the district;
- (b) A general description of the territory proposed to be included in the district;
- (c) A general description of the functions which are proposed to be performed by such district;
- (d) A general description of the existing facilities and works which are proposed to be placed under jurisdiction of the district; and
- (e) Such other facts and statements as are deemed by the governing body to be relevant to the standards of sub. (4) (a) to (c).

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

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

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

(b) Conduct the hearing to permit any person to present any oral or written pertinent and relevant information relating to the purposes and standards of ss. 66.20 to 66.26; and

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

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

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

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

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

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

(6) No resolution for the formation of a district encompassing the same or substantially the same territory shall be made by any municipality for one year following the issuance of an order denying the formation under ss. 66.20 to 66.26.

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

66.23 COMMISSIONERS. (1) A district formed under ss. 66.20 to 66.26 shall be governed by a 5-member commission appointed for staggered 5-year terms. Commissioners shall be appointed by the county board of the county in which the district is located. If the district contains territory of more than one county, the county boards of the counties not having the greatest population in the district shall appoint one commissioner each and the county board of the county having the greatest population in the district shall appoint the remainder. Of the initial appointments, the appointments for the shortest terms shall be made by the counties having the least amount of population, in reverse order of their population included in the district. Commissioners shall be residents of the district. Initial appointments shall be made no sooner than 60 days and no later than 90 days after issuance of the department order forming a district or after completion of any court proceedings challenging such order. A per diem compensation not to exceed \$30 may be paid to commissioners. Commissioners may be reimbursed for actual expenses incurred as commissioners in carrying out the work of the commission.

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

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

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

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

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

(7) A per diem compensation not to exceed \$30 may be paid to commissioners. Commissioners shall be reimbursed for actual expenses incurred as commissioners in carrying out the work of the commission.

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

(9) Chapter _____ (Senate Bill 866), laws of 1971, shall apply to every metropolitan sewerage district that had been operating, prior to the effective date of this subsection (1971), under ss. 66.20 to 66.209, 1969 stats. Commissioners for such districts who were in office on the effective date of this subsection (1971) shall continue to serve until their respective terms are completed. The county board of the county having the greatest population in the district shall appoint 2 additional members to each such commission no sooner than 60 days and no later than 90 days after the effective date of this subsection (1971). One such member shall have a 5-year term and one such member shall have a 4-year term. The county board of those counties having population within the district that did not appoint the preceding 2 members if any shall, each in turn according to their population in the district, appoint successors to each of the 3 commissioners who held office on the effective date of this subsection (1971), until their allotted number of appointments, as specified under sub. (1) is filled. The governor may adjust terms of the successors to the 3 original commissioners in order that the appointment schedules are consistent with s. 66.23.

(10) Sections 66.20 to 66.26 do not affect the continued validity of contracts and obligations previously entered into by a metropolitan sewerage district operating under sections 66.20 to 66.209, 1969 stats., prior to the effective date of this subsection (1971), nor validity of any such district.

66.24 POWERS AND DUTIES. (1) GENERAL. (a) Corporate status. The district shall be a municipal body corporate and shall be authorized in its name to contract and to be contracted with, and to sue and to be sued. The commission may employ persons or firms performing engineering, legal or other necessary services, require any employe to obtain and file with it an individual bond or fidelity insurance policy, and procure insurance. A commission may employ engineers or other employes of any municipality as its engineers, agents or employes.

(b) Plans. The commission shall prepare and by resolution adopt plans and standards of planning, design and operation for all projects and facilities which will be operated by the district or which affect the services to be provided by the district. Commissions may and are encouraged to contract with regional or area-wide planning agencies for research and planning services. The commission's plans shall be consistent with adopted plans of a regional planning commission or area-wide planning agency organized under s. 66.945.

