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CHAPTER 220

RAILWAYS; STREET, SUBURBAN, INTERURBAN

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220.01 DEFINITIONS. Subdivision 1. **Terms.** For the purposes of this chapter, the terms defined in this section have the meanings ascribed to them.

Subd. 2. **Commission.** "Commission" means the railroad and warehouse commission of this state.

Subd. 3. **City.** "City" means a city or a village within this state.

Subd. 4. **Street railway, street railways.** "Street railway" and "street railways" mean and apply to any association or corporation leasing, holding, owning, managing, operating, or otherwise controlling any street railway line or street railway property wholly or partly within this state.

Subd. 5. **Council.** "Council" means any board or body, whether composed of one or more branches, which is authorized to make ordinances for the government of a city.

Subd. 6. **Indeterminate permit.** "Indeterminate permit" means and embraces every grant to any street railway to own, operate, manage, or control any street railway property within the state for the transportation of passengers for hire.

Subd. 7. **Street railway property.** "Street railway property" includes the property of any street railway as an operating system which is used, useful, and reasonably necessary for street railway purposes.

[1921 c 278 s 1]

220.02 [Renumbered 220.01, subdivision 3]

220.03 [Renumbered 220.01, subdivision 4]

220.04 [Renumbered 220.01, subdivision 5]

220.05 [Renumbered 220.01, subdivision 6]

220.06 [Renumbered 220.01, subdivision 7]

220.07 FRANCHISES INDETERMINATE PERMITS; TERMS. Every grant that has been heretofore, or that shall be hereafter, made to a street railway by the state or any city shall become and it shall thereafter be, an indeterminate permit, upon such street railway executing and filing with the clerk of the city in which the street railway is located, a written declaration that it desires that such grant shall become an indeterminate permit and consent that the terms of this chapter shall apply to and govern the ownership, control, management, maintenance, and operation of the street railway property of the street railway. Upon such street railway filing such declaration and consent, the city clerk shall issue to such street railway a certificate that such declaration and consent has been filed in his office. When such certificate shall be filed with the secretary of state such grant, subject to the provisions of this chapter, shall become an indeterminate permit to own, operate, manage, and control any street railway property, or any part thereof, within such city under the terms and conditions of the grant that shall have been theretofore made by the state or any such city and be then in force; but all of the terms, conditions, and obligations of such existing grant, except as herein otherwise specifically provided, shall continue in force so long as such indeterminate permit shall continue. Such indeterminate permit shall con-

tinue in full force unless and until the city shall acquire the street railway property of such street railway within the limits of such city, or unless terminated or modified by the legislature of the state as hereinafter provided.

[1921 c. 278 s. 2] (4817)

220.08 CITIES MAY ACQUIRE STREET RAILWAYS; PROCEDURE. Any city shall have the power and authority to acquire the street railway property of any street railway within such city as in this section provided and not otherwise; (1) by eminent domain according to the procedure provided by chapter 117, or (2) by purchase by agreement between the city and the street railway at a value fixed by such agreement; or (3) by purchase at the fair value of such street railway property as determined and fixed by the commission upon hearing upon petition by the city and subject to appeal to the district court, all as herein provided; and every street railway within the state is hereby required to sell its street railway property to any such city in which the same is located, at such fair value when and as so fixed by the commission or by the court upon appeal.

No value shall be allowed in any case for any franchise and no allowance shall be made for damages because of the severance of the properties from connecting properties, but the same shall be valued as an operating system.

Any city which may acquire street railway property may own, operate, lease, or resell or otherwise dispose of such property. In no case shall any acquirement of street railway property by purchase or by eminent domain or otherwise, or any agreement or action or proceeding therefor have any force or effect or be binding in any way upon any such city unless and until such acquirement shall, after the fair value of such street railway property has been fixed as provided by this chapter, be ratified and approved by a majority of the votes of the electors of such city, cast upon the question at a general or regular city election, or special election for that purpose, at which such question shall have been submitted as herein provided. As soon as may be after the fair value of such street railway property within any city has been finally determined and fixed by any proceeding or by agreement, as provided by this chapter, the council of such city shall by resolution submit the question of such acquirement by purchase or by eminent domain, as the case may be, to the electors of such city, fixing the time of such election which shall be not less than three, nor more than six, months after the passage of such resolution and providing for due notice thereof, stating the question to be voted upon and providing for the holding of such election. No special election shall be ordered to occur or be held for such purpose within any three months' period immediately preceding or immediately succeeding any general or regular city election.

