

CHAPTER 21—S. F. No. 486.

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An Act to authorize cities in this state having a population of not less than ten thousand nor more than twenty thousand inhabitants to create a board of water commissioners, prescribing the powers and duties of such boards, providing for the collection of a frontage tax therein and for the issuance of certificates of indebtedness by such boards.

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

Board of water commissioners; how created.—Section 1. That each city in the State of Minnesota, now or hereafter having not less than ten thousand and not more than twenty thousand inhabitants, and now or hereafter owning or operating a system of water works, is hereby authorized and empowered to create a board of water commissioners who shall have the control and management of such system of water works and shall be known as and styled the Board of Water Commissioners of such city. Such boards shall be created by an ordinance of such city and shall be appointed as herein provided and shall have all of the powers and duties hereinafter prescribed. No such city shall after creating such board thereafter annul, vacate or dissolve the same.

Board may sue and be sued.—Sec. 2. Every such board may sue and be sued, plead and be impleaded, answer and be answered unto, appear and prosecute unto final judgment in any court or elsewhere in its own name, and may have a corporate seal and alter the same at pleasure. A majority of said board shall constitute a quorum and all contracts and engagements, acts and doings of said board within the scope of its duty and authority shall be obligatory upon and as binding in law as if done by the common council or other governing body of said city.

Membership; how constituted.—Sec. 3. Said board shall consist of three members who shall be voters of such city and always appointed by its mayor. When first created one member of said board shall be appointed for the term of one year, one for the term of two years and one for the term of three years. Thereafter appointments, except appointments to fill vacancies, shall be for the term of three years. Vacancies in said board from any cause other than expiration of term of office shall be filled by appointment for the unexpired term. Each member of said board shall serve without compensation, shall qualify by subscribing to and filing with the clerk of such city an oath that he will faithfully and impartially perform the duties of his office, and his term of office shall continue until his successor is appointed and qualified.

President; how elected.—Sec. 4. When first created and in each year after the expiration of the term of any member thereof and the qualifying of his successor, said board shall elect one of its members president of the board and one of its members vice president of the board.

Secretary; how elected—Bond—Duties.—Sec. 5. Said board shall elect some suitable person as its secretary who shall hold office during the pleasure of said board and who shall, before entering upon his duties, furnish a bond running to said city and with such sureties and in such amount as shall be fixed by said board, conditioned that he will faithfully perform all the duties of his office as required by law and promptly pay over to the treasurer of said board all moneys and deliver up all property belonging to said municipality that he may have in his possession or for which he is or may be accountable. It is made the duty of said secretary under the direction of said board to collect and receive and promptly pay to the treasurer of said board all moneys due on account of the operation of said water works or any transaction of said board. He shall keep an accurate record in books kept for that purpose, of all the proceedings and business transactions of said board; he shall also keep a set of books which shall contain a full and complete statement of the condition and operation of said water works and of all moneys received and paid out on account thereof for any cause whatsoever, together with an accurate account of the expenses of said board and of said system, and of the income thereof, and in such manner as to show at all times the exact financial condition of said board, and he shall make a detailed statement of the same to said board semi-annually at such time as said board shall fix. He shall perform such other and further duties as said board may from time to time require and shall receive such salary or compensation as shall be fixed by said board.

City treasurer to be treasurer of board.—Sec. 6. The treasurer of such city shall be ex officio the treasurer of said board and it shall be his duty to receive all moneys which may be paid to said secretary on account of said board of water commissioners from any source whatever. All moneys so received shall be kept by said treasurer in a fund known as the "Water Works Fund" and separate from all other moneys of said city and shall be paid out only upon the orders of said board signed by the president and countersigned by the secretary thereof. He shall report semi-annually to said board at such times as it may determine and at such other times as said board may require in detail showing the amounts paid into said fund, the sums paid therefrom and the sums remaining to the credit of said fund.

Said city treasurer shall receive in addition to the salary or compensation otherwise fixed by law such further sum as said board may determine for services performed by him pursuant to this act.

