

State of Wisconsin



1997 Assembly Bill 919

Date of enactment: April 27, 1998
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1997 WISCONSIN ACT 184

AN ACT *to renumber and amend* 196.01 (5); *to amend* 32.05 (intro.), 32.05 (1) (a), 32.07 (2), 70.11 (2), 71.26 (1) (b), 196.52 (3) (b) 1., 196.85 (3), 196.85 (4) (a) and 196.85 (5); and *to create* 66.0735, 77.54 (9a) (em), 196.01 (5) (b) and 196.85 (2e) of the statutes; **relating to:** permitting the creation of joint local water authorities and granting rule-making authority.

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

SECTION 1. 32.05 (intro.) of the statutes is amended to read:

32.05 Condemnation for sewers and transportation facilities. (intro.) In this section, "mass transit facility" includes, without limitation because of enumeration, exclusive or preferential bus lanes if those lanes are limited to abandoned railroad rights-of-way or existing expressways constructed before May 17, 1978, highway control devices, bus passenger loading areas and terminal facilities, including shelters, and fringe and corridor parking facilities to serve bus and other public mass transportation passengers, together with the acquisition, construction, reconstruction and maintenance of lands and facilities for the development, improvement and use of public mass transportation systems for the transportation of passengers. This section does not apply to town highways created or altered under ch. 80 except as to jury trials on appeals under ss. 80.24 and 80.25, nor to proceedings in 1st class cities under subch. II. In any city, condemnation for housing under ss. 66.40 to 66.404, or for urban renewal under s. 66.431, may proceed under this section or under s. 32.06 at the option of the condemning authority. Condemnation by a local exposition

district under subch. II of ch. 229 for any exposition center or exposition center facility may proceed under this section or under s. 32.06 at the option of the local exposition district. All other condemnation of property for public alleys, streets, highways, airports, mass transit facilities, or other transportation facilities, gas or leachate extraction systems to remedy environmental pollution from a solid waste disposal facility, or storm sewers and sanitary sewers or watercourses or water transmission and distribution facilities shall proceed as follows:

SECTION 2. 32.05 (1) (a) of the statutes is amended to read:

32.05 (1) (a) Except as provided under par. (b), the county board of supervisors (or the county highway committee when so authorized by the county board) of supervisors, city council, village board, town board, sewerage commission governing metropolitan sewerage district created by ss. 66.22 or 66.88 to 66.918, secretary of transportation, a commission created by contract under s. 66.30, a joint local water authority created by contract under s. 66.0375, housing authority under ss. 66.40 to 66.404, local exposition district created under subch. II of ch. 229, redevelopment authority under s. 66.431 or community development authority under s. 66.4325 shall make an order providing for the laying out, relocation and improvement of the public highway, street, alley, storm

* Section 991.11, WISCONSIN STATUTES 1995-96: 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].

and sanitary sewers, watercourses, water transmission and distribution facilities, mass transit facilities, airport, or other transportation facilities, gas or leachate extraction systems to remedy environmental pollution from a solid waste disposal facility, housing project, redevelopment project, exposition center or exposition center facilities which shall be known as the relocation order. This order shall include a map or plat showing the old and new locations and the lands and interests required. A copy of the order shall, within 20 days after its issue, be filed with the county clerk of the county wherein the lands are located.

SECTION 3. 32.07 (2) of the statutes is amended to read:

32.07 (2) The petitioner shall determine necessity if application is by the state or any commission, department, board or other branch of state government or by a city, village, town, county, school district, board, commission, public officer, commission created by contract under s. 66.30, joint local water authority under s. 66.0735, redevelopment authority created under s. 66.431, local exposition district created under subch. II of ch. 229, housing authority created under ss. 66.40 to 66.404 or for the right-of-way of a railroad up to 100 feet in width, for a telegraph, telephone or other electric line, for the right-of-way for a gas pipeline, main or service or for easements for the construction of any elevated structure or subway for railroad purposes.