[1921 c. 278 s. 3] (4818)

220.09 COUNCILS TO HAVE POWER TO GRANT FRANCHISES. The exclusive right and authority is vested in the council of any city in this state to grant a license, permit, or franchise for the construction, maintenance, and operation of street railway property within the limits of such city and on such terms and conditions as it may impose. Such council shall have the exclusive right and authority to designate the street or streets upon which any street railway property or part thereof may be hereafter constructed and no street railway property shall be hereafter constructed upon any street in any city without express authority from the council of such city. Such council shall have authority by ordinance or resolution to require the construction of any new line or lines and the extension or change or removal of any existing line or lines. The council shall have authority to prescribe reasonable requirements, standards, and conditions of service and operation of any street railway property by any street railway within such city, and shall have the right at all times and in all respects to exercise reasonable control over such service and operation and all things pertaining thereto, including type of cars, the right to fix and amend service schedules, to control stops, routes, headway, speed, and number of cars, and to make regulations governing their lighting, heating, and sanitary condition, and such street railway shall furnish the council such information relating to such matters as it may from time to time require and operate at all times at least a sufficient number of cars to fully comply with all schedules and routes required by the council, and adequately accommodate the traveling public, and in these and all other respects furnish reasonable and adequate service and facilities for the accommodation of the traveling public. All cars used shall be of modern design and equipped and furnished with such improvements and appliances as to

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assure the health, safety, comfort, and convenience of the passengers, the public, and the company's employees. The company's road bed and tracks shall be maintained at all times in first class operating condition so as to afford convenient and comfortable travel thereon. The location of shops, car barns, waiting rooms, and terminals and all other matters hereinbefore in this section specified shall be subject to the approval of the council. The action of the council of any city under this section shall be final and not subject to appeal by the street railway company, except as specifically otherwise provided by this section.

Any order, resolution, rule, or regulation or requirement of any kind made or imposed upon the street railway by the council as provided by this chapter may be enforced by mandamus, injunction, or other appropriate proceeding.

[1921 c. 278 s. 4] (4819)

220.10 COMMISSION TO FIX RATES. The commission is hereby granted initial and exclusive power and authority upon hearing upon petition as provided by this chapter, to fix and establish rates of fare and charges by a street railway for carrying passengers, subject to the powers of the district court in case of appeal thereto, as hereinafter provided, which rates shall not yield to exceed a reasonable return on the fair value of the street railway property of any street railway.

[1921 c. 278 s. 5] (4820)

220.11 RATES MUST BE FAIR; TRANSFERS. Rates of fare and charges within any city shall be just, fair, and reasonable and shall be sufficient to yield only a reasonable return on a fair value of the street railway property of the street railway within such city. The same fare shall be charged each passenger for transportation over all street railway lines in any city from any one point to any other point therein and transfers and retransfers shall be given to each passenger free of charge, good for use for his continuous trip on all other lines in the city under such rules and regulations as the commission may prescribe. In all cases where cities are contiguous, continuous inter-city passenger service shall be provided without change of cars by a street railway operating in both cities. If a different street railway is operating in one such city from the street railway that is operating in the other city, the inter-city transportation as above provided shall be furnished nevertheless by both street railways and mutual adjustment of fares and expenses shall be made by such railways, subject to control and regulation thereof by the commission, authority for which is hereby granted to the commission. The fare charged for transportation within either city on the portion of such interurban line located within that city shall not exceed the fare on other lines within such city with like transfers and retransfers as hereinbefore provided. The costs and expenses incurred and paid by the street railway in performing its obligations shall be reasonable.