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

(d) Rules. The commission may adopt rules for the supervision, protection, management and use of the systems and facilities operated by the district. Such rules may, in the interest of plan implementation, restrict or deny the provision of utility services to lands which are described in adopted master plans or development plans of a municipality or county as not being fit or appropriate for urban or suburban development. Rules of the district shall be adopted and enforced as provided by chapter 336, laws of 1957. Notwithstanding any other provision of law, such rules or any orders issued thereunder, may be enforced under s. 280.02 and the violation of any rule or any order lawfully promulgated by the commission is declared to be a public nuisance.

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

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

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

require all such municipalities to submit plans of existing systems and proposed extensions of local services or systems. The commission or its employes may enter upon the land in any municipality within the district for the purpose of making surveys or examinations.

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

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

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

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

(d) Bids. Whenever plans and specifications for any facilities have been completed and approved by the commission and by any other agency which must approve the plans and specifications, and the commission has determined to proceed with the work of the construction thereof, it shall advertise by a class 2 notice under ch. 985, for bids for the construction of the facilities. Contracts for the work shall be let to the lowest responsible bidder, or the agency may reject any and all bids and if in its discretion the

prices quoted are unreasonable, the bidders irresponsible or the bids informal, it may readvertise the work or any part of it. All contracts shall be protected by such bonds, penalties and conditions as the district shall require. The commission may itself do any part of any of the works.

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

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

(8) **SOLID WASTE MANAGEMENT.** The district may engage in solid waste management and shall for such purposes have all powers granted to county boards under s. 59.07 (135), except acquisition of land by eminent domain, if each county board having jurisdiction over areas to be served by the district has adopted a resolution requesting or approving the involvement of the district in solid waste management. County board approval shall not be required for the management by the district of such solid wastes as are contained within the sewage or storm water transmitted or treated by the district or as are produced as a by-product of sewerage treatment activities.

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

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

(c) Notice shall be given by the commission that the report and schedule is on file in their office and in the office of the

clerk of the town, village or city wherein the land is situated, and will so continue for a period of 10 days after the date of such notice; that on the date named therein, which shall not be more than 3 days after the expiration of said 10 days, the commission will be in session at their office, the location of which shall be specified in the notice, to hear all objections that may be made to the report.

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

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

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

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

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

(i) The owner of any parcel of real estate affected by the determination and assessments may, within 20 days after the date of such determination, appeal to the circuit court of the county in which his land is situated, and s. 66.60 (12) shall apply to and govern such appeal, however the notice therein required to be served upon the city clerk shall be served upon the district, and the bond therein provided for shall be approved by the commission and the duties therein devolving upon the city clerk shall be performed by the chairman of the commission.

(j) The commission may provide that the special assessment may be paid in annual instalments not more than 10 in number, and may, for the purpose of anticipating collection of the special assessments, and after said instalments have been determined, issue special improvement bonds payable only out of the special assessment, and s. 66.54 shall apply to and govern the instalment payments and the issuance of said bonds, except that the assessment notice shall be substantially in the following form:

INSTALMENT ASSESSMENT NOTICE

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvements) and that the amount of the special assessment therefor has been determined as to each parcel of real estate affected thereby, and a statement of the same is on file with the commission; that it is proposed to collect the same in ... instalments, as provided by s. 66.54, with interest thereon at ...% per annum; that all assessments will be collected in instalments, as above provided, except such assessments as the owners of the property shall, within 30 days from the date of this notice, file with the commission a statement in writing that they elect to pay in one instalment, in which case the amount of the instalment shall be placed upon the next ensuing tax roll.

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

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

(m) Section 66.60 (17) shall be applicable to assessments made under this section.