SECTION 4. 66.0735 of the statutes is created to read:

66.0735 Joint local water authorities. (1) FINDING AND DECLARATION OF NECESSITY. It is declared that the operation of water utility systems by local governmental units of this state and the improvement of the systems through joint action in the production, treatment, storage, transmission, distribution, purchase, sale and exchange of water is in the public interest and a matter of statewide concern; that there is a need in order to ensure the stability and continued viability of the local systems to provide for a means by which local governmental units which operate the systems may act jointly, including development of coordinated water production, treatment, storage, transmission and distribution; and that, the necessity in the public interest for the provisions of this section is declared as a matter of legislative determination.

(2) DEFINITIONS. As used in this section, unless the context clearly indicates otherwise:

(a) "Authority" means a joint local water authority.

(b) "Bonds" means any bonds, interim certificates, notes, debentures or other obligations of an authority issued under this section.

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

(d) "Contracting party" means a local governmental unit in this state, or a federally recognized Indian tribe or band located in this state, that contracts to establish or to join an authority under this section.

(e) "Local governmental unit" means any city, village, town, county, town sanitary district, water utility district, or a public inland lake protection and rehabilitation district that has town sanitary district powers under s. 33.22 (3).

(f) "Local water authority" means a public corporation created by contract between 2 or more contracting parties.

(g) "Project" means any plant, works, system, facilities and real and personal property of any nature, together with all parts and appurtenances, that are used or useful in the production, treatment, storage, transmission, distribution, purchase, sale, or exchange of water. "Project" includes any interest in, or right to the capacity of, the plant, works, system, facilities or property. "Project" also includes the acquisition of water and the acquisition, construction or operation of facilities for producing, treating, storing, transmitting, or distributing water.

(3) CREATION OF AN AUTHORITY. (a) *Creation by contract.* Any local governmental unit in this state may contract with one or more local governmental units in this state or federally recognized Indian tribes or bands located in the state to establish a separate governmental entity, to be known as a joint local water authority, to jointly produce, treat, store, transmit, distribute, purchase, sell or exchange water, in whole or in part for the benefit of the contracting parties. The parties to the contract may amend the contract as provided in the contract.

(am) *Hearing requirements.* At least 30 days before becoming a contracting party by entering into a contract under this subsection, a local governmental unit shall hold a public hearing on the proposed contract. Notice of the hearing shall be published as a class 3 notice under ch. 985.

(b) *Filing requirements.* The parties entering into a contract under this subsection shall file a copy of the contract with the secretary of state. Upon receipt, the secretary of state shall record the contract and issue a certificate of incorporation stating the name of the authority and the date and fact of incorporation. The corporate existence of the authority begins upon issuance of the certificate.

(4) CONTRACT. A contract establishing an authority under sub. (3) shall specify all of the following:

(a) The name and purpose of the authority and the functions or services to be provided by the authority. The name shall refer to the authority as an agency, authority or district.

(b) The establishment and organization of a board of directors, in which all powers of the authority shall be vested. The contract may permit the board of directors to create an executive committee of the board of directors to which the board of directors may delegate any of its powers and duties, as specified by the board.

(c) The number of directors, the manner of their appointment, the terms of their office, their compensation,

if any, and the procedure for filling vacancies on the board of directors. The contracting parties shall appoint the members of the board of directors. Each contracting party shall be entitled to appoint an equal number of directors to the board of directors and may remove those directors at will.

(d) The weight given to each director's vote. Unless specifically provided otherwise, each director's vote shall be given equal weight. If the contract provides for differing weights to be given to each director's vote, the contract shall specify the manner of calculating the weight to be given to each director's vote.

(e) The manner of selection of the officers of the authority and their duties.

(f) The voting requirements for action by the board of directors. Unless specifically provided otherwise, a majority of the authorized directors constitutes a quorum of the board of directors. Unless specifically provided otherwise, a majority of the voting power present is necessary for any action to be taken by the board of directors.

(g) The duties of the board of directors, including the obligation to comply with this section and the laws of this state and with the terms of the contract under this subsection.

(h) The manner in which additional local governmental units and Indian tribes or bands located in the state may become parties to the contract by amendment.

(i) Provisions for the disposition, division or distribution of any property or assets of the authority on dissolution.

