

CHAPTER 389

JOINT WATER UTILITIES

Referred to in §28F.1, 376.1, 427.1(28), 476.1, 716.6B

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389.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *“Joint water utility”* means a water utility established by two or more cities which owns or operates or proposes to finance the purchase or construction of all or part of a water supply system or the capacity or use of a water supply system pursuant to this chapter. A water supply system includes all land, easements, rights-of-way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the system.
2. *“Joint water utility board”* means the board of trustees established to operate a joint water utility.
3. *“Project”* means any works or facilities useful or necessary for the operation of a joint water utility.
91 Acts, ch 168, §2

389.2 Submission to voters.

A joint water utility may be established by two or more cities. A proposal to establish a joint water utility or to join an existing joint water utility may be submitted to the voters of a city by the city council upon its own motion, or upon receipt of a valid petition pursuant to section 362.4.

1. If the proposal is to establish a joint water utility, the proposal shall be submitted to the voters of each city proposing to establish the joint water utility. If a majority of the electorate in each of at least two cities approves the proposal, the cities approving the proposal may establish a joint water utility.
2. If the proposal is to join an existing joint water utility, the proposal must first be submitted to the joint water utility board for its approval. If the proposal is approved by the board, the proposal shall be submitted to the electorate of the city wishing to join. The proposal must receive a majority affirmative vote for passage.
91 Acts, ch 168, §3; 2010 Acts, ch 1061, §156

389.3 Powers and duties.

1. Upon adoption of a proposal to establish a joint water utility, the member cities shall establish a joint water utility board, consisting of at least five members. The mayors of the participating cities shall appoint the members, subject to the approval of the city councils, and at least one member shall be appointed from each participating city. The board shall be responsible for the planning and operation of a joint water utility, subject to the provisions of this chapter.
2. A joint water utility is a political subdivision and an instrumentality of municipal government. The statutory powers, duties, and limitations conferred upon a city utility apply to a joint water utility, except that title to property of a joint water utility may be held in the name of the joint water utility. The joint water utility board shall have all powers and authority of a city with respect to property which is held by the joint water utility. A joint water utility shall have the power of eminent domain, including the powers, duties, and limitations conferred upon a city in chapters 6A and 6B, for the purposes of constructing and operating a joint water utility.
3. The joint water utility board may purchase or construct all or part of any water supply system, and may finance the purchase or construction. The board may also contract to sell all or part of the joint water utility’s water supply, including any surplus, to a public or private

agency, or an entity created to carry out an agreement authorizing the joint exercise of any of the governmental powers enumerated in section 28F.1. The board may contract for the purchase, from any source, of all or a portion of the water supply requirements of the joint water facility. A contract may include provisions for the payment for capacity or output of a facility whether the facility is completed or operating, and for establishing the rights and obligations of the parties to the contract in the event of a default by any of the parties.

4. Payments made by a joint water utility pursuant to a contract shall constitute operating expenses of the joint water utility and shall be payable from the revenues derived from the operation of the joint water utility.

91 Acts, ch 168, §4; 2006 Acts, 1st Ex, ch 1001, §33, 49; 2010 Acts, ch 1061, §180

389.4 Financing.

A joint water utility may finance projects pursuant to chapter 28F. A city may finance its share of the cost of a project by the use of any method of financing available for city utilities, including but not limited to sections 384.23 through 384.36 and sections 384.80 through 384.94.

If a project is financed by a joint water utility, revenues derived from the project shall be deemed to be revenues of the joint water utility for all purposes including the issuance and payment of bonds secured by or payable from the revenues of the joint water utility. If a project is financed by member cities of a joint water utility, the revenues derived from the project shall be deemed to be revenues of the city or city utility for all purposes including the issuance and payment of bonds secured by or payable from the revenues of the city or city utility.

91 Acts, ch 168, §5

389.5 Construction.

This chapter being necessary for the public health, public safety, and general welfare, shall be liberally construed to effectuate its purposes. This chapter shall be construed as providing a separate and independent method for accomplishing its purposes, and shall take precedence over any contrary provision of the law.

91 Acts, ch 168, §6