(n) The commission may provide for a deferred due date on the levy of the special assessment as to real estate which is in agricultural use or which is otherwise not immediately to receive actual service from the sewer or other facility for which the assessment is made. Such assessments shall be payable as soon as such lands receive actual service from the sewer or other facility. Any such special assessments shall be a lien against the property from the date of the levy. For the purpose of anticipating collection of special assessments for which the due date has been deferred, the commission may issue special improvement bonds payable only out of the special assessments. Section 66.54 shall apply to and govern the issuance of bonds, except that the assessment notice shall be substantially in the following form:

DEFERRED ASSESSMENT NOTICE

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

(2) **TAX LEVY.** The commission is authorized to levy a tax upon the taxable property in the district as equalized for state purposes for the purpose of carrying out and performing duties under ss. 66.20 to 66.26 but the amount of any such tax in excess of that required for maintenance and operation and for principal and interest on bonds shall not exceed, in any one year, one mill for each dollar of such assessed valuation of the taxable property in the district. The tax levy may be spread upon the respective real estate and personal property tax rolls of the city, village and town areas included in the district taxes, and shall not be included within any limitation on county or municipality taxes. Such moneys when collected shall be paid to the treasurer of such district.

(3) **SERVICE CHARGES.** (a) The commission may establish service charges in such amount as to meet all or part of the requirements for the construction, reconstruction, improvement, extension operation, maintenance, repair and depreciation of functions authorized by ss. 66.20 to 66.26, and for the payment of all

or part of the principal and interest of any indebtedness incurred thereof.

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

(4) **TEMPORARY BORROWING.** Any district, when in temporary need, is authorized to borrow money pursuant to the provisions and limitations applicable to cities under s. 67.12.

(5) **BORROWING; SHORT TERM.** The district may borrow money and issue its obligations therefor, bearing interest at the rate of not to exceed 8% per annum for a term not exceeding 5 years. At the time any such money is borrowed, and before the obligation therefor has been issued, the commission shall levy a tax by a resolution similar to that required in sub. (8).

(6) **BORROWING; LONG TERM.** The district may issue bonds for the construction and extension of intercepting and main sewers, including rights-of-way and appurtenances, the acquisition of a sewage disposal works, whether municipally owned or otherwise, the acquisition of a sewage disposal site and for the construction and improvement of sewage disposal works. The commission of any such district about to issue bonds shall adopt a resolution stating the amount of the bond, the purposes of their issue and any other matter.

(7) **BORROWING; RESOLUTION.** (a) Every such resolution shall be offered and read at a meeting of the commission, and shall be published, as a class 1 notice, under ch. 985, within the 30 days following such reading. In order to be effective, the resolution shall be passed at a meeting of the commission held after such publication.

(b) Such resolution shall be submitted to a vote of the electors of the district if, within 30 days after the recording thereof, a petition requesting the submission, signed by electors numbering at least 10% of the votes cast for governor in the district at the last general election is filed in the office of the commission. When any such petition is filed, the commission shall immediately notify the clerks of each town, city or village located, or having territory within the district, of the fact that the petition has been filed, calling for a special election upon the proposed bond issue. The special election shall be held upon the same day throughout the district and the secretary shall, in the notice, fix the date of the holding of the special election. Upon receipt of the notice the clerks of each town, village or city located within the district shall call a special election for the purpose of submitting the resolution for the proposed bond issue to the electors of the municipality for approval. If only a part of a city, town or village is located within the district, the clerk of such city, town or village shall call a special election to be held upon the date fixed by the secretary of the commission, for that portion of the town, city or village which is included within the district, and the electors at the special election may vote at a polling place or polling places, in an adjoining town, city or village which is wholly located within the district. The polling place or places shall be designated by the clerk in the notice of such special election, which notice of election for a part only of the municipality shall be posted in 3 public places in that part of the municipality lying within the district. The proceedings in connection with the special election shall be as provided in s. 67.05 (5). The votes shall be counted by the inspectors and a return made thereof to the county clerk of the county in which the office of the commission is located. The return shall be canvassed by the board of county canvassers and the result of such election determined and certified by

the board of county canvassers. The original certificate thereof shall be filed in the office of the county clerk and a copy certified by the county clerk forwarded by the clerk to the secretary of the commission. Such certificate shall be filed in the office of the commission and for this purpose ss. 7.23 and 7.51 to 7.60 shall control insofar as applicable.