(j) The term of the contract and the method, if any, of terminating or rescinding the contract. The term of the contract may be a definite period or it may be until rescinded or terminated. The contract may not be rescinded or terminated so long as the authority has bonds outstanding, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security instrument securing the bonds.

(k) The manner in which the contracting parties shall resolve any disputes.

(5) POWERS. The authority may do all of the following:

(a) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects within the state, either solely or in conjunction with any other person.

(b) Act as agent in conducting an activity under paragraph (a).

(c) Buy or sell interest in, or rights to the capacity of, projects.

(d) Produce, treat, store, transmit, distribute, purchase, sell or exchange water in such amounts as the board of directors determines to be necessary and appropriate, subject to the limitations in this paragraph. An authority may not sell water at retail. An authority may

not sell any water to a person other than a contracting party, except pursuant to an emergency services contract. An authority may enter into an emergency services contract to sell water at wholesale to a person other than a contracting party in emergency situations, to be specified in the contract.

(e) Acquire, own, hold, use, lease as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service.

(f) Acquire property by condemnation using the procedure under s. 32.05 or 32.06 for the purposes set forth in this section.

(g) Enter upon any state, county or municipal street, road or alley, or any public highway for the purpose of installing, maintaining and operating the authority's facilities. Whenever the work is to be done in a state, county or municipal highway, street, road or alley, the public authority having control thereof shall be duly notified, and the highway, street, road or alley shall be restored to as good a condition as existed before the commencement of the work with all costs incident to the work to be borne by the authority.

(h) Install and maintain, without compensation to the state, any part of the authority's facilities 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. This paragraph does not relieve the authority of its obligation to obtain any permits or approvals otherwise required by law.

(i) Require contracting parties to purchase water from the authority and to connect any contracting party's distribution system with the authority's distribution system.

(j) Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the authority.

(k) Make, and from time to time amend and repeal, bylaws, rules and regulations to carry into effect the powers and purposes of the authority.

(L) Join an organization, if the board of directors determines that membership is beneficial to accomplishment of the authority's purposes.

(m) Sue and be sued in its own name.

(n) Have and use a corporate seal.

(o) Employ agents and employees.

(p) Incur debts, liabilities or obligations including the borrowing of money and the issuance of bonds, secured or unsecured, under sub. (9) (b).

(q) Invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the authority deems proper in accordance with s. 66.04 (2).

(r) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person.

(s) Exercise any other powers that the board of directors considers necessary and convenient to effectuate the purposes of the authority.

(6) PUBLIC CHARACTER. An authority is a political subdivision and body public and corporate of the state, exercising public powers, separate from the contracting parties. It has the duties, privileges, immunities, rights, liabilities and disabilities of a public body but does not have taxing power.

(7) PAYMENTS. (a) *Definition.* In this subsection, “purchase of water” includes any right to capacity or interest in any project.

(b) *Payments for commodities and services.* The contracting parties may agree to pay the authority funds for commodities to be procured or services to be rendered by the authority. The agreement may also provide for payments in the form of contributions to defray the cost of any purpose set forth in the contract under sub. (4) or the agreement and, subject to repayment by the authority, for advances for any purpose set forth in the contract under sub. (4) or the agreement.

(c) *Purchase agreements.* The contracting parties may enter into purchase agreements with the authority for the purchase of water. Purchase agreements may include the following provisions:

1. A provision requiring the purchaser to make payments in amounts that are sufficient to enable the authority to meet its expenses, interest and principal payments, whether at maturity or upon debt service fund redemption, for its bonds, reasonable reserves for debt service, operation and maintenance and renewals and replacements and the requirements of any rate covenant with respect to debt service coverage contained in any resolution, trust indenture or other security instrument.

2. A provision requiring the purchaser to pay for water regardless of whether water is delivered to the purchaser or whether any project contemplated by any such agreement is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of the project.

3. A provision requiring that, if one or more of the purchasers defaults in the payment of its obligations under a purchase agreement, the remaining purchasers shall accept and pay for, and shall be entitled proportionately to use or otherwise dispose of, the water that was to have been purchased by the defaulting purchaser.

