

CHAPTER 452**MUNICIPAL OWNERSHIP****452.02 CITIES MAY OWN AND OPERATE OR LEASE**

To pay the costs of improvement of a water utility a city of the fourth class may issue certificates payable out of receipts without a vote of the electorate; but full faith and credit bonds must be authorized by vote before issuance. OAG Oct. 1, 1947 (59-A-51).

The public utilities commission of the city of Redwood Falls, may under its charter and applicable statutes issue revenue certificates for the purpose of financing necessary replacements, extension, improvements, changes and additions to the electric and steam utility operated and controlled by it and owned by the city. OAG Dec. 1, 1947 (59-A-51).

In the absence of a statute a village is without authority to own and operate a bus line within or without the village limits or to assist a private concern in the operation thereof. OAG Dec. 18, 1950 (469-C).

452.06 ORDINANCE FOR SUBMISSION

Submission of a proposed ordinance for the sale of a power plant and granting of a franchise should not be included upon a "red ballot" but should be placed on a separate ballot. OAG March 20, 1953 (64-B).

452.15 Renumbered 454.041.

452.16 Renumbered 454.042.

452.17 Renumbered 454.043.

452.21 Renumbered 454.045.

CHAPTER 453**MUNICIPALLY OWNED UTILITIES****453.01 POWER AND LIGHT COMMISSIONS CREATED**

HISTORY. 1907 c 412 s 1, 2; 1933 c 221 s 2; 1949 c 119 s 111.

Power of the state to regulate labor disputes in public utilities. 35 MLR 669.

Reasonable return upon fair value of operating property. 37 MLR 159.

Money may be transferred from the water and light commission fund to the general fund and used for building a municipally-owned hospital. OAG Aug. 5, 1947 (59-A-7).

Where a water, light, power, and building commission was established and operated independently, and the city council desires to adopt a new home rule charter, the provisions of the charter would control as to whether or not the commission was abolished or whether or not it continued separately with its same powers. OAG July 15, 1947 (59-A-36).

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MUNICIPALLY OWNED UTILITIES 453.03

The purpose of sections 453.01 to 453.08 is to provide for the creation of a water and light commission in certain cities and villages, and to clothe the commission with exclusive authority acting by itself and independently of the council to operate, control and manage certain municipal utilities. OAG Aug. 12, 1948 (387-G-1).

If the water, light, power and building commission operates a plant or buildings which require sewer connection, the village council would have the right to demand payment from the commission of the fixed charges. No difference exists between the expense of sewer rentals and paying other expenses incurred by the commission in performing its operations. OAG June 14, 1948 (387-G-7).

The water, light, power, and building commission of a village may not issue general obligation bonds of the village, but may issue revenue warrants or pledge orders only from the revenues of the utility. OAG Feb. 11, 1948 (476-A-4).

The water, light, power and building commission lawfully created when the city was one of the fourth class, continues in existence after an increase in population makes the city one of the third class; and the commission has the power to issue revenue certificates or pledge orders which are not full faith and credit bonds of the municipality. OAG Feb. 13, 1948 (476-A-4) (624-A-3).

The water, light, power, and building commission may not be required by the village to pay any part of its revenue to the village general fund. The commission may determine what part, if any, it will pay over to the village. OAG April 27, 1949 (624-A-6).

A water, power, light and building commission is without authority to file a lien and certify the same to the county auditor for delinquent water bills and cost of repairing water pipes between the water main and the meter on the consumer's property. OAG Dec. 17, 1948 (624-B-5).

Two villages may not have a joint water, light, power and building commission under section 453.01 but may agree under section 471.59 for the joint operation of a water utility. OAG June 10, 1948 (624-E-5).

Certificates payable out of receipts may be issued to raise funds. OAG June 2, 1947 (624-G-9).

The village water, light, power, and building commission may let a contract to put in a new front to the municipal liquor store building without advertising for bids. OAG Dec. 8, 1947 (707-A-1).

In a city of the fourth class such as the city of Gilbert, the water, light, power, and building commission has authority to contract for repair of the city water tank without advertising for bids; and whether or not it is available to enter into such contract for the maintenance and repair of the water tank is within the discretion of the commission and it is for the commission to decide. OAG June 8, 1949 (707-A-15).

453.02 MEMBERS, APPOINTMENT

HISTORY. Amended, 1949 c 119 s 111.

The provisions of the special act under which a city was organized, which gave a veto power to the mayor, is not applicable to an appointment made by the council appointing a person as a member of the city water, light, power, and building commission. OAG Aug. 21, 1950 (61-J).

A utility board is an independent body free from control by the city council, and the council should not try to appoint one of its members to the utility board. OAG Dec. 23, 1948 (624-A-3).

453.03 SECRETARY OF COMMISSION

HISTORY. 1907 c 412 s 5; 1911 c 239 s 1; 1927 c 357 s 1; 1937 c 281 s 1; 1949 c 119 s 111; 1953 c 24 s 1.