(8) **BORROWING; TAX LEVY.** The commission shall at the time of, or after the adoption of said resolution, and before issuing any of the contemplated bonds, levy by resolution a direct annual tax sufficient in amounts to pay, and for the express purpose of paying the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity. The commission and the district shall be and continue without power to repeal such levy, or obstruct the collection of said tax until all such payments have been made or provided for.

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

(10) **BORROWING; INSTRUMENT.** Every bond so issued by a district shall be a negotiable instrument payable to bearer, or, in case of bonds which are registerable, to bearer or the registered owner, with interest coupons attached payable annually or semiannually. They shall be payable not later than the termination of 20 years immediately following the date of the bonds; shall bear interest at a rate not to exceed 8% per annum; shall specify the times and the place, or places, of payment of principal and interest; shall be numbered consecutively with the other bonds of the same issue which shall begin with number one and continue upward, or, if so directed by the commission, shall begin with any other number and continue upward; shall bear on its face a name indicative of the purpose specified therefor in the resolution; shall contain a statement of the value of all of the taxable property in the district according to the last preceding assessment thereof for state and county taxes, the aggregate amount of the existing bonded indebtedness of such district, that a direct annual irrepealable tax has been levied by the district sufficient to pay the interest when it falls due, and also to pay and discharge the principal at maturity; and may contain any other statement of fact not in conflict with the initial resolution. The entire issue may be composed of a single denomination, or 2 or more denominations.

(11) **BORROWING; SALE OF BONDS.** The bonds shall be executed in the name of the district by the secretary and president of the commission, and shall be sealed with the seal of the district, if it has a seal. The bonds may be executed with the facsimile signatures of one of such officers. The bonds shall be negotiated and sold, or otherwise disposed of, for not less than par and accrued interest, by the commission, and such negotiation and sale, or other disposition, may be effected by disposition of portions only of the entire issue when the purpose for which the bonds have been authorized does not require an immediate realization upon all of them.

(12) **EXEMPTION FROM LEVIES.** Lands designated as permanent open space, agricultural protection areas or other undeveloped areas not to be served by public sanitary sewer service in plans adopted by a regional planning commission or other area-wide planning agency organized under s. 66.945 and approved by the board of supervisors

of the county in which the lands are located shall not have property taxes, assessments or service charges levied against them by the district.

(13) APPLICATION OF OTHER LAWS. Section 66.076 shall apply to all districts now or hereafter organized and operating under ss. 66.20 to 66.26.

66.26 ADDITION OF TERRITORY. Territory not originally within a district may be added thereto in the following ways:

(1) Territory which becomes annexed for municipal purposes to a city or village that was included in its entirety within the original district shall be added to the district upon receipt by the commission of official notice from the city or village that the municipal annexation has occurred.

(2) Proceedings leading to the addition of other territory to a district may be initiated by petition from a municipal governing body or upon motion of the commission. Upon receipt of the petition or upon adoption of the motion, the commission shall hold a public hearing preceded by a class 2 notice under ch. 985. The commission may approve the annexation upon a determination that the standards of ss. 66.22 (4) (b) and (c) and 66.26 (3) are met. Approval actions by the commission under this section shall be subject to review under ch. 227.

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

SECTION 6. 67.04 (16) of the statutes is created to read:

67.04 (16) By any metropolitan sewerage district established under ss. 66.20 to 66.26 to acquire, develop, remodel, construct and equip land, buildings and facilities for the purposes of ss. 66.20 to 66.26.