4. A provision providing for a term for the purchase agreement. The term may be for the life of a project, for an indefinite period or for any other term.

5. Other terms and conditions that the authority and the purchasers determine.

(d) *Status of obligations under a purchase agreement.* To the extent that a purchase agreement with an au-

thority provides that the obligations of a contracting party under the purchase agreement are special obligations of the contracting party, payable solely from the revenues and other moneys derived by the contracting party from its water utility, these obligations are not debt of the contracting party and shall be treated as operation and maintenance expenses of a water utility.

(8) REGULATION. (a) An authority may not issue bonds for the construction of a project until the commission has certified that public convenience and necessity require the project. A project need not be certified as being required by public convenience and necessity if no bonds are issued for the project. The commission may promulgate rules regarding the making of certifications of public convenience and necessity under this subsection.

(b) The commission may refuse to certify a project under par. (a) if it appears that the completion of the project will do any of the following:

1. Substantially impair the efficiency of the service of a contracting party’s public utility.

2. Provide facilities unreasonably in excess of the probable future requirements.

3. When placed in operation, add to the cost of service without proportionately increasing the value or available quantity of service.

(c) The commission may issue a certificate for the construction of a project or for any part of the project if the project complies with the requirements of par. (b). The commission may attach to the issuance of its certificate terms and conditions that will ensure that the construction of the project meets the requirements of par. (b).

(9) BONDS; GENERALLY. (a) *Types of bonds.* An authority may issue the types of bonds it determines, subject only to any agreement with the holders of particular bonds. An authority may issue bonds, the principal and interest on which are payable exclusively from all or a portion of the revenues from one or more projects, or from one or more revenue producing contracts made by the authority or from its revenues generally. The authority may secure its bonds by a pledge of any grant, subsidy, or contribution from any contracting party, or by a pledge of any income or revenues, funds, or moneys of the authority from any source whatsoever.

(b) *Purposes of bonds.* An authority may issue bonds in such principal amounts as the authority deems necessary to provide sufficient funds to carry out any of its corporate purposes and powers, including the establishment or increase of reserves, interest accrued during construction of a project and for a period not exceeding one year after the completion of construction of a project, and the payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(c) *Liability on the bonds.* 1. Neither the members of the board of directors of an authority nor any person

executing the bonds is personally liable on the bonds by reason of the issuance of the bonds.

2. The bonds of an authority is not a debt of the contracting parties. Neither the contracting parties nor the state are liable for the payment of the bonds. The bonds of any authority shall be payable only out of funds or properties of the authority. The bonds of the authority shall state the restrictions contained in this paragraph on the face of the bonds.

(10) ISSUANCE OF BONDS. (a) Bonds of an authority shall be authorized by resolution of the board of directors. The bonds may be issued under such a resolution or under a trust indenture or other security instrument. The bonds may be issued in one or more series and may be in the form of coupon bonds or registered bonds under s. 67.09. The bonds shall bear the dates, mature at the times, bear interest at the rates, be in the denominations, have the rank or priority, be executed in the manner, be payable in the medium of payment, at the places, and be subject to the terms of redemption, with or without premium, as the resolution, trust indenture or other security instrument provides.

(b) The authority may sell the bonds at public or private sales at the price or prices determined by the authority.

(c) If an officer whose signatures appear on any bonds or coupons ceases to be an officer of the authority before the delivery of such obligations, the officer's signature shall, nevertheless, be valid for all purposes as if the officer had remained in office until delivery of the bonds.

(11) COVENANTS. An authority may do all of the following in connection with the issuance of bonds:

(a) Covenant as to the use of any or all of its property, real or personal.

(b) Redeem the bonds, or covenant for the redemption of the bonds, and provide the terms and conditions of the redemption.

(c) Covenant as to charge fees, rates, rents and charges sufficient to meet operating and maintenance expenses, renewals and replacements to a project, principal and debt service on bonds, creation and maintenance of any reserves required by a bond resolution, trust indenture or other security instrument and to provide for any margins or coverages over and above debt service on the bonds that the board of directors considers desirable for the marketability of the bonds.

