

1977 Senate Bill 422

Date published: May 22, 1978

CHAPTER 382, Laws of 1977

AN ACT to renumber and amend 59.96 (9) (intro.) and (a); to amend 59.07 (52) (a) and 59.96 (8) (a) and (9) (c); and to create 59.964 of the statutes, relating to authorizing use of user charges to recover capital costs and operating expenses by a metropolitan sewerage commission in a county containing a city of the 1st class and by a sewerage commission of a city of the 1st class.

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

SECTION 1. 59.07 (52) (a) of the statutes is amended to read:

59.07 (52) (a) Provide for the transmission and disposal of sewage from any of the county buildings, and for such purpose shall after October 1, 1965, annually pay to the municipality in which ~~said the~~ buildings are situated for the transmission and disposal of sewage, such proportion of the expense thereof, as certified under s. 59.96, to any such municipality; such proportionate expense to be determined by the ratio which the amount of sewage contributed by any such buildings may bear to the total amount of sewage contributed by any such municipality to such system; but each municipality wherein county buildings are located, if payment is to be made, shall provide and furnish meters to determine the amount of sewage so contributed. This paragraph shall not apply to user charges billed to the county under s. 59.964.

SECTION 2. 59.96 (8) (a) and (9) (c) of the statutes are amended to read:

59.96 (8) (a) ~~Before~~ Except as provided under s. 59.964, before February 1 in each year the sewerage commission of ~~such a~~ such a city of the ~~first 1st~~ first 1st class shall estimate and by resolution determine what sums in their judgment will be required to meet the expenses and disbursements of the sewerage commission of ~~such the~~ such the city for the current fiscal year and shall include in such estimate and resolution as a part of the expense of the operation of such sewerage system all the expense of operation and of keeping in repair ~~such the~~ such the sewerage system and disposal plant, including ~~said the~~ said the main sewers, pumping and temporary disposal works and other plants, constructed by ~~said the~~ said the metropolitan sewerage commission, and shall estimate and report the proportion thereof that will be due from each city, town or village in ~~said the~~ said the drainage area in payment for the transmission and disposal of its sewage and for keeping in repair the intercepting sewers and disposal plant, including ~~said the~~ said the main sewers, pumping and temporary disposal works and other plants, constructed by ~~said the~~ said the metropolitan sewerage commission, and each city, town or village shall pay that proportion of the whole expense as the amount of sewage it contributes bears to the total amount of sewage disposed of by ~~said the~~ said the city, in such disposal plants.

(9) (c) The metropolitan sewerage commission and the sewerage commission of a city of the ~~first 1st~~ first 1st class acting jointly ~~are authorized and empowered may~~ may on behalf of the metropolitan sewerage district ~~to~~ contract with any city, town, village, sanitary district or metropolitan sewerage district organized ~~pursuant to~~ under ss. 66.20 to 66.26 in such county wholly or partly outside the boundaries of the metropolitan sewerage district, or wholly or partly outside of such county but in the same general drainage area as the ~~said~~ said metropolitan sewerage district for the transmission, treatment or disposal of sewage from any territory located in such city, town, village, sanitary district or metropolitan sewerage district so organized. Before any ~~such~~ such city, town, village, sanitary district or metropolitan sewerage district so organized shall be permitted to connect its sewers with or use any main sewers, such sewers shall be approved as provided by sub. (6) (o). The governing board of any such city, town, village, sanitary district or metropolitan sewerage district organized under ss. 66.20 to 66.26 by a vote of three-fourths of its members ~~is hereby authorized to~~ may enter into such contract and ~~to, except as provided under s. 59.964, may~~ may levy irrevocable taxes for the term covered by ~~such the~~ such the contract for the cost of such service as determined by ~~such the~~ such the contract upon the whole city, town, village, sanitary district or metropolitan sewerage district organized under ~~said sections~~ ss. 66.20 to 66.26, or upon such part thereof as the governing board determines by such vote to be benefited thereby.

SECTION 3. 59.96 (9) (intro.) and (a) of the statutes is renumbered 59.96 (9) (a) and (am) and amended to read:

59.96 (9) (a) ~~Such~~ Except as provided under s. 59.964, a sewerage commission of ~~such a~~ such a 1st class city of the ~~first class~~ shall, on or before the ~~first day of~~ first day of October 1 of each year, certify in writing to the clerks of the several cities, towns and villages having territory in ~~said the~~ said the drainage area, the total amount necessary to pay the expenses for the transmission and disposal of ~~said the~~ said the sewage for ~~said the~~ said the year and the share thereof that each ~~such~~ such city, town and village must pay after the report has been made ~~as herein provided~~ under sub. (8).

