

CHAPTER 310—S. F. No. 651.

An Act to authorize and empower cities of this state of over fifty thousand inhabitants 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:

Section 1. **What term "public utilities" shall include.**—For the purposes of this act, public utilities shall include street railways, telephones, water works, gas works, electric light, heat or power works, public docks, union depots and terminal systems, ice plants, stone quarries, creosoting works, and public markets.

Sec. 2. **All cities given power to own or operate, or both—Other powers.**—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.

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 if now authorized by law to own and operate the same, without submitting any proposition so to do to the electors thereof, and it may by a three-fifths vote of the city council, or other governing body, and without submission to the electors thereof, as herein provided, issue bonds and certificates of indebtedness in the manner and proportions herein provided for the purpose of refunding all bonds issued for the construction and creation of such utility, and the remainder of the proceeds thereof, if any, shall be covered into the treasury of said city as a sinking fund for the redemption of any existing bonds, or for the purchase and acquisition of any new bonds of said city offered by said city.

It shall be lawful for any city to incorporate in any grant of the right to construct or operate any 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 construction 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 of any public utility for any period, nor any ordinance renewing any 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 are 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 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 which shall decide by vote of its electors, as herein provided, to acquire or construct any public utility, shall have the power unless otherwise provided by law to make all needful rules and regulations respecting the operation of the same, including the power to fix and prescribe rates and charges. 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, and in addition to the certificates of indebtedness provided for in Section 3 hereof, any city may borrow money and issue its negotiable bonds to an amount not exceeding one-fifth the cost thereof, pledging the faith and credit of the city therefor; but no such bonds shall be issued until the question of the issuance of certificates of indebtedness shall have been approved by a majority of the electors voting thereon as provided for in Section 3 hereof, and then only upon a three-fifths vote of the city council or other governing body. In the 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.

Sec. 3. Bonds and interest bearing certificates may be issued.—In addition to the 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, which shall be a lien or charge against the public utility property for the acquisition or construction of which they were issued and shall be payable out of the specified portion of the revenues or income to be derived therefrom, but which shall under no circumstances be or become an obligation or liability of said city or payable out of the general funds thereof, nor shall such certificates be deemed a part of the indebtedness of said city for any purpose. Such certificates, together with the bonds hereinbefore provided for, shall not be issued 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 manner as directed by the city council and acknowledged and recorded in the manner provided by law for the acknowledgement 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 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.

Sec. 4. Books and accounts to be kept separate from other items.—Every such city 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, depreciation, 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.

Sec. 5. Must be submitted to electors.—No city shall acquire or construct any public utility under the terms of this act unless the proposition to acquire or construct same has first been submitted to the qualified electors of said city at a general city election or at a special election called for that purpose, and been approved by a majority vote of all electors voting upon such proposition.

The question of issuing public utility certificates as provided in Section 3 hereof may at the option of the city council be submitted at the same election as the question of the acquisition or construction of such public utility.

Sec. 6. Council to adopt ordinance stating substance of proposition.—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 propositions 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.

No defect or omission in the calling, giving notice or holding of any election under this act shall in any manner affect the validity of such election unless it shall affirmatively appear that such defect or omission changed the result of such election.

Sec. 7. Lease not to exceed 20 years.—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. May issue bonds for union depot purposes.—Whenever any city shall decide by a vote of the electors thereof in the manner herein provided, to acquire a union depot and terminal

system, it may, upon a three-fifths vote of the city council or other governing body, issue such bonds as are provided for herein at such rate and for such period as the council may prescribe notwithstanding any provision in the charter of said city limiting the amount of the bonded indebtedness thereof; providing that such issue of bonds shall never be for an amount which together with all other net bonded indebtedness shall exceed ten per cent of the assessed valuation of said city as of the time of such issue.

Sec. 9. This act shall take effect and be in force from and after its passage.

Approved April 16, 1913.

CHAPTER 311—S. F. No. 656.

An Act authorizing certain cities of the first class to issue bonds for defraying that part of the cost of permanent local improvements not paid for out of special assessments.

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

Section 1. **\$275,000 paving and other bonds authorized.**—Any city of the first class not operating under a home rule charter is hereby authorized to issue and sell its bonds to an amount not exceeding two hundred seventy-five thousand dollars (\$275,000), the proceeds whereof shall be used for the purpose of defraying so much of the cost of the construction of paving, curbs and gutters, water mains, and lateral and other sewers therein as is not assessable upon abutting or benefited property, and for no other purpose.

Sec. 2. **How issued—Tax levy.**—Said bonds shall be issued only in pursuance of a resolution adopted by a two-thirds vote of the city council or other governing body of said city and the faith and credit of the city shall be pledged to the payment thereof and the interest thereon. Such council or other governing body shall include in the tax levy of each year an amount sufficient to pay the current interest on such bonds, and the sinking fund of such city, if there be one, will be pledged to their redemption at maturity.

Sec. 3. **30 years at 4 per cent.**—Bonds issued under this act shall run for a term not longer than thirty years (30) and bear interest at a rate not higher than four (4) per cent per annum, payable semi-annually. Provided, that no such bonds shall be sold for a less amount than ninety-five (95) per cent of the par value thereof and accrued interest thereon. The place of payment of principal and interest and the denomination of