(d) Covenant as to the events of default on the bonds and the terms and conditions upon which the bonds shall become or may be declared due before maturity, as to the terms and conditions upon which this declaration and its consequences may be waived, and as to the consequences of default and the remedies of bondholders.

(e) Covenant as to the mortgage or pledge of, or the grant of a security interest in, any real or personal property and all or any part of the revenues from any project or

any revenue producing contract made by the authority to secure the payment of bonds, subject to any agreements with the bondholders.

(f) Covenant as to the custody, collection, securing, investment and payment of any revenues, assets, moneys, funds or property with respect to which the authority may have any rights or interest.

(g) Covenant as to the purposes to which the proceeds from the sale of any bonds may be applied, and as to the pledge of such proceeds to secure the payment of the bonds.

(h) Covenant as to limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(i) Covenant as to the rank or priority of any bonds with respect to any lien or security.

(j) Covenant as to the procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds, the holders of which must consent thereto, and the manner in which such consent may be given.

(k) Covenant as to the custody and safekeeping of any of its properties or investments, the insurance to be carried on the property or investments and the use and disposition of insurance proceeds.

(L) Covenant as to the vesting in one or more trustees, within or outside the state, of those properties, rights, powers and duties in trust as the authority determines.

(m) Covenant as to the appointing of, and providing for the duties and obligations of, one or more paying agent or other fiduciaries within or outside the state.

(n) Make all other covenants and do any act that may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority, tend to make the bonds more marketable.

(o) Execute all instruments necessary or convenient in the exercise of the powers granted under this section or in the performance of covenants or duties, which may contain such covenants and provisions, as a purchaser of the bonds of the authority may reasonably require.

(12) REFUNDING BONDS. An authority may issue refunding bonds for the purpose of paying any of its bonds at or prior to maturity or upon acceleration or redemption. An authority may issue refunding bonds at such time prior to the maturity or redemption of the refunded bonds as the authority deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium on the bonds, any interest accrued or to accrue to the date of payment of the bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by the resolution, trust indenture or other

security instruments. To the extent applicable, refunding bonds are subject to subs. (10) and (11).

(13) BONDS ELIGIBLE FOR INVESTMENT. Public officers and agencies of the state, political subdivisions, insurance companies, trust companies, banks, savings banks, savings and loan associations, investment companies, personal representatives, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them, in bonds of the authority. The authority's bonds are securities that may properly and legally be deposited with and received by any officer or agency of the state or any political subdivision for any purpose for which the deposit of bonds or obligation of the state or any political subdivision is authorized by law.

(14) BUDGETS; RATES AND CHARGES; AUDIT. An authority shall adopt a calendar year as its fiscal year for accounting purposes. The board of directors of the authority shall annually prepare a budget for the authority. Rates and other charges received by the authority shall be used for the general expenses and capital expenditures of the authority and to pay interest, amortization, and retirement charges on bonds. The authority shall maintain an accounting system in accordance with generally accepted accounting principles and shall have its financial statements and debt covenants audited annually by an independent certified public accountant.

(15) COMPLIANCE WITH LOCAL ORDINANCES AND PERMIT CONDITIONS; DEVIATIONS. The authority shall comply with all local ordinances and permit conditions, unless the authority's board of directors determines that the ordinance or permit condition imposes unreasonable requirements, costs or delays on the authority's ability to carry out its responsibilities. If the board of directors determines that an ordinance or permit condition imposes unreasonable requirements, costs or delays, the board of directors shall pass a resolution specifying the ordinance or permit condition, indicating why it is unreasonable and how the authority intends to deviate from the ordinance or permit condition. If the board of directors passes a resolution under this subsection, the authority shall serve a copy of the resolution by certified mail upon the clerk of the county or municipality whose ordinance or permit condition is specified in the resolution. The copy shall be accompanied by a statement that the authority's determination is subject to review only for a period of 90 days from the date of the postmark. Any aggrieved person may commence an action in the circuit court of the county, or in the circuit court in which the municipality is located, to challenge the authority's determination. The action must be commenced within 90 days of the postmark of the copy served on the county or municipality. An action under this subsection is the only manner by which the authority's determination to deviate from an ordinance or permit condition may be challenged. The circuit court shall give the matter precedence over other

matters not accorded similar precedence by law. Failure to commence an action within 90 days from the date of the postmark bars the person from objecting to the authority's determination to deviate from the local ordinance or permit condition. If the determination of the authority either is not challenged or is upheld, the authority may deviate from the ordinance or permit condition in the manner specified in the resolution, except that this subsection does not authorize the authority to deviate from floodplain or shoreland zoning ordinances or permit conditions.

