

State of Wisconsin



1995 Assembly Bill 290

Date of enactment: **June 7, 1996**
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1995 WISCONSIN ACT 419

AN ACT *to amend* 66.069 (1) (a), 66.069 (1) (b), 66.071 (1) (e) and 66.60 (16) (a); and *to create* 66.069 (1) (am), 66.069 (1) (bn), 66.071 (1) (en) and 66.60 (16) (d) of the statutes; **relating to:** responsibility for unpaid utility bills and municipal utility collection practices.

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

SECTION 1. 66.069 (1) (a) of the statutes is amended to read:

66.069 (1) (a) The Except as provided in par. (am), the governing body of any town, village or city operating a public utility may, by ordinance, fix the initial rates and shall provide for this collection monthly, bimonthly or quarterly or semiannually in advance or otherwise. The rates shall be uniform for like service in all parts of the municipality and shall include the cost of fluorinating the water. The rates may also include standby charges to property not connected but for which such facilities have been made available. The charges shall be collected by the treasurer.

SECTION 2. 66.069 (1) (am) of the statutes is created to read:

66.069 (1) (am) If, on the effective date of this paragraph [revisor inserts date], it is the practice of a governing body of a town, village or city operating a public utility to collect utility service charges using a billing period other than one permitted under par. (a), the governing body may continue to collect utility service charges using that billing period.

SECTION 3. 66.069 (1) (b) of the statutes is amended to read:

66.069 (1) (b) On October 15 in each year notice shall be given to the owner or occupant of all lots or parcels of real estate to which water utility service has been furnished prior to October 1 by a water public utility operated by any town, city or village and payment for which is owing and in arrears at the time of giving such notice. The department in charge of the utility shall furnish the treasurer with a list of all such lots or parcels of real estate, and the notice shall be given by the treasurer, unless the governing body of the city, village or town shall authorize such notice to be given directly by the department. Such notice shall be in writing and shall state the amount of such arrears, including any penalty assessed pursuant to the rules of such utility; that unless the same is paid by November 1 thereafter a penalty of 10 ~~per cent~~ % of the amount of such arrears will be added thereto; and that unless such arrears, with any such added penalty, shall be paid by November 15 thereafter, the same will be levied as a tax against the lot or parcel of real estate to which water utility service was furnished and for which payment is delinquent as above specified. Such notice may be served by delivery to either such owner or occupant personally, or by letter addressed to such owner or occupant at the post-office address of such lot or parcel of real estate. On November 16 the officer or department issuing the notice shall certify and file with the clerk a list

* Section 991.11, WISCONSIN STATUTES 1993-94: 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].

of all lots or parcels of real estate, giving the legal description thereof, to the owners or occupants of which notice of arrears in payment were given as above specified and which arrears still remain unpaid, and stating the amount of such arrears together with the added penalty thereon as herein provided. Each such delinquent amount, including such penalty, shall thereupon become a lien upon the lot or parcel of real estate to which the ~~water~~ utility service was furnished and payment for which is delinquent, and the clerk shall insert the same as a tax against such lot or parcel of real estate. All proceedings in relation to the collection of general property taxes and to the return and sale of property for delinquent taxes shall apply to said tax if the same is not paid within the time required by law for payment of taxes upon real estate. Under this paragraph, if an arrearage is for utility service furnished and metered by the utility directly to a mobile home unit in a licensed mobile home park, the notice shall be given to the owner of the mobile home unit and the delinquent amount shall become a lien on the mobile home unit rather than a lien on the parcel of real estate on which the mobile home unit is located. A lien on a mobile home unit may be enforced using the procedures under s. 779.48 (2).

SECTION 4. 66.069 (1) (bn) of the statutes is created to read:

66.069 (1) (bn) 1. This paragraph applies only if all of the following conditions are met:

a. Water or electric utility service is provided to a rental dwelling unit.

am. The water or electric utility service is provided by a town sanitary district created under subch. IX of ch. 60 that has sewerage connections serving more than 700 service addresses, by a public inland lake protection and rehabilitation district under subch. IV of ch. 33 that has sewerage connections serving more than 700 service addresses or by a municipal public utility.

b. The owner of the rental dwelling unit notifies the utility in writing of the name and address of the owner.

c. The owner of the rental dwelling unit notifies the utility in writing of the name and address of the tenant who is responsible for payment of the utility charges.

d. If requested by the utility, the owner of the rental dwelling unit provides the utility with a copy of the rental or lease agreement in which the tenant assumes responsibility for the payment of the utility charges.

2. If this paragraph applies, a municipal public utility may use par. (b) to collect arrearages incurred after the owner of a rental dwelling unit has provided the utility with written notice under subd. 1. only if the municipality complies with at least one of the following:

a. In order to comply with this subd. 2. a., a municipal public utility shall send bills for water or electric service to a customer who is a tenant in the tenant's own name. Each time that a municipal public utility notifies a customer who is a tenant that charges for water or electric

service provided by the utility to the customer are past due for more than one billing cycle, the utility shall also serve a copy of the notice on the owner of the rental dwelling unit in the manner provided in s. 801.14 (2). If a customer who is a tenant vacates his or her rental dwelling unit, and the owner of the rental dwelling unit provides the municipal public utility, no later than 21 days after the date on which the tenant vacates the rental dwelling unit, with a written notice that contains a forwarding address for the tenant and the date that the tenant vacated the rental dwelling unit, the utility shall continue to send past-due notices to the customer at his or her forwarding address until the past-due charges are paid or until notice has been provided under par. (b).

b. In order to comply with this subd. 2. b., if a customer who is a tenant has charges for water or electric service provided by the utility that are past due, the municipal public utility shall serve notice of the past-due charges on the owner of the rental dwelling unit within 14 days of the date on which the tenant's charges became past due. The municipal public utility shall serve notice in the manner provided in s. 801.14 (2).