[1921 c. 278 s. 6] (4821)

220.12 EVIDENCES OF INDEBTEDNESS ISSUED. Any street railway authorized to do business under the laws of this state may issue stocks, bonds, notes and other evidences of indebtedness payable at periods of more than 12 months after the dates thereof, whenever necessary for the acquisition of property, the construction, extension, or improving of facilities or for the discharge or lawful refunding of obligations. Except as herein otherwise provided, before the street railway shall issue any such stocks, bonds, notes, or other evidences of indebtedness, as aforesaid, it shall secure from the commission, after a full hearing and investigation before and by such commission, an order authorizing such issue and fixing the amount thereof. The city shall be a necessary party to such hearing. Such order shall only be issued when the commission shall be satisfied that the funds derived from such issue are essential for carrying out such purposes, and that it is proper and reasonable under all the circumstances to make such issue. It shall be the duty of the commission to authorize an issuance of such bonds, notes, or other evidences of indebtedness as may be required for the construction of any new line, or the extension or change of any existing line, or any construction or improvement in facilities, any of which shall have been ordered, required, or approved by the council as provided by this chapter, subject to the right of appeal to the district court of the county wherein such city is located from any such order or requirement upon the same terms and conditions as provided by this chapter in case of other appeals. Any order of the commission made hereunder shall contain a finding by the commission that the use of the capital or prop-

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erty to be secured by issue of such stocks, bonds, notes, or other evidences of indebtedness is reasonably required for the purposes of such street railway and that such issue is reasonable and proper under all the circumstances. Any street railway may issue notes for lawful purposes payable at periods of not more than 12 months without authority from the commission, and no such notes or any part thereof shall be refunded by any issue of stocks, or bonds or any evidences of indebtedness running for more than 12 months without the consent of the commission. The commission shall not permit the issue of, and the street railway shall not issue, any notes, bonds, or other evidence of indebtedness when the aggregate par value thereof, together with all other like evidences of indebtedness that shall then be outstanding, shall exceed 85 per cent of the fair and reasonable value of the property of the street railway.

[1921 c. 278 s. 7] (4822)

220.13 APPLICATION TO FIX RATES. Any street railway or city may apply to the commission at any time to fix and establish hereunder rates of fare to be charged by such street railway for the carrying of passengers within such city and it shall be the duty of the commission upon application being made by petition, as provided by this chapter, to proceed with due diligence to examine and appraise the street railway property and to hear evidence submitted on behalf of the street railway or the city, and to fix and determine the fair value of such street railway property within such city and to fix and establish rates of fare to be charged by such street railway for carrying passengers within such city under and in accordance with the terms and requirements of this chapter, which rates established shall yield to the street railway a reasonable return on the fair value of its street railway property within such city as an operating system. In establishing any rate of fare the commission or the court upon appeal shall consider the fair value of the street railway property of the street railway within such city as an operating system, but no additional value shall be allowed for any franchise of the street railway. The rates which the street railway is authorized to charge and collect under existing franchises shall be and remain the authorized and lawful charge until a rate is fixed by the commission under the provisions of this chapter. The commission may on application of either any city or street railway establish after notice and hearing an emergency or temporary rate pending a valuation of property and the establishment of a rate based thereon; provided, that no such rate shall continue in force or effect for a longer period than is reasonably necessary to make a valuation of the property and establish a rate base thereon. The commission may at any time after notice and hearing change or cancel any such emergency rate. Thereafter the commission may, on its own initiative, and shall, upon the application of the city or the street railway from time to time make such investigation as to any change in property value or cost of service as may be reasonably necessary and, after a full hearing as herein provided, make such order confirming existing rates or changing rates as may be just, to properly regulate rates of fare hereunder. The commission or council shall have the right at all times to inspect by itself or by its representatives, all the books, records, and accounts and street railway property of any street railway in any city.