(16) OTHER STATUTES. This section does not limit the powers of local governmental units to enter into intergovernmental cooperation or contracts or to establish separate legal entities under s. 66.30 or any other applicable law, or otherwise to carry out their powers under applicable statutory provisions.

(17) CONSTRUCTION. This section shall be interpreted liberally to effect the purposes set forth in this section.

SECTION 5. 70.11 (2) of the statutes, as affected by 1997 Wisconsin Act 35, is amended to read:

70.11 (2) MUNICIPAL PROPERTY AND PROPERTY OF CERTAIN DISTRICTS, EXCEPTION. Property owned by any county, city, village, town, school district, technical college district, public inland lake protection and rehabilitation district, metropolitan sewerage district, municipal water district created under s. 198.22, joint local water authority created under s. 66.0735 or town sanitary district; lands belonging to cities of any other state used for public parks; land tax-deeded to any county or city before January 2; but any residence located upon property owned by the county for park purposes which is rented out by the county for a nonpark purpose shall not be exempt from taxation. Except as to land acquired under s. 59.84 (2) (d), this exemption shall not apply to land conveyed after August 17, 1961, to any such governmental unit or for its benefit while the grantor or others for his or her benefit are permitted to occupy the land or part thereof in consideration for the conveyance. Leasing the property exempt under this subsection, regardless of the lessee and the use of the leasehold income, does not render that property taxable.

SECTION 6. 71.26 (1) (b) of the statutes is amended to read:

71.26 (1) (b) *Political units.* Income received by the United States, the state and all counties, cities, villages, towns, school districts, technical college districts, joint local water authorities created under s. 66.0735 or other political units of this state.

SECTION 7. 77.54 (9a) (em) of the statutes is created to read:

77.54 (9a) (em) Any joint local water authority created under s. 66.0735.

SECTION 8. 196.01 (5) of the statutes is renumbered 196.01 (5) (a) (intro.) and is amended to read:

196.01 (5) (a) (intro.) "Public utility" means, except as provided in par. (b), every corporation, company, individual, association, their lessees, trustees or receivers appointed by any court, and every sanitary district, town, village or city that may own, operate, manage or control any toll bridge or all or any part of a plant or equipment, within the state, for the production, transmission, delivery or furnishing of heat, light, water or power either directly or indirectly to or for the public. "Public utility" ~~does not include a cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light, power or water to its members only.~~ "Public utility" includes any all of the following:

1. Any person engaged in the transmission or delivery of natural gas for compensation within this state by means of pipes or mains and any person, except a governmental unit, who furnishes services by means of a sewerage system either directly or indirectly to or for the public. "Public utility" includes a

2. A telecommunications utility. "Public utility" ~~does not include a holding company, as defined in s. 196.795 (1) (h), unless the holding company furnishes, directly to the public, telecommunications or sewer service, heat, light, water or power or, by means of pipes or mains, natural gas.~~ "Public utility" ~~does not include any company, as defined in s. 196.795 (1) (f), which owns, operates, manages or controls a telecommunications utility unless the company furnishes, directly to the public, telecommunications or sewer service, heat, light, water or power or, by means of pipes or mains, natural gas.~~ "Public utility" ~~does not include a cellular mobile radio telecommunications utility.~~

SECTION 9. 196.01 (5) (b) of the statutes is created to read:

196.01 (5) (b) "Public utility" does not include any of the following:

1. A cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light, power or water to its members only.
2. A holding company, as defined in s. 196.795 (1) (h), unless the holding company furnishes, directly to the public, telecommunications or sewer service, heat, light, water or power or, by means of pipes or mains, natural gas.
3. Any company, as defined in s. 196.795 (1) (f), which owns, operates, manages or controls a telecommunications utility unless the company furnishes, directly to the public, telecommunications or sewer service, heat, light, water or power or, by means of pipes or mains, natural gas.
4. A cellular mobile radio telecommunications utility.
5. A joint local water authority under s. 66.0735.