SECTION 7. 144.05 (1) of the statutes, as affected by chapter 164, laws of 1971, is amended to read:

144.05 (1) (a) When any city or village or owner has constructed or contracts a sewage system complying with s. 144.04, the outflow or effluent from such system may be discharged into any stream or drain constructed pursuant to law, but no such outflow of untreated sewage or effluent from a primary or secondary treatment plant from a city, village, town, town sanitary district or metropolitan sewerage district in a county having a population of 240,000 or more, according to the latest U.S. bureau of census figures available including any special census of municipalities within the county, any part of which is located within a drainage basin which drains into a lake of more than 2 square miles and less than 16 square miles in area, shall be discharged directly into, or through any stream, or through any drain, into such a lake located within 18 miles of the system or plant of such city, village, town, town sanitary district or metropolitan sewerage district. All necessary construction of plant, system or drains for full compliance with this subsection in the discharge of untreated sewage or sewage effluent from all existing primary or secondary plants shall be completed by September 1, 1970, and the plans for any new system or plant shall include provisions for compliance with this subsection. The department may at any time order and require any owner of an existing plant to prepare and file with it, within a prescribed time, preliminary or final plans or both, for proposed construction to comply with this subsection.

(b) Any municipality, which, on the effective date of this section (1971), has an operating sewerage collection and treatment system and has an application for attachment to a metropolitan sewerage district pending in the county court, in such a county, any part of which is located within such a drainage basin and which is located within 10 miles of a metropolitan sewerage district on September 1, 1967, shall be added to such the metropolitan sewerage district upon application of the governing body of such the municipality as provided in s. 66.205 (1) 1969 stats., provided that if such petitioning municipality pays its fair share of the cost of attachment as determined by mutual agreement or a court of competent jurisdiction. All necessary construction of plant, system or drains for full compliance with this subsection in the discharge of untreated sewage or sewage effluent from all existing primary or secondary plants shall be completed by September 1, 1970, and the plans for any new system or plant shall include provisions for compliance with this subsection. The department may at any time order and require any owner of an existing plant to prepare and file with it, within a prescribed time, preliminary or final plans or both, for proposed construction to comply with this subsection.

(c) In lieu of the construction in compliance with the foregoing provision for diversion from such lakes, any owner of an existing plant, on or before September 1, 1967, or any owner of a new system or plant prior to construction of such new system or plant, may file with the department such plans for advanced treatment of effluent from primary or secondary treatment as in the judgment of the department will accomplish substantially the same results in eliminating nuisance conditions on such lake as would be accomplished by diversion of secondary sewage effluent from said lake (without at the same time creating other objectionable or damaging results), and such owner shall be exempt from the foregoing provisions of this subsection for diversion from such lakes upon approval of such plans and installation of advanced treatment facilities and procedures in compliance therewith, but nothing shall impair the authority of the department to require at any time preliminary or final plans, or both, for diversion construction.

(d) Any person violating this subsection or any order issued in furtherance of compliance therewith shall forfeit to the state not less than \$100 nor more than \$500 for each violation, failure or refusal. Each day of continued violation shall be is deemed a separate offense. No such penalty shall be invoked during the time that any petition for review of an order is pending under s. 144.56 until final disposition thereof by the courts, if judicial review is sought under ch. 227.

SECTION 8. 144.07 (1) and (2) to (4) (b) of the statutes are amended to read:

144.07 (1) The department of natural resources may require the sewerage system, or sewage or refuse disposal plant of any governmental unit including any town, village or city, to be so planned and constructed that it may be connected with that of any other town, village or city, and may, after hearing, upon due notice to the municipalities governmental units order the proper connections to be made or a group of governmental units including cities, villages, town sanitary districts or town utility districts may construct and operate a joint sewerage system under this statute without being so required by order of the department of natural resources but following hearing and approval of the department.