Powers of board.—Sec. 7. Said board shall have full, absolute and exclusive control of and power over the water works and water plant of such city and all parts, attachments and appurtenances thereto and all apparatus and material of every kind and description used or to be used in operating said plant and owned or controlled by such city. It shall have the power to operate the same and to extend, add to, change or modify the same, and to do any and all things in and about the same which it may deem necessary for the proper and economical operation thereof; *provided*, it shall not have the right to sell, lease, rent or in any way dispose of or incumber the said property. It shall have authority to buy all material and employ all help necessary to make any extension or addition to or change or modification of said plant, or it may contract to extend, add to, change or modify said plant or any part thereof. Said board shall also have authority to buy all necessary fuel and supplies, to appoint and remove at pleasure such employees and officers as in its judgment may be necessary and to fix their salaries and compensation from time to time. And in case any person holding any office of said city or employed thereby shall be employed or appointed by said board, said board shall fix the compensation or salary of such person for all services or duties performed by such person for said board. Said board shall also have power to make by-laws and regulations, not inconsistent with law, for the government of its officers and employees, for the control and management of said plant and the several portions thereof and for the regulations and transactions of the business entrusted to them. It shall have power to require payment in advance for water or service furnished by it in or upon any building, place or premises, and in case prompt payment shall not be made it may shut off the water from such building, place or premises and shall not be compelled to again supply such building, place or premises with water until said arrears, with interest thereon together with cost of turning said water off and on as fixed by said board, shall be fully paid. It shall also have power to fix and determine conditions and requirements for making or continuing connections with said plant, to make regulations governing the use of water furnished therefrom and to prevent waste thereof and in case of the default, refusal or neglect of any patron in the due observance of any such requirement or condition or regulations to discontinue the furnishing water to any one so offending.

Fixing rates and regulating distribution.—Sec. 8. Said

board shall control and regulate the distribution of water from said system of water works in all places and for all purposes where the same may be required for either public or private use and fix the price and rates therefor and from time to time cause to be assessed the water rate to be paid for any public use thereof, or by the owner or occupant of each house or other building having or using water, upon such basis as it shall deem equitable, *provided*, that such rate may be greater for the water furnished to the owner or occupant of any building or premises situate on any lot, piece or parcel of land for any reason not liable for or exempt from the frontage tax hereinafter provided, than the rate charged for a like service furnished to the owners or occupants of lands liable for and not exempt from such frontage tax. Every such water rate shall become a continuing paramount lien, until paid, on each house or other building, and upon the lot or lots upon which such house or other building is situate, and it shall erect such number of new public hydrants and in such places as shall be ordered from time to time by the city council of such city. Said board is hereby authorized and required to restrain and prevent any and all wastage of water, whether occurring under public or private use, and to that end may, when in its judgment necessary, turn off the water or take such other action as in its judgment may be proper.

Use of grounds, etc.—Sec. 9. Said board in behalf of such city, and all persons acting under its authority, shall have the right to use the grounds or soil under any road, railroad, highway, street, lane, alley, court or public place for the purpose of constructing, enlarging, empowering or repairing the water works of such city, on condition that it shall cause the surface of such road, railway, highway, street, lane, alley, court or public place to be restored to its original state and all damages done thereto repaired. *Provided*, however, that in acting under this section said board shall respect and obey all ordinances of such city.

Assessments; how levied.—Sec. 10. In addition to all other powers conferred upon said board, said board is authorized, for the purpose of defraying in whole or in part the cost of such water works and of subsequent extensions thereof, to assess upon each and every lot, piece or parcel of land in such city, except only lands which are or may be exempt by law from assessments for local improvements, in front of which water mains are or shall hereafter be laid, a water frontage tax at the rate of seventy-five cents on each lineal foot of the frontage of such lot, piece or parcel of land and which shall be a lien upon such lot, piece or parcel of land until paid, and shall be due in fifteen equal installments and collected at the times and as hereinafter

provided. Every lot, piece or parcel of land in such city situate at the intersection of two or more streets, each having a water main laid therein, shall be allowed an exemption from such frontage tax on one of said streets at each corner thereof, but no such exemption shall be allowed until after such lot, piece or parcel of land shall have been fully assessed for such frontage tax on one of the streets intersecting at the corner where such exemption is allowed. Such exemption shall be the number of feet of the shorter frontage of every such lot, piece or parcel of land on either of such intersecting streets not exceeding, however, fifty feet at any corner. No property shall be subject to any such frontage on any frontage thereof upon which frontage the owner or owners thereof shall have theretofore and without cost to such city, or to said board, laid or caused a water main to be laid in front of such property and which water main has been thereafter accepted by such city or by said board and made a part of said system of water works.