SECTION 10. 196.52 (3) (b) 1. of the statutes is amended to read:

196.52 (3) (b) 1. The requirement for written approval under par. (a) shall not apply to any contract or arrangement if the amount of consideration involved is not in excess of \$25,000 or 5% of the equity of the public utility, whichever is smaller, ~~and, The requirement under par. (a) also~~ does not apply to a telecommunications utility contract or arrangement or to contracts or arrangements with joint local water authorities under s. 66.0735. Regularly recurring payments under a general or continuing arrangement which aggregate a greater annual amount may not be broken down into a series of transactions to come within the exemption under this paragraph. Any transaction exempted under this paragraph shall be valid or effective without commission approval under this section.

SECTION 10m. 196.85 (2e) of the statutes is created to read:

196.85 (2e) Annually, the commission shall assess a joint local water authority for the commission's costs under s. 66.0735 (8) directly attributable to that joint local water authority. The commission shall bill the joint local water authority for the amount of the assessment.

SECTION 11m. 196.85 (3) of the statutes is amended to read:

196.85 (3) If any public utility, sewerage system, joint local water authority or power district is billed under sub. (1) ~~or~~ (2) ~~or (2e)~~ and fails to pay the bill within 30 days or fails to file objections to the bill with the commission, as provided in this subsection, the commission shall transmit to the state treasurer a certified copy of the bill, together with notice of failure to pay the bill, and on the same day the commission shall mail by registered mail to the public utility, sewerage system, joint local water authority or power district a copy of the notice which it has transmitted to the state treasurer. Within 10 days after the receipt of notice and certified copy of the bill the state treasurer shall levy the amount stated on the bill to be due, with interest, by distress and sale of any property, including stocks, securities, bank accounts, evidences of debt, and accounts receivable belonging to the delinquent public utility, sewerage system, joint local water authority or power district. The levy by distress and sale shall be governed by s. 74.10, 1985 stats., except that it shall be made by the state treasurer and that goods and chattels anywhere within the state may be levied upon.

SECTION 12m. 196.85 (4) (a) of the statutes is amended to read:

196.85 (4) (a) Within 30 days after the date of the mailing of any bill under subs. (1) ~~and~~ (2) ~~and (2e)~~ the public utility, sewerage system, joint local water authority or power district that has been billed may file with the commission objections setting out in detail the grounds upon which the objector regards the bill to be excessive, erroneous, unlawful or invalid. The commission, after notice to the objector, shall hold a hearing upon the objections, from 5 to 10 days after providing the notice. If after

the hearing the commission finds any part of the bill to be excessive, erroneous, unlawful or invalid it shall record its findings upon its minutes and transmit to the objector by registered mail an amended bill, in accordance with the findings. The amended bill shall have the same force and effect under this section as an original bill rendered under subs. (1) ~~and~~, (2) ~~and~~ (2e).

SECTION 13m. 196.85 (5) of the statutes is amended to read:

196.85 (5) No suit or proceeding may be maintained in any court to restrain or delay the collection or payment of any bill rendered under subs. (1) ~~and~~, (2) ~~and~~ (2e). Every public utility, sewerage system, joint local water au-

thority or power district that is billed shall pay the amount of the bill, and after payment may in the manner provided under this section, at any time within 2 years from the date the payment was made, sue the state to recover the amount paid plus interest from the date of payment, upon the ground that the assessment was excessive, erroneous, unlawful or invalid in whole or in part. If the court finds that any part of the bill for which payment was made was excessive, erroneous, unlawful or invalid, the state treasurer shall make a refund to the claimant as directed by the court. The refund shall be charged to the appropriations to the commission.