[1921 c. 278 s. 8] (4823)

220.14 PROCEDURE. All proceedings before the commission shall be commenced by filing with the commission a petition in writing in such form as the commission may prescribe briefly setting forth in addition to such other matters as the commission may by rule or order provide, the matter or matters upon which hearing is desired and requesting a hearing thereon. Any city or street railway affected by any such proceeding shall be a necessary party thereto. Upon the filing of any such petition, as aforesaid, the commission shall fix a place and time for such hearing not less than 30 days after filing of such petition and shall forthwith give notice of the time and place of such hearing to all interested parties and serve or cause to be served upon each such party a copy of such petition, provided that continuances from time to time shall be granted to either party as the necessities of the case may require; and the city shall have reasonably ample time before the conclusion of any such hearing to make all necessary valuations and adequately prepare its case, as herein provided.

At the time and place so set for the hearing unless continued for cause the commission shall proceed to hear and determine the matter or matters set forth in such petition. If the petition be to fix the value of street railway property for pur-

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chase by the city as provided by this chapter, the commission shall after such hearing determine and fix the fair value of the street railway property of any such street railway within the city. If the petition be to fix a rate of fare, the commission shall after hearing as herein provided fix a rate of fare to be charged by the street railway which will yield only a reasonable return on the fair value of the street railway property of such street railway within the city, as provided by this chapter.

When any proceeding is instituted before the commission or court on appeal, either for rate-making purposes or purchase of the street railway property and before the same is heard, the council shall examine and appraise, or cause to be examined and appraised, the street railway property of the street railway involved and shall employ and procure the services of a person or persons of known and recognized experience and qualifications in street railway appraisals and rate-making, to appraise such street railway property, investigate the books, accounts, and records of such street railway and inform himself as to its operating conditions and expenses, and otherwise fully prepare himself and the city to present to the commission or the court all the facts material to the issue before the commission or court; and the council shall employ such other qualified accountants, engineers, and others to assist in the preparation of the city's case before the commission or the court on appeal, as the council deems advisable.

All the expenses and disbursements of the city in any such proceeding, either before the commission or court on appeal, shall be borne by the street railway company as an operating expense and paid by the street railway to the city upon presentation to the street railway of vouchers showing the same has been paid or incurred by the city; provided, the amount of expenses and disbursements to be so paid shall not exceed in any one year an amount equal to \$150 per 1,000 of population of any such city and the necessary expense incurred by the commission in such proceedings shall be paid by the street railway company and treated as an operating expense.

[1921 c. 278 s. 9] (4824)

220.15 APPEALS. Any city or street railway may appeal from any order, ruling, or decision of the commission duly made after hearing to the district court of the county in which the city affected by any such order, ruling, or decision is located, and the appeal shall be taken and all proceedings thereunder had as provided for by sections 216.24 to 216.27 and 217.12 to 217.15 so far as the same may be applicable. Upon such appeal the matters involved therein shall be tried and determined by the court without a jury in the same manner as though originally commenced therein, provided that the findings and order of the commission shall be received in evidence upon such trial but the court shall in no event be bound thereby. In case of an appeal involving the value of the property for the purpose of purchase by the city, such appeal shall be heard by three judges, and if there are less than three judges in such district, then the governor shall designate one or more district judges to sit upon any such case so that the same may be determined by such judges as aforesaid. Upon any appeal the district court shall have jurisdiction of and try the whole matter in controversy including matters of fact as well as law and make findings upon all material facts and, in any case involving rates or the value of street railway property, find and determine the fair value of such property and what is a reasonable rate of return thereon, and affirm, modify, or reverse any order or finding of such commission as may be required by law. The judgment or any order of such court shall be certified to the commission and the commission shall thereupon modify, reverse, or put into effect its order or findings so as to conform to the judgment, order, and findings of such court. Any party to an appeal or other proceeding in the district court under this chapter may appeal from the final judgment or from any final order therein in the same cases and manner as in civil actions. The appeal may be filed in the supreme court during any term thereof and immediately entered upon the calendar and heard upon such notice as the court may prescribe, as provided for by section 217.30 as far as the same may be applicable.