(am) Upon the receipt of ~~such the~~ such the report under par. (a) by each ~~such~~ such clerk, ~~he the~~ the clerk shall submit the ~~same~~ same report to the next regular or special meeting of the governing board of ~~said the~~ said the city, town or village and ~~such the~~ such the board shall, by resolution, levy and assess taxes sufficient to pay the same, against all of the taxable property included within the drainage area in ~~his said the~~ his said the town, city or village. Following ~~such the~~ such the assessment and levy, the clerk of each ~~such~~ such city, town or village shall place the same upon the tax roll to be collected as other taxes are collected upon all of the taxable property within ~~such the~~ such the drainage area, and ~~such moneys when~~ such moneys when collected shall be paid by the treasurer of each ~~such~~ such city, town or village, to the treasurer of ~~such the 1st class~~ such the 1st class city of the ~~1st class~~ to the credit of said sewerage commission of ~~such a 1st class~~ such a 1st class city of the ~~1st class~~. In lieu of the foregoing, any ~~such~~ such city, village or town may pay any charge certified ~~hereunder~~ under this subsection and recover the same in the rates charged users of the service. ~~Section under s. 66.076 (5) shall apply to any such charge.~~

SECTION 4. 59.964 of the statutes is created to read:

59.964 User charges for sewer improvement and operation. (1) **DECLARATION OF POLICY.** In the interpretation and application of this section, it is declared to be the policy of this state to authorize a metropolitan sewerage commission and a sewerage commission acting jointly to institute a system of user charges and capital cost recovery charges which is designed to recover all or part of the operating costs and capital costs to the extent required by federal or state law in order to obtain federal or state funding from a user of the sewerage system in the proportion to which the user's waste water discharge contributes to such costs. It is intended that the system be instituted to satisfy but not exceed eligibility requirements of public grants under Title II of the water pollution control act (33 U.S.C. 1251 et seq.) or under any other state or federal law and to satisfy but not exceed any other applicable state or federal law requiring such a system. Any inconsistency between this and any other provision of law shall be resolved in favor of the powers granted under this section so that the public policy stated in this subsection is effected, except that if any provision of this section conflicts with federal law, the federal law shall apply.

(2) **DEFINITIONS.** In this section:

(a) "Commission" means a metropolitan sewerage commission created under s. 59.96.

(b) "District" means a metropolitan sewerage district, described under s. 59.96 (5).

(bm) "Municipality" means any city, town or village located within the district and includes any city, town, village, sanitary district organized under ss. 60.302 to 60.305 or metropolitan sewerage district organized under ss. 66.20 to 66.26 if such city, town, village, sanitary district or metropolitan sewerage district has contracted with the commission and sewerage commission under s. 59.96 (9) (c).

(c) "Operating expenses" means the cost of operation and maintenance of a sewerage system and includes replacement costs.

(cm) "Replacement costs" means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the system to maintain the capacity and performance for which such system was designed and constructed.

(d) "Sewerage" means all constructions for collection, transportation, pumping, treatment and final disposition of sewage.

(e) "Sewerage commission" means a sewerage commission of a city of the 1st class, created under chapter 608, laws of 1913.

(f) "Sewerage service area" means the area of a district under s. 59.96 (5) and any area outside the district served by the district by contract under s. 59.96 (9) (c).

(g) "User" means any owner or occupant of any building which is located within the sewerage service area and which is furnished with sewerage service.

(3) **COLLECTION OF CHARGES AS USER FEES.** A sewerage commission and commission acting jointly may, as a complete or partial alternative to any other method of recovering capital costs and operating costs:

(a) Compute a uniform schedule of charges based on capital improvement costs to be recovered under this subsection from certain or all users to the extent required by federal or state law. In making such computation, the sewerage commission and commission acting jointly may consider any improvement, addition or rehabilitation of any physical structure, including sewer mains and treatment plants, to be an improvement, addition or rehabilitation to the entire sewerage system of the district.

(b) Adopt a uniform schedule of charges computed under par. (a). The sewerage commission and commission acting jointly may modify the schedule from time to time as they deem necessary.

(c) Submit the schedule adopted under par. (b) and every modification of the schedule to every municipality within the sewerage service area.

(d) Compute a uniform schedule of charges based on operating expenses to be recovered from users under this subsection.

(e) Adopt the uniform schedule of charges computed under par. (d). The sewerage commission and commission acting jointly may modify the schedule periodically.

(f) Submit the schedule adopted under par. (e) and every modification to every municipality within the sewerage service area as early in every calendar year as practicable.

(g) Bill periodically each municipality within the sewerage service area for the charges due under this subsection.

(h) Hold all payments received under par. (a) and the interest thereon in a segregated trust fund from which the sewerage commission and commission, acting jointly, shall pay refunds of public grants as required.

(i) Apply or credit the balance of the trust fund under par. (h) to defray the costs of future capital improvement projects.

(j) Indicate in clear and specific terms in their annual budget how the requirement under par. (i) has been implemented.

(4) FACTORS IN CHARGE SCHEDULES. In computing a charge schedule under sub. (3) (a), the sewerage commission and commission acting jointly shall require each user to pay the portion of the cost of construction of such treatment works which is allocable to the treatment of the wastes of such users to the extent attributable to the share of cost of construction required by federal or state law to be recovered. In computing a charge schedule under sub. (3) (d), the sewerage commission and commission acting jointly shall require each user to pay the proportion of total operating cost of the system incurred by the transmission and treatment of the user's wastewater. In determining such proportional costs, the sewerage commission and commission acting jointly shall consider such factors, without limitation because of enumeration, as strength, volume and delivery flow rate characteristics of each user's sewage.

(5) COLLECTION OF FEES BY MUNICIPALITIES. Every sanitary district organized under ss. 60.302 to 60.305 or metropolitan sewerage district organized under ss. 66.20 to 66.26 billed by a sewerage commission and commission acting jointly under sub. (3) shall in turn bill every city, town or village served by the sanitary district or metropolitan sewerage district. Every city, town and village billed by a sewerage commission and commission acting jointly under sub. (3) or by a sanitary district or metropolitan sewerage district under this subsection shall collect such charges from the individual sewer system users in the city, town or village and shall promptly remit the same to the district. The district may adopt rules for the establishment and administration of collection procedures and the settlement of such collections with the district as required by this section. No municipality may be required to pay any charge until the charge is collected by the municipality. Under such rules the district may provide for reimbursement of the municipality for the expense of collecting late payments of charges. The district or, if the district does not act, every municipality is empowered to levy a penalty for late payment by the user to the municipality. Any city, town or village may collect under s. 66.076 (7) any charge which is due under this section and which is delinquent. In the event that any municipality does not remit such charges to the district within 45 days of the billing date, the district may borrow moneys, repayable in not longer than 18 months, sufficient to offset such uncollected charges.

(6) REVIEW BY PUBLIC SERVICE COMMISSION. Upon complaint to the public service commission by any user that charges, rules and practices under this section are unreasonable or unjustly discriminatory, according to the standards and criteria which the commission and the sewerage commission are required to follow under state or federal law, including, without limitation because of enumeration, this section, ch. 147 and 33 U.S.C. 1251 et seq., or upon complaint of a holder of a mortgage bond or mortgage certificate or other evidence of debt, secured by a mortgage on the sewerage

system or any part thereof or pledge of the income of sewerage service charges, that charges are inadequate, the public service commission shall investigate the complaint. If sufficient cause therefor appears, the commission shall set the matter for a public hearing upon 10 days' notice to the complainant and the sewerage commission and commission. After the hearing, if the public service commission determines that the charges, rules or practices complained of are unreasonable or unjustly discriminatory, it shall determine and by order fix reasonable charges, rules and practices and shall make such other order respecting such complaint as may be just and reasonable. The proceedings under this subsection shall be governed, as far as applicable, by ss. 196.26 to 196.40. The sewerage commission and commission may submit the factual data, reports and analyses considered by them in establishing the charges, rules or practices subject to a complaint under this subsection. The public service commission shall give due weight to such data, reports and analyses. Judicial review of the determination of the public service commission may be had by any person aggrieved in the manner prescribed under ch. 227. If any user pays a charge and the public service commission or court, on appeal from the public service commission, finds such charge, after reviewing a complaint filed under this subsection, to be excessive, the commission which collected the charge shall refund to the user the excess plus the interest thereon computed at the rate then paid by the city of the 1st class for borrowing funds for a term of one year or less.

SECTION 5. Program responsibilities. In the list of program responsibilities specified for the public service commission in section 15.791 of the statutes, insert reference to section "59.964 (6)".