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453.04 MUNICIPALLY OWNED UTILITIES

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Members of a village water and light commission may not receive compensation for services as a member, but may appoint one of its members as secretary and fix his compensation not to exceed \$125 per month. OAG Aug. 4, 1948 (624-E-7).

453.04 POWER OF COMMISSIONS

HISTORY. 1907 c 412 s 6; 1933 c 278; 1941 c 269 s 1; 1949 c 119 s 111.

A city may lease space in a municipal building which is not needed for municipal purposes, but the city council must secure rent most favorably obtainable for city, and whether rent is favorable is a question of fact for the determination of the council. OAG Sept. 21, 1951 (59-A-40).

Where the employees of the municipality are governed by the Public Employment Retirement Act, section 353.02, the utilities commission established by the city under section 453.01 are not permitted to set up an independent plan for health, accident, and retirement payments for the benefit of the utilities commission employees. OAG Feb. 23, 1951 (331-B).

The commission possesses the powers conferred upon it by statute, and the village council cannot increase or diminish those duties. OAG March 1, 1948 (387-G-7).

The commission cannot issue general obligation bonds of the village but may issue revenue warrants or pledge orders payable only from the revenues of the utility. OAG Feb. 11, 1948 (476-A-4).

The water, light, power and building commission of the village of North St. Paul could issue revenue certificates payable from the combined revenues of the water utility and sewer utility, but revenues of the electric utility owned by village could not be pledged for payment of such revenue certificates. OAG March 10, 1948 (476-A-4).

The village council and not the water, light and power commission may grant a franchise for gas service. OAG Nov. 28, 1947 (624-B-1).

It is the duty of the commission to control the distribution and sale of gas purchased by the village from a gas company. OAG Dec. 3, 1947 (624-B-1).

The village council and the water, light and power commission each have the power to extend water lines. Their powers are separate and defined by statute. The village cannot appropriate money to the commission to be expended by the commission. Expenditures on contracts by the commission involving more than \$100 require competitive bidding. OAG Oct. 9, 1947 (624-D-11) (707-A-15).

453.05 RATES, HOW FIXED; WARRANTS; PUBLICATION OF PROCEEDINGS

HISTORY. Amended, 1949 c 119 s 111.

The duty imposed upon the water, light, power, and building commission of a village to publish its proceedings at the end of each three months is mandatory. OAG May 6, 1948 (277-B-2).

The power and light commission cannot furnish free lighting under a resolution providing for the issuance of revenue warrants, nor can it donate a sum to the village to be paid out of earnings in lieu of the payment of taxes which would be paid by a private utility. OAG March 10, 1948 (387-G-8).

A water, light, power, and building commission may designate any charges for service to different classes of users provided the rules determining such charges are not arbitrary. OAG Sept. 3, 1948 (624-C-11).

453.06 PROVISIONS ACCEPTED BY RESOLUTION

HISTORY. Amended, 1949 c 119 s 111.

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453.07 APPLICATION

HISTORY. Amended, 1949 c 119 s 111.

453.08 CITIES MAY RESCIND ACTION

HISTORY. Amended, 1949 c 119 s 111.

453.09 PETITION

HISTORY. Amended, 1949 c 119 s 111.

453.10 TWO-THIRDS VOTE REQUIRED TO RESCIND

HISTORY. Amended, 1949 c 119 s 111.

453.12 CHARGES, FUND

The village council and the water, light and power commission each have the power to extend water lines. Their powers are separate and defined by statute. The village cannot appropriate money to the commission to be expended by the commission. Expenditures on contracts by the commission involving more than \$100 require competitive bidding. OAG Oct. 9, 1947 (624-D-11) (707-A-15).

453.13 RESERVE FUND

Surplus funds in the hands of the water, power, and building commission may be transferred to the general revenue fund, and used for hospital purposes, over which the commission has no control. OAG Aug. 5, 1947 (59-A-7).

453.14 NO LIMITATION OR EXTENSION OF POWERS OF TAXATION

The village council of the village of Hibbing may not voluntarily abandon part of water and light utility without concurrence of the commission. But if such abandonment is brought about other than by action of the council, such concurrence is not necessary. OAG Sept. 2, 1949 (624-C-10).

453.15 BOARD OF WATER COMMISSIONERS

A utility board is an independent body free from control by the city council, and the council should not take part in appointing one of its own members to the utility board. OAG Dec. 23, 1948 (624-A-3).

453.22 DISTRIBUTION OF WATER; WATER RATES; LIEN OF RATES; WASTAGE

As it relates to an unpaid water bill, section 453.22 is not applicable to villages. It affects only cities of the third class not operating under a home rule charter. OAG July 6, 1953 (624-D-5).

CHAPTER 454

PUBLIC ENTERPRISES

454.01 GAS, ELECTRIC, AND POWER PLANTS IN CITIES OF THE FIRST CLASS OR THE FOURTH CLASS

In proceedings under section 454.01 to acquire a gas plant, the provisions of section 475.52 must be complied with, and the present owner of the franchise must be notified. OAG May 18, 1950 (624-B-2).