[1921 c. 278 s. 10] (4825)

220.16 RESERVATIONS BY CITY. The city hereby reserves the right to authorize any existing or future suburban railway company to jointly use tracks, poles, wire, appliances, power and electric current of the street railway as now existing or hereafter constructed. Such use shall be subject to such rules and regulations,

routing and schedules as may be fixed by mutual agreement between the street railway and such suburban railway company, subject to the approval of the council. If the parties cannot agree as to the rules of operation, routing, and schedules, the same shall be determined by the council.

The compensation to be paid the street railway by such suburban companies for this joint use shall, if possible, be fixed by mutual agreement between the street railway and the suburban company, subject to the approval of the council. If they are unable to agree upon such compensation, the same shall be fixed and determined in the first instance by the council subject to appeal to the district court of the county in which such city is located as in case of other appeals provided for in this chapter.

Such compensation shall in all cases be just, fair, and reasonable compensation for the facilities furnished, representing a sum not less than the reasonable value of the power furnished by the company and a fair share of the cost of maintenance of the tracks and equipment, taking into account the advantages and disadvantages of the entry of the line into the city.

The city expressly reserves the right by ordinance at all times to regulate and control the carrying of freight and express and the operation of freight and express cars by suburban lines over the tracks of the company.

[1921 c. 278 s. 11] (4826)

220.17 FRANCHISE TO BE ISSUED ONLY UPON CERTIFICATE FROM COMMISSION. No license, permit, or franchise to operate a street railway in any city where a street railway is then operating shall be granted by the council of any such city unless a certificate of convenience and necessity is first obtained from the commission after a hearing held thereon.

[1921 c. 278 s. 12] (4827)

220.18 COMMISSION TO INVESTIGATE, PRESCRIBE SYSTEM OF ACCOUNTING AND DEPRECIATION. The commission shall have authority upon its own motion, to make investigation, prescribe uniform systems of accounting, and prescribe depreciation, written notice of which shall forthwith be given the city with the right in such city to appeal to the district court as provided by this chapter in other cases of appeal and to control the disposition and use of any moneys in the depreciation fund and to do or perform any act which may in its opinion be necessary or expedient to carry out the provisions of this chapter. The street railway shall furnish and file with such commission annually accurate and full reports and information of its income and expenditures in such form as the commission shall require, and the commission may require the street railway to make and file with it any and all other reports, financial or otherwise, that it may deem necessary.

[1921 c. 278 s. 13] (4828)

220.19 PERMITS, TO WHOM GRANTED. The state reserves the right at any future time to modify, amend, or repeal this chapter or any part thereof, or to cancel or modify any indeterminate permit arising or existing under this chapter, or any grant, permit, or franchise heretofore or hereafter granted by the state or any city, or otherwise, and nothing in this chapter contained shall limit the police power of the state. The street railway shall be subject to all the duties, restrictions, or liabilities now or hereafter contained in the general laws of the state. Notwithstanding anything in this chapter to the contrary, an indeterminate permit shall be granted only to a Minnesota corporation, and any assignment, or transfer thereof, shall be to a Minnesota corporation. No such street railway shall be entitled to any damages or compensation in the event of any modification, amendment, or repeal of this chapter or the cancelation or modification, of any permit, grant, or franchise above referred to.

[1921 c. 278 s. 14] (4829)

220.20 STREET RAILWAYS; REDUCED RATES; POLICEMEN AND FIREMEN. It shall be lawful for any railway company operating a street railway in any city of this state to enter into a contract with the head or chief officer of the police and fire departments of such city for the transportation over the lines of the street railway company within such city of any member or officer of the police and fire departments, or either of the same, at a yearly, monthly, or other specified term rate less than that made to other persons for transportation over these lines, the rate to be mutually agreed upon between the railway company and such officers.

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The contract shall be in writing and approved by the mayor of such city and filed with the commission for public examination and such contract shall be effective and operative according to the provisions therein contained, during the time or term therein specified and it shall be lawful for any such street railway company to fulfill the terms of the contract or agreement, and to carry and transport the members or officers of the fire or police departments over its street railway lines without other payment than as provided in the contract, and it shall likewise be lawful for any member or officer of any such police or fire department entering into any such contract to ride and accept transportation over the lines of the street railway company in pursuance of the terms of the contract and without further or other payment than as herein required.