Assessment roll.—Sec. 11. That said board shall after its organization make up a detailed assesment roll duly certified by its president and secretary and under the seal of said board for the frontage tax described in the foregoing section upon each lot or piece of land then liable therefor. Said board shall thereafter, and prior to the first day of August in each year, make up a like assessment roll for the said frontage tax upon each lot, piece or parcel of land then liable therefor by reason of any extension or addition to said system of water works subsequent to the making up of the first or any subsequent assessment roll as hereinbefore provided. Every such assesment roll shall be filed in the office of the secretary of said board and preserved by him and shall be kept as a public record in his office.

Frontage tax; when due.—Sec. 12. The first installment of every such frontage tax shall be due immediately upon the filing of the assessment roll for such tax in the office of said secretary and one subsequent installment thereof shall become due on the first day of July in each year thereafter, and, until the respective installments thereof have been certified to the county auditor as herein provided they shall be collected by said secretary. Upon the filing of any such assessment roll in his office said secretary shall prepare a written notice over his signature, stating therein that an assessment roll for the water frontage tax authorized by this act and assessed under the provisions hereof upon each lot, piece or parcel of land in such city liable therefor, at the date of said assessment roll, has been filed in his office, that the first installment of such assessment is then due, and also stating therein the date of such assessment roll and of the filing thereof. Said secretary shall cause such notice to be

published for three successive weeks in the official newspaper of such city and a printed copy thereof to be posted in each of three public places in said city, provided that no defect or irregularity in any such notice or in the publication or posting thereof, shall in any way to any extent impair or invalidate any such assessment roll, or any assessment therein contained or any part thereof, or any penalty thereon hereinafter provided for.

Frontage tax; when delinquent.—Sec. 13. The first installment of every such frontage tax shall be delinquent at the expiration of sixty days after the assessment roll therefor shall have been filed in the office of said secretary and shall, at the expiration of said sixty days, be subject to and there shall be added thereto a penalty of ten per cent. of the amount of such installment. Every subsequent installment of such frontage tax, if not paid prior to the first day of October in the year in which the same becomes due, shall be delinquent on said day and shall also be subject to and there shall be added thereto a penalty of ten per cent. of the amount of such delinquent installment.

Statement of delinquent assessments.—Sec. 14. That between the first day of October and the fifteenth day of October in each year said board shall make up a detailed statement, duly certified by the president and under its seal, of all installments of such tax or assessments becoming delinquent during the year preceding and of all penalties thereon, which statement shall be transmitted by the secretary of said board on or prior to said fifteenth day of October to the county auditor of the county in which such city is located as delinquent taxes for collection; whereupon it shall be the duty of said county auditor to extend the same in proper columns on his rolls against the property described in said statement as aforesaid for collection, and every such installment of such tax or assessment shall be collected and the payment thereof enforced with and in the like manner as state, county and other taxes are collected and the payment thereof enforced and shall be subject to all the penalties and charged as property delinquent for taxes delinquent for county and state purposes. Every such installment of such tax or assessment, when collected, shall be paid over by the county treasurer to the secretary of said board, together with all costs, penalties and interest collected thereon at the time of making payment of city taxes to the treasurer of such city. At the time of making such payment said county treasurer shall transmit to the secretary of said board a detailed statement showing the several parcels of land upon which collections have been made by him and for which payments are so made and the amount collected on account of each such parcel. *Provided*, that said board may, prior to sale of any lot, piece or parcel of land for the enforce-

ment of taxes pursuant to state law, by resolution direct its secretary or said county auditor to cancel on any record where the same appears any installment of said tax or assessment, whether because the same be irregular or erroneous or because the extension or improvement for which the same shall have been assessed shall have been abandoned by said board in whole or in part. Said board may in like manner direct its secretary or said county auditor to divide any such installment of such tax or assessment and place parts thereof on any part of the real estate against which the same is assessed and to make the necessary corrections and records thereof. A copy of any resolution authorized by this section, certified by the secretary of said board and under the seal of said board, filed with said county auditor, shall be sufficient authority for his acts in compliance therewith.

Cancellation of assessments by courts.—Sec. 15. If any assessment made by said board as herein authorized and directed shall be cancelled by it or vacated, annulled or set aside, either in whole or in part, by any court for any reason except that the land whereon the same was assessed was and is not liable therefor, in every such case all portions of every assessment so cancelled, vacated, annulled or set aside which have not been theretofore paid or which shall have been repaid by said board, shall be re-assessed by said board and the collection thereof enforced in the same manner as hereinbefore prescribed for the assessment of said frontage tax upon lands becoming liable therefor by reason of an extension of or addition to said system of water works, and in case for any reason any lot, piece or parcel of land liable for such frontage tax shall at any time for any cause be omitted from any assessment made while the same was liable therefor and unassessed, such lot, piece or parcel of land shall be likewise, so soon as such omission shall be discovered, assessed for such frontage tax as though the same had become liable therefor by reason of such extension of or addition to said water works.