2m. A municipal public utility may demonstrate compliance with the notice requirements of subd. 2. a. or b. by providing evidence of having sent the notice by U.S. mail.

3. If this paragraph applies and a municipal public utility is permitted to collect arrearages under par. (b), the municipal public utility shall provide all notices under par. (b) to the owner of the property.

SECTION 5. 66.071 (1) (e) of the statutes is amended to read:

66.071 (1) (e) All water rates for water furnished to any building or premises, and the cost of repairing meters, service pipes, stops or stop boxes, shall be a lien on the lot, part of lot or parcel of land on which such building or premises shall be situated. If any water rates or bills for the repairing of meters, service pipes, stops or stop boxes remain unpaid on the first day of October, in any year, the same shall be certified to the city comptroller of such city on or before the first day of November next following, and shall be placed by the comptroller upon the tax roll and collected in the same manner as other taxes on real estate are collected in said city. The charge for water supplied by the city in all premises where meters are attached and connected, shall be at rates fixed by the commissioner of public works and for the quantity indicated by the meter. If in any case, the commissioner of public works shall determine that the quantity indicated by the meter is materially incorrect or if a meter has been off temporarily on account of repairs, the commissioner of public works shall determine in the best manner in the commissioner's power the quantity used, and such determination shall be conclusive. No water rate or rates duly assessed against any property shall be thereafter remitted or changed except by the council of such city. Under this

paragraph, if an unpaid charge or bill is for utility service furnished and metered by the waterworks directly to a mobile home unit in a licensed mobile home park, the delinquent amount shall become a lien on the mobile home unit rather than a lien on the parcel of real estate on which the mobile home unit is located. A lien on a mobile home unit may be enforced using the procedures under s. 779.48 (2).

SECTION 6. 66.071 (1) (en) of the statutes is created to read:

66.071 (1) (en) 1. This paragraph applies only if all of the following conditions are met:

a. The waterworks provides water service to a rental dwelling unit.

b. The owner of the rental dwelling unit notifies the commissioner of public works in writing of the name and address of the owner.

c. The owner of the rental dwelling unit notifies the commissioner of public works in writing of the name and address of the tenant who is responsible for payment of the utility charges.

d. If requested by the commissioner of public works, the owner of the rental dwelling unit provides the commissioner of public works with a copy of the rental or lease agreement in which the tenant assumes responsibility for the payment of the utility charges.

2. If this paragraph applies, the commissioner of public works may use par. (e) to collect unpaid charges and bills incurred after the owner of a rental dwelling unit has provided the commissioner of public works with written notice under subd. 1. only if the commissioner of public works complies with at least one of the following:

a. In order to comply with this subd. 2. a., the commissioner of public works shall send bills for water service to a customer who is a tenant in the tenant's own name. Each time that a commissioner of public works notifies a customer who is a tenant that charges for water service provided by the waterworks to the customer are past due for more than one billing cycle, the commissioner of public works shall also serve a copy of the notice on the owner of the rental dwelling unit in the manner provided in s. 801.14 (2). If a customer who is a tenant vacates his or her rental dwelling unit, and the owner of the rental dwelling unit provides the commissioner of public works, no later than 21 days after the date on which the tenant vacates the rental dwelling unit, with a sworn affidavit that contains a forwarding address for the tenant, the date that the tenant vacated the rental dwelling unit and a meter reading reflecting the service for which the tenant is responsible, the commissioner of public works shall continue to send past-due notices to the customer at his or her forwarding address until the past-due charges

are paid or until the past-due charges have been certified to the comptroller under par. (e).

b. In order to comply with this subd. 2. b., if a customer who is a tenant has charges for water service provided by the waterworks that are past due, the commissioner of public works shall serve notice of the past-due charges on the owner of the rental dwelling unit within 14 days of the date on which the tenant's charges became past due. The commissioner of public works shall serve notice in the manner provided in s. 801.14 (2).

2m. The commissioner of public works may demonstrate compliance with the notice requirements of subd. 2. a. or b. by providing evidence of having sent the notice by U.S. mail.

SECTION 7. 66.60 (16) (a) of the statutes is amended to read:

66.60 (16) (a) In addition to all other methods provided by law, special charges for current services rendered may be imposed by the governing body by allocating all or part of the cost to the property served. Such may include, without limitation because of enumeration, snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service storm water management, including construction of storm water management facilities, and tree care. The provisions for notice of such charge shall be optional with the governing body except that in the case of street tarring and the repair of sidewalks, curb or gutters, a class 1 notice, under ch. 985, shall be published at least 20 days before the hearing or proceeding 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. Such notice shall specify that on a certain date a hearing will be held by the governing body as to whether the service in question shall be performed at the cost of the property owner, at which hearing anyone interested will be heard.

SECTION 8. 66.60 (16) (d) of the statutes is created to read:

66.60 (16) (d) Except with respect to storm water management services, including construction of storm water management facilities, a municipal public utility may not use the procedures under this subsection to collect arrearages.

SECTION 7. Initial applicability.

(1) The treatment of sections 66.069 (1) (b) and (bn), 66.071 (1) (e) and (en) and 66.60 (16) (a) and (d) of the statutes first applies to charges for utility services provided on January 1, 1997.