



1995 ENGROSSED ASSEMBLY BILL 290

February 7, 1996 - Printed by direction of SENATE CHIEF CLERK.

1 **AN ACT to amend** 66.069 (1) (a), 66.069 (1) (b) and 66.60 (16) (a); and **to create**
2 66.069 (1) (am), 66.069 (1) (bn) and 66.60 (16) (d) of the statutes; **relating to:**
3 responsibility for unpaid utility bills and municipal utility collection practices.

Analysis by the Legislative Reference Bureau

Engrossment information:

The text of Engrossed 1995 Assembly Bill 290 consists of the following documents adopted in the assembly on January 24, 1996: Assembly Substitute Amendment 1, as affected by the following Assembly Amendments: Assembly Amendment 1, Assembly Amendment 2 (as affected by Assembly Amendment 1 thereto), Assembly Amendment 9 (as affected by Assembly Amendment 1 thereto) and Assembly Amendment 10. Assembly Amendments 3 and 7 to Assembly Substitute Amendment 1 affected material deleted by Assembly Amendment 9 to Assembly Substitute Amendment 1. As a result, Assembly Amendments 3 and 7 to Assembly Substitute Amendment 1 were not given effect. The text also includes the February 13, 1996 chief clerk's corrections to the substitute amendment.

Content of 1995 Engrossed Assembly Bill 290:

Current law permits a municipal water utility to collect arrearages for water service furnished to the owner or occupant of real property by treating the arrearage as a tax levy, creating a lien against the property served for the amount of the arrearage and adding the amount to the property tax bill. By cross-reference, sewerage service arrearages billed by a municipality or a sanitary district may also be treated in this way. The bill amends this provision to apply to all municipal utility service and provides that, in the case of a mobile home in a licensed mobile home park, the lien for an unpaid water bill is created against the mobile home unit instead of the lot on which the unit is located and is the responsibility of the mobile home unit owner rather than the lot owner.

Current law includes a procedure under which an owner of a rental unit would not be responsible for utility service provided to the unit after the tenant terminates

service, but current law is silent on owner responsibility for charges incurred by a tenant before service is terminated. Under the bill, a municipal public utility may treat tenant arrearages for unpaid water and electric utility bills as a tax levy against the property, if certain conditions are met. The tax levy procedure may be used to collect tenant utility arrearages only if the owner of the rental dwelling unit notifies the utility in writing of the name and address of the owner and of the tenant who is responsible for payment of the water and electric charges. In addition, the municipal public utility must provide notice of tenant delinquencies to the property owner in one of 2 ways. The municipal utility may serve notice of past-due charges on the owner of the rental dwelling unit within 14 days of the date on which the tenant's charges became due. Alternatively, the municipal utility may serve notice to the owner each time the utility provides notice to the tenant that the charges are past due for more than one billing cycle. If this option is chosen and the owner of the rental dwelling unit provides notice to the municipal utility of the tenant's forwarding address, the municipal utility is required to continue to send past-due notices to the tenant at the tenant's forwarding address. A utility may demonstrate compliance with these requirements to serve notice on the owner by providing evidence of having sent the notice by U.S. mail. In addition to these notice requirements, the municipal utility must comply with notice requirements under current law prior to placing a lien on the property and placing the arrearage on the property tax. These changes made by the bill first apply with respect to charges for utility services provided on October 1, 1996.

Current law contains a separate mechanism allowing municipalities to collect charges for other types of services provided with respect to a property, such as snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care. The cost of these services may be assessed as special charges and, if not paid, become a lien and are placed on the property tax roll as a delinquent tax. The bill eliminates sewerage services from this listing of services and prohibits municipal utilities from using this procedure to collect arrearages, except with respect to charges for storm water management.

Under current law, the governing body of a town, village or city operating a public utility may provide for collection of utility bills monthly, quarterly or semiannually. Under the bill, the collection of utility bills may be done monthly, bimonthly or quarterly, except that municipal utilities using a different billing period on the effective date of the bill may continue to use that billing period. The changes in the bill relating to permissible municipal billing periods take effect on January 1, 1998.

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

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

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

8 **SECTION 1m.** 66.069 (1) (am) of the statutes is created to read:

9 66.069 (1) (am) If, on the effective date of this paragraph [revisor inserts
10 date], it is the practice of a governing body of a town, village or city operating a public
11 utility to collect utility service charges using a billing period other than one
12 permitted under par. (a), the governing body may continue to collect utility service
13 charges using that billing period.