Such contract shall not provide for the carrying or transportation of any member or officer of such police and fire departments or either of the same except when the member or officer is wearing full official uniform.

[1913 c. 539 s. 1] (4811)

220.21 INTERPRETATION OF SECTION 220.20. Section 220.20 shall not be construed as constituting any discrimination, special privilege, or reduction in rate in contravention of the provisions of section 218.31.

[1913 c. 539 s. 2] (4812)

220.22 SUBURBAN RAILWAYS MAY CARRY FREIGHT. The governing body of any city or village may by a revocable license, or by a franchise duly approved by the electors in accordance with its charter, permit a suburban railway using other than steam power to enter such city or village for the purpose of carrying passengers, baggage, and light freight. Such license or franchise shall specify its terms and conditions and shall designate the route to be followed, but shall not be construed as a contract between the parties.

[1915 c. 310 s. 1] (4813)

220.23 COMPENSATION FIXED BY COMMISSION. Where the designated route is already provided with tracks and other equipment, the suburban railway and the corporation owning or controlling the tracks and equipment may enter into an agreement for the joint use thereof upon equitable terms. Upon the failure of the interested parties to agree among themselves, the commission, when applied to by either party or by the council, shall hear the matter and by an order fix the rate of compensation to be paid by such suburban railways for the use of the tracks, overhead wires, electric current, and other accessories to be used in the operation of such suburban railway under the schedule established and the license or franchise granted by such city or village, and such suburban railway shall thereupon be entitled to the use of the tracks, overhead wires, electric current and other accessories under the terms of the order, and may enforce the right by mandamus proceedings in the courts of this state.

[1915 c. 310 s. 2] (4814)

220.24 CARS AND EQUIPMENT FURNISHED. Suburban railways shall provide for operation within such city or village limits, cars and equipment substantially similar to the cars and equipment used by the street railways operating upon the tracks over the route so designated, and while operating upon such street railway tracks, shall comply with and be subject to all ordinances, laws, traffic rules, time schedules, and regulations applicable to such street railways as the council may from time to time adopt, except where such suburban railways are specifically exempted by any such council from compliance with any ordinances or other municipal regulation of such city or village.

[1915 c. 310 s. 3] (4815)

220.25 SANITARY TOILET FACILITIES REQUIRED; REGULATION. The commission may upon a hearing order the installation of sanitary toilet facilities in any interurban and suburban car operating in regular service under its jurisdiction, and failure of any company or corporation owning and operating such car to comply with such order, shall subject it to a fine of not less than \$100.

This section shall not apply to cars running between the cities of St. Paul and Minneapolis, nor to any such interurban or suburban cars operated over a distance of less than 18 miles beyond the city limits of either of said cities.

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The authorities of any municipality through which such cars are or may be operated shall have the right to regulate the closing of such closet within such municipalities.

[1917 c. 449 ss. 1, 2] (4908, 4909)

220.26 RAILROADS AND STREET RAILWAYS IN CONNECTION. Any railroad or railway corporation in this state may make such contracts for the carriage of passengers, express, and freight, with any street railway company operating local street railways within this state as will enable and permit the operation of railroads and street railways in connection with each other, or in such manner as shall be deemed most beneficial to their and public interests. Before any railroad or railway shall operate upon any street railway in any city, and before any street railway in any city shall haul or transport over its lines in such city any car, equipment, or motive power of any railroad or railway the contract shall be approved by a vote of not less than three-fourths of all the members of the common council or other legislative body of such city and a copy thereof filed with the clerk or recorder of such city, and the cars, equipment, and motive power used by the railroad shall be substantially similar to the cars, equipment, and motive power used by the street railways contracted with, and such railroad shall, while operating upon street railway tracks comply with the ordinances and laws applicable to such street railways. Any such railroad companies may grant by lease or contract to street railways the right to use railroad tracks for the operation of street railway cars thereon.

[1909 c. 482 s. 1] (4853)