(2) When one municipality governmental unit renders service to another under this section, reasonable compensation shall be paid. The officials in charge of the system, of the municipality governmental unit furnishing the service shall determine the reasonable compensation and report to its clerk who shall, on or before August

1 of each year, certify a statement thereof to the clerk of the ~~municipality~~ governmental unit receiving the service. This clerk shall extend the amount shown in such statement as a charge on the tax roll, in the manner following: (a) where the service rendered is available to substantially all improved real estate in the ~~city, town or village member governmental unit~~ governmental unit receiving the same, the charges shall be placed upon the tax roll of such ~~city, town or village member governmental unit~~ governmental unit as a general tax; (b) where the service rendered is for the benefit of public highways in, or real estate owned or operated by, the ~~city, town or village member governmental unit~~ governmental unit receiving the same, the charges therefor shall be placed upon the tax roll of such ~~city, town or village member governmental unit~~ governmental unit as a general tax; (c) where the service rendered does not come under the provisions of (a) or (b) above, the charges therefor shall be placed upon the tax roll of such ~~city, town or village member governmental unit~~ governmental unit as a special tax upon each parcel of real estate benefited; and when collected it shall be paid to the treasurer of the ~~city, town or village member governmental unit~~ governmental unit rendering the service. Where the charges are to be extended on such tax roll under the provisions of (c) above, the clerk of the ~~city, town or village member governmental unit~~ governmental unit furnishing such service shall itemize his statement showing separately the amount charged to each parcel of real estate benefited; if, due to delay in determination, such charge cannot be extended on the tax roll of any particular year, it shall be extended as soon as possible.

(3) If the governing body of any ~~municipality~~ governmental unit ~~deems~~ deems the charge unreasonable, it may by resolution within 20 days after the filing of the report with its clerk,:

(a) Submit to arbitration by 3 reputable and experienced engineers, one chosen by each ~~municipality~~ governmental unit, and the 3rd by the other 2. If the engineers are unable to agree, the vote of 2 shall be the decision. They may affirm or modify the report, and shall submit their decision in writing to each ~~municipality~~ governmental unit within 30 days of their appointment unless the time be extended by agreement of the ~~municipalities~~ governmental units. The decision shall be binding. Election to so arbitrate shall be a waiver of right to proceed by action. Two-thirds of the expense of arbitration shall be paid by the ~~municipality~~ governmental unit requesting it, and the balance by the other.

(b) Institute a proceeding for judicial review in the manner provided in ch. 227, except that the place of appeal shall be the circuit court of the county of the ~~municipality~~ governmental unit furnishing the service.

(4) (a) Any ~~2 adjoining municipalities~~ 2 or more governmental units, including cities, villages, town sanitary districts or town utility districts not wishing to proceed under sub. (2) may jointly construct, operate and maintain a joint sewerage system, inclusive of the necessary intercepting sewers and sewerage treatment works. Such joint action by ~~two governmental units~~ two governmental units shall be carried out by a sewerage commission consisting of one member appointed by each of the governing bodies of such ~~municipalities~~ governmental units and a 3rd member to be selected by the 2 members so appointed, or in lieu thereof said sewerage commission may consist of 2 members appointed by the governing body of each ~~municipality~~ governmental unit and a 5th member to be selected by the 4 members so appointed or where more than two governmental units act to form the commission, the representation on the commission shall be in accordance with a resolution approved by the member governmental units.

(b) 1. Where such sewerage commission shall consist of 3 members, the members chosen by the 2 members first appointed shall serve for 2 years, while the members appointed by the governing bodies of the ~~2 municipalities~~ governmental units shall serve for

terms of 4 and 6 years, respectively, the length of term of each to be determined by lot. All subsequent appointments, except for unexpired terms, shall be for 6 years. All such members shall serve until their successors shall have been appointed and shall have qualified.

2. Where such sewerage commission shall consist of 5 members, the member chosen by the 4 members first appointed shall serve for one year, while the members appointed by the governing bodies of the 2 ~~municipalities~~ governmental units shall serve for terms of 2, 3, 4 and 5 years respectively, the length of terms of each to be determined by lot. All subsequent appointments, except for unexpired terms, shall be for 6 years. All such members shall serve until their successors shall have been appointed and shall have qualified.

SECTION 9. 144.07 (4) (b) 3 of the statutes is created to read:

144.07 (4) (b) 3. Where such sewerage commission representation shall be formed by approval of a resolution, the resolution shall state the method of appointing commissioners and the term of office of each commissioner.

SECTION 10. 144.07 (4) (c) to (f) of the statutes are amended to read:

144.07 (4) (c) The sewerage commissioners shall project, plan, construct and maintain in the district comprising the 2 ~~municipalities~~ member governmental units intercepting and other main sewers for the collection and transmission of house, industrial and other sewage to a site or sites for disposal selected by them, such sewers to be sufficient, in the judgment of the sewerage commissioners, to care for such sewage of the territory included in such district. The sewerage commissioners shall project, plan, construct and operate sewage disposal works at a site or sites selected by them which may be located within or outside of the territory included in the district. The sewerage commissioners may also project, plan, construct and maintain intercepting and other main sewers for the collection and disposal of storm water which shall be separate from the sanitary sewerage system. The sewerage commissioners may also project, plan, construct and operate solid waste disposal works at a site or sites selected by them which may be located within or outside of the territory included in the district or by contract with counties or municipalities which have solid waste disposal facilities. The sewerage commissioners may employ and fix compensation for engineers, assistants, clerks, employes and laborers, or do such other things as may be necessary for the due and proper execution of their duties. Such sewage disposal works may be used by the sewerage commissioners and by such ~~municipalities~~ governmental units for the disposal of garbage, refuse and rubbish.

(d) Such sewerage commission shall constitute a body corporate by the name of "(Insert name of ~~municipalities~~ governmental units or area) Sewerage Commission," by which in all proceedings it shall thereafter be known. It may purchase, take and hold real and personal property for its use and convey and dispose of the same. This grant of power shall be retroactive to September 13, 1935 for commissions formed prior to January 1, 1972. Except as provided in this subsection the sewerage commissioners shall have the power and proceed as a common council and board of public works in cities in carrying out the provisions of par. (c). All bond issues and appropriations made by said sewerage commission shall be subject to the approval of the governing bodies of the respective ~~municipalities~~ governmental units.

(e) Each such ~~municipality~~ governmental unit shall pay for its proportionate share of such sewerage system, including additions

thereto, and also its proportionate share of all operation and maintenance costs as may be determined by the sewerage commission. Each ~~municipality governmental unit~~ may borrow money and issue ~~municipal obligations revenue or general obligation bonds~~ therefor, for the acquisition, construction, erection, enlargement and extension of a joint sewage disposal plant or refuse or rubbish or solid waste disposal plant or system or any combination of plants provided under this section, and to purchase a site or sites for the same. Each ~~municipality governmental unit~~ may, if it so desires, proceed under s. 66.076 in financing its portion of the cost of the construction, operation and maintenance of the joint sewage disposal plant or plants provided for in this section, or system.

(f) ~~Either of such municipalities~~ Any such governmental unit being aggrieved by the determination of the sewerage commission on matters within its jurisdiction may appeal to the circuit court of the county in which such aggrieved ~~municipality governmental unit~~ is located as provided in sub. (3)(b).

SECTION 11. 144.07 (4) (g) of the statutes is repealed.

SECTION 12. 280.02 of the statutes is amended to read:

280.02 INJUNCTION AGAINST PUBLIC NUISANCE, TIME EXTENSION. An action to enjoin a public nuisance may be commenced and prosecuted in the name of the state, either by the attorney general on information obtained by the department of justice, or upon the relation of a private individual, sewerage commission created under ss. 66.20 to 66.26 or a county, having first obtained leave therefor from the court. An action to enjoin a public nuisance may be commenced and prosecuted by a city, village or town in its own name, and it is not necessary to obtain leave from the court to commence or prosecute such action. The same rule as to liability for costs shall govern as in other actions brought by the state. No stay of any order or judgment enjoining or abating, in any action under this section, may be had unless the appeal be taken within 5 days after notice of entry of such judgment or order or service of the injunction. Upon appeal and stay, the return to the supreme court shall be made immediately.
