

CHAPTER 452—H. F. No. 285.

An Act to authorize cities to acquire, construct, own, operate and lease public utilities, and to provide the means therefor.

Be it enacted by the Legislature of the State of Minnesota :

Public utilities defined.—Section 1. For the purposes of this act public utilities shall include street railways, telephones, water works, gas works, and electric light, heat or power works.

Cities may own, construct and acquire—how—petition—franchise.—Sec. 2. Every city of this state shall have the power to own, construct, acquire, purchase, maintain and operate any public utility within its corporate limits, and to lease the same, or any part of the same, to any company incorporated under the laws of this state, for the purpose of operating such public utility for any period not longer than twenty years, on such terms and conditions as the city council shall deem for the best interests of the public.

But no city shall proceed to operate any such public utility unless the proposition to operate shall first have been submitted to the electors of such city as a separate proposition and approved by three-fifths of those voting at such election. But any city now owning and operating its own water works, or other public utilities, may continue to own and operate the same in the same manner as is now authorized by law to own and operate the same, without submitting any proposition so to do to the electors thereof, and no lease thereof for any term shall be made until confirmed by the voters of such city, as herein provided. It shall be lawful for any such city to incorporate in any grant of the right to construct or operate any such public utility, a reservation of the right on the part of such city to take over all or part of such public utility, at or before the expiration of such grant upon such terms and conditions as may be provided in the grant; it shall also be lawful to provide in any such grant, that in case such reserved right be not exercised by the city and it shall grant a right to another company to operate such public utility in the streets and parts of streets occupied by its grantee under the former grant, the new grantee shall purchase and take over such public utility of the former grantee, upon the terms that the city might have taken it over, and it shall be lawful for the city council of any city to make the grant containing such a reservation for either the construc-

tion or operation, or both the construction and operation of such public utility, in, upon, and along any of the public streets, alleys or ways therein, or portions thereof, in which such public utility is already located at the time of making such grant, without the petition or consent of any of the owners of the land abutting or fronting upon any street, public alley or way, or portion thereof, covered by such grant.

No ordinance authorizing the lease for a longer period than five years, nor any ordinance renewing this lease, shall go into effect until the expiration of sixty days from and after its passage. And if, within said sixty days, there is filed with the clerk of such city a petition signed by ten per cent of the voters voting at the last preceding election for mayor, in such city, asking that such ordinance be submitted to a popular vote, then such ordinance shall not go into effect unless the question of the adoption of such ordinance shall first be submitted to the electors of such city and approved by a majority of those voting thereon.

The signatures of such petition need not all be appended to one paper, but each signer shall add to his signature, which shall be in his own handwriting, his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer, competent to administer oaths, that each signature to the paper appended is the signature of the person whose name purports to be thereto subscribed. The city council of any city shall decide by popular vote, as in this act provided, to operate any public utility. shall have the power to make all needful rules and regulations respecting the operation of same, including the power to fix and prescribe rates and charges, but such rates and charges shall be high enough to produce a revenue sufficient to bear all the costs of maintenance and operation, and to meet interest charges on all bonds or certificates issued on account of such public utility, and to permit the accumulation of a surplus or sinking fund that should be sufficient to meet all such outstanding bonds or certificates at maturity. For the purpose of acquiring any such public utility either by purchase or construction, as provided for in this act, or for the equipment of any such public utility, any city may borrow money and issue its negotiable bonds therefor, pledging the faith and credit of the city: but no such bonds shall be issued, unless the proposition to issue the same shall first have been submitted to the electors of such city, and ap-

proved by three-fifths of those voting thereon, nor in any amount in excess of the cost to the city of the property for which said bonds were issued, as ascertained as elsewhere provided in this act, and ten per cent of such cost in addition thereto. In exercise of the powers, or any of them, granted by this act, any such city shall have power to acquire, take and hold any and all franchise or franchises, and necessary property, real, personal or mixed, for the purposes specified in this act, either by purchase or condemnation in the manner provided by law for the taking and condemning of private property for public use, but in no valuation of public utility property for the purpose of any such acquisition, except of such public utilities now operating under such existing franchises shall any sum be included as the value of any earning power of such utility, or of the unexpired portion of any franchise granted by said city.

In case of the leasing by any city of any public utility owned by it, the rental reserved shall be based on both the actual value of the tangible property and of the franchise contained in such lease, and such rental shall not be less than a sufficient sum to meet the annual interest upon all outstanding bonds or certificates issued by said city on account of any such public utility.

Public utility certificates.—Sec. 3. In lieu of issuing bonds pledging the faith and credit of the city, as provided for in section 2 of this act, any city may issue and dispose of interest-bearing certificates, to be known as the "street railway certificates," "telephone certificates," "water works certificates," "gas works certificates," "electric light, heat or power works certificates," as the case may be, which shall, under no circumstances, be and become an obligation or liability of the same, or payable out of the general fund thereof, but shall be payable solely out of the specified portion of the revenues or income to be derived from such public utility property, for the acquisition of which they were issued. Such certificates shall not be issued and secured on any such public utility property in an amount in excess of the cost to the city of such property as hereinbefore provided, and ten per centum of such cost in addition thereto. In order to secure the payment of such public utility certificates, and the interest thereon, the city may convey by way of mortgage, or deed of trust, any or all of the property thus acquired or to be acquired through the issue thereof; which mortgage or deed of trust shall be executed in such a man-

ner as directed by the city council and acknowledged and recorded in the manner provided by law for the acknowledgment and recording of mortgages of real estate, and may contain such conditions and provisions not in conflict with the provisions of this act, as may be deemed necessary to fully secure the payment of the certificates described therein. Any such mortgage or deed of trust may carry the grant of a privilege or right to maintain and operate the property covered thereby, for a period not exceeding twenty (20) years from and after the date such property may come in the possession of any person or corporation as a result of foreclosure proceedings; which privilege or right may fix the rates which the person or corporation securing the same as a result of the foreclosure proceedings shall be entitled to charge in the operation of said property, for a period not exceeding twenty (20) years. Whenever, and as often as default shall be made in the payment of such certificate issued or secured by mortgage or deed of trust, as aforesaid, or in the payment of the interest thereon when due, and any such default shall have continued for the space of twelve months after notice thereof has been given to the mayor and financial officer of the city issuing such certificates, it shall be lawful for any such mortgagee or trustee, upon the request of the holder or holders of a majority in amount of the certificates issued and outstanding under such mortgage or deed of trust, to declare the whole of the principal of all such certificates as may be outstanding, to be at once due and payable, and to proceed to foreclose such mortgage or deed of trust in any court of competent jurisdiction. At a foreclosure sale, the mortgagee or the holders of such certificates may become the purchaser or purchasers and the rights and privileges sold, if he or they be the highest bidders. Any public utility acquired under any such foreclosure shall be subject to regulation by the corporate authorities of the city to the same extent as if the right to construct, maintain and operate such property had been acquired through a direct grant without the intervention of foreclosure proceedings; *provided, however,* that no such public utility certificates or mortgage shall ever be issued by any city under the provisions of this act, unless and until the question of the adoption of the ordinance of the city council making provision of the issue thereof shall have first been submitted to a popular vote and approved by a majority of the qualified voters of the city voting upon such question.

Records—report.—Sec. 4. Every such city owning or owning and operating any such public utility shall keep the books of account for such public utility distinct from other city accounts, and in such manner as to show the true and complete financial results of such city ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to such city of such public utilities owned; all cost of maintenance, extension and improvement; all operating expenses of every description, in case of such city operation; the amount set aside for sinking fund purposes. The city council shall cause to be printed annually, for public distribution, a report showing the financial results of such city ownership, or ownership and operation.

Special election.—Sec. 5. This act shall not be in force in any city until the question of its adoption in such city shall first have been submitted to the electors of such city at the general or city election or at a special election called for that purpose, and is approved by the affirmative vote of three-fifths of those voting at such election. The city council of any such city named, by ordinance, direct that the question of the adoption of this act in such city be submitted to popular vote at any general or city election called for that purpose in and for the entire city, coming not sooner than thirty days from and after the passage of the ordinance. If the city council in any city shall incorporate in any grant to a private company of the right to construct or operate any public utility, a provision reserving to such city the right to take over such property at or before the expiration of the grant, in case the people of such city shall later adopt this act, as herein provided, such provision shall be as valid and effective for all purposes, in case such city shall later adopt this act as herein provided, as if the said provision were made a part of this grant, after the adoption of this act by said city.

Canvass of vote.—Sec. 6. In all cases provided in this act for the submission of questions or propositions to popular vote the city council shall pass an ordinance stating the substance of the proposition or question to be voted upon and designating the election at which such question or proposition is to be submitted, which may be at any general or city election or special election called for that purpose: *provided*, that such election shall not be held sooner than thirty days from and after the passage of said ordinance.

Notice of special election which shall be held in any city under this act and all proceedings respecting the same shall conform as nearly as may be to the law governing other special elections therein.

And all ballots as to any proposition or question submitted pursuant to the terms of this act shall be delivered to the election judges, shall be deposited in a separate box and shall be counted, canvassed and returned, as is provided by law in case of other ballots, and the tally sheets and return blanks shall contain suitable columns and spaces therefor.

Time limit.—Sec. 7. Nothing in this act contained shall be construed to authorize any city to make any grants or to lease any public utility for a period exceeding twenty (20) years from the making of such grant or lease; *provided*, that when a right to maintain and operate a public utility for a period not exceeding twenty (20) years is contained in a mortgage or deed of trust to secure any of the certificates hereinbefore mentioned, (and no such right shall be implied), such period shall commence as provided in section 3 of this act.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved April 25, 1907.

CHAPTER 453—H. F. No. 438.

An Act to tax sleeping car companies.

Be it enacted by the Legislature of the State of Minnesota:

Four per cent tax.—Section 1. Every sleeping car company, as defined in section 1028, Revised Laws, 1905, whose cars are run on any railway operated within this state, or partly within this state, may, during the year 1907 and annually thereafter pay into the treasury of this state in lieu of all taxes and assessments upon all property within this state, used by such sleeping car company, a sum of money equal to four (4) per cent of the gross earnings derived from the operation of such sleeping cars, tourist cars and parlor cars within this state. The term gross earnings as used in this section is hereby declared and shall be construed to mean all earnings