Extension of water works system—Issuance of certificates.—Sec. 16. Said board is further authorized and empowered whenever at any time or from time to time it shall determine to make an extension or addition to the system of water works of such city, and when authorized by a resolution of the common council of said city to issue the same, to cause to be issued and sold as the proceeds thereof shall be needed for the purpose of paying the cost of the extension of or addition to said system of water works so determined upon certificates of indebtedness in anticipation of the collection of any frontage tax assessed or to be assessed on account of such extension or addition.

Such certificates of indebtedness shall be issued to mature serially and as nearly as may be at such times and in such amounts as will correspond with the times of collection of the several installments of the frontage tax assessed on account of such extension or addition, and shall bear interest at not to exceed six per cent. per annum, payable annually, and may have interest coupons attached thereto for such installments of interest and shall be payable at such place as said board may determine. Such certificates shall be issued under the seal of said board, signed by its president and secretary and countersigned by the clerk of such city and shall be issued in such denomination as said board shall determine but shall not be authorized in sums aggregating more than ten thousand dollars in any calendar year. The certificates issued for each extension or addition shall constitute a separate series and shall be consecutively numbered and state upon the face thereof the extension or addition for which the same are issued.

The principal and interest of the series of certificates sold on account of any such proposed extension or addition shall be a first charge on the moneys received by said board from the installments of frontage tax levied for defraying the cost of extension or addition for payment of the cost of which the same were issued, and no part of such moneys shall be used for any other purpose until the principal and interest on such series of certificates shall have been fully paid or the moneys for the payment thereof have been set apart in the treasury of said board.

Such certificates may be sold at such time and manner as said board shall determine but shall not be sold for less than par and accrued interest, and said board may and is hereby authorized to purchase any such certificates at any time, with any funds in its hands available therefor, as an investment of such funds and may again sell certificates so purchased at pleasure. No part of the moneys arising from the sale of any such certificates shall be used for any other purpose than that of the extension or addition for which such certificates were authorized.

Certificates not to be indebtedness of city.—Sec. 17. None of the certificates of indebtedness issued pursuant to the terms of this act shall be deemed or taken to be a part of the indebtedness of such city within the purview of any law limiting the amount of any bonded or other indebtedness of such city and certificates of indebtedness authorized by this act may be issued notwithstanding and without regard to any limitation of the indebtedness of such city, nevertheless the full faith and credit of every such city is irrevocably pledged to the full payment of such certificates and interest.

Not applicable to certain cities.—Sec. 18. This act shall not include or apply to cities now or hereafter governed under a charter adopted under and pursuant to section 36, article iv, of the constitution of this state, and the several acts of the legislature authorizing cities to adopt their own charters.

Sec. 19. This act shall take effect and be in force from and after its passage.

Approved March 9, 1911.

CHAPTER 22—H. F. No. 88.

An Act to provide for the renewal of the period of duration of building associations in certain cases.

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

Renewal of charter of building and loan associations — Procedure.—Section 1. Whenever the period of the duration of any local building association heretofore incorporated under the laws of this state has expired within two years prior to the passage of this act, and through inadvertence or otherwise the same has not been renewed, and such association has continued to transact its business as before the expiration of such period, the duration of the existence of such association may be renewed for the further period of thirty years from and after the time of the expiration of said first period in the manner and by the adoption of the resolution to that effect provided in section 2856 of chapter 58 of the Revised Laws, 1905. Such resolution together with the certificate of the president and secretary of such association stating the facts relative to said matter and the adoption of such resolution, and also that all shares of stock in such corporation held by stockholders who opposed the adoption of such resolution at said meeting, if any such there be, have been purchased at its value by stockholders favoring such resolution, shall be filed, recorded and published in the same manner as now provided for the filing, recording and publication of original articles or certificates of incorporation. Thereupon such resolution shall have the effect of continuing the period of the duration of such corporation for the time therein stated.

Existing rights of stockholder not to be affected.—Sec. 2. Nothing herein contained shall be so construed as to in any manner affect the existing rights of any stockholder or other person arising out of the failure to extend the period of the duration of said corporation prior to the expiration thereof as aforesaid.

Approved March 9, 1911.