14 **SECTION 2.** 66.069 (1) (b) of the statutes is amended to read:

15 66.069 (1) (b) On October 15 in each year notice shall be given to the owner or
16 occupant of all lots or parcels of real estate to which ~~water~~ utility service has been
17 furnished prior to October 1 by a ~~water~~ public utility operated by any town, city or
18 village and payment for which is owing and in arrears at the time of giving such
19 notice. The department in charge of the utility shall furnish the treasurer with a list
20 of all such lots or parcels of real estate, and the notice shall be given by the treasurer,
21 unless the governing body of the city, village or town shall authorize such notice to
22 be given directly by the department. Such notice shall be in writing and shall state
23 the amount of such arrears, including any penalty assessed pursuant to the rules of
24 such utility; that unless the same is paid by November 1 thereafter a penalty of 10
25 ~~per cent~~ % of the amount of such arrears will be added thereto; and that unless such

1 arrears, with any such added penalty, shall be paid by November 15 thereafter, the
2 same will be levied as a tax against the lot or parcel of real estate to which ~~water~~
3 utility service was furnished and for which payment is delinquent as above specified.
4 Such notice may be served by delivery to either such owner or occupant personally,
5 or by letter addressed to such owner or occupant at the post-office address of such
6 lot or parcel of real estate. On November 16 the officer or department issuing the
7 notice shall certify and file with the clerk a list of all lots or parcels of real estate,
8 giving the legal description thereof, to the owners or occupants of which notice of
9 arrears in payment were given as above specified and which arrears still remain
10 unpaid, and stating the amount of such arrears together with the added penalty
11 thereon as herein provided. Each such delinquent amount, including such penalty,
12 shall thereupon become a lien upon the lot or parcel of real estate to which the ~~water~~
13 utility service was furnished and payment for which is delinquent, and the clerk
14 shall insert the same as a tax against such lot or parcel of real estate. All proceedings
15 in relation to the collection of general property taxes and to the return and sale of
16 property for delinquent taxes shall apply to said tax if the same is not paid within
17 the time required by law for payment of taxes upon real estate. Under this
18 paragraph, if an arrearage is for utility service furnished and metered by the utility
19 directly to a mobile home unit in a licensed mobile home park, the notice shall be
20 given to the owner of the mobile home unit and the delinquent amount shall become
21 a lien on the mobile home unit rather than a lien on the parcel of real estate on which
22 the mobile home unit is located. A lien on a mobile home unit may be enforced using
23 the procedures under s. 779.48 (2).

24 **SECTION 3.** 66.069 (1) (bn) of the statutes is created to read:

1 “66.069 (1) (bn) 1. This paragraph applies only if a municipal public utility
2 provides water or electric utility service to a rental dwelling unit and the owner of
3 the rental dwelling unit notifies the utility in writing of the name and address of the
4 owner, and of the name and address of the tenant who is responsible for payment of
5 the water and electric charges.

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

10 a. In order to comply with this subd. 2. a., a municipal public utility shall send
11 bills for water or electric service to a customer who is a tenant in the tenant's own
12 name. Each time that a municipal public utility notifies a customer who is a tenant
13 that charges for water or electric service provided by the utility to the customer are
14 past due for more than one billing cycle, the utility shall also serve a copy of the notice
15 on the owner of the rental dwelling unit in the manner provided in s. 801.14 (2). If
16 a customer who is a tenant vacates his or her rental dwelling unit, and the owner of
17 the rental dwelling unit provides the municipal public utility with a forwarding
18 address for the tenant, the utility shall continue to send past due notices to the
19 customer at his or her forwarding address.

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

1 2m. A municipal public utility may demonstrate compliance with the notice
2 requirements of subd. 2. a. or b. by providing evidence of having sent the notice by
3 U.S. mail.

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

7 **SECTION 4.** 66.60 (16) (a) of the statutes is amended to read:

8 66.60 (16) (a) In addition to all other methods provided by law, special charges
9 for current services rendered may be imposed by the governing body by allocating all
10 or part of the cost to the property served. Such may include, without limitation
11 because of enumeration, snow and ice removal, weed elimination, street sprinkling,
12 oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse
13 disposal, ~~sewer service~~ storm water management, including construction of storm
14 water management facilities, and tree care. The provisions for notice of such charge
15 shall be optional with the governing body except that in the case of street tarring and
16 the repair of sidewalks, curb or gutters, a class 1 notice, under ch. 985, shall be
17 published at least 20 days before the hearing or proceeding and a copy of the notice
18 shall be mailed at least 10 days before the hearing or proceeding to every interested
19 person whose post-office address is known, or can be ascertained with reasonable
20 diligence. Such notice shall specify that on a certain date a hearing will be held by
21 the governing body as to whether the service in question shall be performed at the
22 cost of the property owner, at which hearing anyone interested will be heard.

23 **SECTION 5.** 66.60 (16) (d) of the statutes is created to read:

