

## CHAPTER 453

## MUNICIPALLY-OWNED UTILITIES

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**453.01 POWER AND LIGHT COMMISSIONS CREATED.** There may be created in every city in the state having a population of less than 10,000, as determined by the last census taken therein by authority of the state of Minnesota, a water, light, power, and building commission with powers and duties as provided in sections 453.02 to 453.07.

[1907 c 412 s 1, 2; 1933 c 221 s 2; 1949 c 119 s 111] (1852, 1853)

**453.02 MEMBERS, APPOINTMENT.** The commission shall consist of three members and shall be appointed by the council of the city, and when first created, one shall be appointed for the term of one year, one for the term of two years, and one for the term of three years, and all the commissioners shall hold their office until their successors are appointed and qualified by subscribing to an oath that he will faithfully and impartially perform the duties of his office. There shall be appointed each year thereafter by the council one member of the commission, whose term of office shall be for three years, and each member of the commission shall be president thereof during the last year of the term for which he is appointed; provided, that in and as part of the resolution of the council of any city having more than 6,000 and less than 9,000 inhabitants and not less than \$3,500,000 and not more than \$4,500,000 of assessed valuation, hereafter accepting the provisions of sections 453.01 to 453.07, it may be determined and provided that the commission shall include two additional members to be chosen from the members of the council, whose term of office shall be fixed by the council at the time of their appointment, and shall not in any event extend beyond the time that they shall respectively hold office as councilors; upon the expiration of the term of office of any member so appointed, the council shall appoint from among its number another member of the commission and shall fix the term of office which shall not extend beyond the time that he shall hold office as councilor.

[1907 c 412 s 3; 1925 c 327 s 1; 1949 c 119 s 111] (1854)

**453.03 SECRETARY OF COMMISSION.** The water, light, power, and building commission shall have the power and authority, and it is hereby given the power and authority to appoint and employ a secretary of the commission, who shall qualify as hereinafter stated, and upon such qualification shall be the secretary of the water, light, power, and building commission; provided, that in cities organized under the provisions of Laws 1895, Chapter 8, the city clerk may be the secretary of the commission. The commission may appoint as its secretary a member of the commission, who shall serve as secretary only one year in any three years, and the term as secretary shall be during the second year of the term for which he is appointed. The secretary shall keep an accurate record, in books kept by him for that purpose, of the proceedings and business transactions of the commission and he is also empowered and it is hereby made his duty to collect water, light, and rent charges from patrons for the city and at once pay the same into the treasury of the city and he shall make a detailed statement of the same at the regular monthly meeting of the commission, which shall be held on the first Tuesday of each month. He shall be furnished by the city with all the necessary books and stationery to properly perform all the duties of his office and he shall be required to furnish a corporate bond running to the city, in an amount to be fixed by the commission, that he will faithfully perform all the duties of his office as is required of him by law and promptly pay over to the treasurer of the city all moneys and

deliver up all property to the council of the city, belonging to the city, that he may have in his possession. This bond shall be approved by the commission and filed with the city treasurer. The compensation of the secretary for his services shall be fixed by the commission the same to be when so fixed full compensation for services performed as secretary of the commission, which compensation shall be paid out of the treasury of the city. The commission shall be authorized and fully empowered, and it is hereby authorized and fully empowered to revoke its appointment and discharge its secretary any time it may see fit and when it does so revoke the appointment and discharge its secretary it shall have and is hereby given the power and authority to reappoint and employ another secretary as it may desire or determine.

[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] (1856)

**453.04 POWERS OF COMMISSIONS.** The commission shall have full, absolute, and exclusive control, except as hereinafter provided, of and power over the water, light, and power plants, and municipal heating plants, and all parts, attachments, and appurtenances thereto, and all apparatus and material of every kind and description used or to be used in operating these plants, or any or either of them, in all these municipalities, including all other public buildings and halls owned by the municipality. The commission shall have the power and authority to operate the same, and each thereof, and to extend, add to, change, or modify the same, and to do any and all things in and about the same which they may deem necessary for a proper economical operation of the same. The commission shall not have the right to sell, lease, rent, or in any way dispose of or encumber or suffer or permit, this property, or any part thereof, to come under the control of any other person or corporation. This shall not prevent the commission from renting or leasing public halls or buildings for public use and entertainments. The commission shall have authority to buy all material and employ all help necessary, or it may contract, to extend, add to, change, or modify these plants, buildings, and halls, or any part thereof. The commission shall have authority to buy all fuel and supplies and employ all help necessary to operate the plant.

[1907 c 412 s 6; 1933 c 278; 1941 c 269; 1949 c 119 s 111] (1857)

**453.05 RATES, HOW FIXED; WARRANTS; PUBLICATION OF PROCEEDINGS AND REVENUES.** The commission shall fix all water and lighting rates to patrons, and rents for public halls and buildings, as provided in sections 453.01 to 453.07, provided that the provisions of sections 453.01 to 453.07 shall not impair the obligations of existing contracts; the commission shall audit all claims and the secretary of the commission shall draw his warrant upon the treasurer of the city for the amount allowed by the commission, which warrant shall be countersigned by the president of the commission. The commission shall publish in the official newspaper of the city, within 45 days after each meeting, all proceedings of the commission, and at the end of each three months a detailed statement of all revenue received by the commission during the three preceding months. Sections 453.01 to 453.07 apply to all cases where the plant or plants or buildings are wholly or in part within or wholly or in part without the corporate limits of the city.

[1907 c 412 s 7; 1911 c 239 s 2; 1949 c 119 s 111; 1963 c 717 s 1] (1858)

**453.06 PROVISIONS ACCEPTED BY RESOLUTION.** Any city in the class mentioned in the title of Laws 1907, Chapter 412, which may wish to avail itself of the provisions of sections 453.01 to 453.07 shall do so by resolution of its council expressly accepting the provisions thereof, which resolution shall be adopted by a vote of a majority of all its members and be approved by the mayor of the city, and sections 453.01 to 453.07 shall not apply to the city until the adoption of this resolution.

[1907 c 412 s 8; 1949 c 119 s 111] (1859)

**453.07 APPLICATION.** Sections 453.01 to 453.07 apply to any city of the fourth class operating under a home rule charter, having a population of not less than 1,000 nor more than 1,500 which is located in any county having a population of not less than 33,000 nor more than 34,000 according to the last federal census, but shall not include or apply to any other cities now or hereafter governed under a charter adopted under and pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, and the several acts of the legislature authorizing cities to adopt their own charter.

[1907 c 412 s 9; 1939 c 230; 1949 c 119 s 111] (1860)

**453.08 CITIES MAY RESCIND ACTION.** Any city which has heretofore or may hereafter avail itself of the provisions of sections 453.01 to 453.07 by the adoption of a resolution, as therein provided, may rescind such action in the manner provided in sections 453.08 to 453.10.

[1931 c 190 s 1; 1949 c 119 s 111] (1860½)

**453.09 PETITION.** Upon the presentation of a petition in writing, signed by electors thereof equal to 15 percent of the number who voted at the last preceding general municipal election, and not less than 50 in number, the council shall submit at the next general election occurring within 60 days thereafter, if any, the following question:

"Shall the action of this city in availing itself of the provisions of Laws 1907, Chapter 412, be rescinded?

Yes.....

No ....."

If there is no general election to be so held, the council shall call a special election in the manner provided by law to be held not less than 30 nor more than 45 days thereafter and shall submit the question at the special election.

Notice shall be given and the election, whether general or special, shall be conducted, ballots counted and canvassed, returns made, and results declared in the same manner as in the case of other propositions submitted to the electors.

[1931 c 190 s 2; 1949 c 119 s 111] (1860½a)

**453.10 TWO-THIRDS VOTE REQUIRED TO RESCIND.** If two-thirds of the votes cast upon the proposition be in the affirmative, the provisions of sections 453.01 to 453.07, and of any law supplemental thereto, shall cease to apply to the city 30 days after the date of holding the election.

[1931 c 190 s 3; 1949 c 119 s 111] (1860½b)

**453.11 POWERS OF COMMISSION ENLARGED IN CERTAIN CASES.** In all villages in this state having now, or hereafter having, a population of 10,000 and in which there is existing at the present time a water, light, power, and building commission, pursuant to sections 453.01 to 453.07, the commission, in addition to the general duties and powers, as outlined in those sections shall have and possess the additional powers and duties set forth in sections 453.11 to 453.14.

[1933 c 111 s 1] (1860½c)

**453.12 CHARGES, FUND.** It shall be the duty of the commission, and it is hereby empowered to collect water, light, heat, power, gas and rent charges from patrons including the village, and pay the same into a fund to be known and designated as "Water and Light Fund." The commission shall have exclusive control of the fund and of all collections made by the commission. It shall be the duty of the commission to have full, absolute, and exclusive control of the operation and management of the water, light, power, gas, and heating plants in the village and to pay for the operation thereof out of the water and light fund. The commission may, out of the water and light fund, purchase all necessary material and employ all necessary help in the general management, operation, and conduct of its business, including the hiring of an attorney, after April 1, 1944, whose salary shall not exceed \$1,800 per annum, and including extensions and additions to systems provided, and this shall not restrict or extend the powers of the village and commission to provide replacements, additions, or extensions to these systems from other funds.

In addition the commission shall have the power to pay a monthly pension to employees of the water and light department at the age of 65 years or over and who were more than 60 years of age on the date that the municipality adopted the provisions of the said public employees retirement act, and who have served as employees of said water and light department for more than 20 years, the amount of which shall in no event exceed the amount paid by the public employees retirement association of the state to similarly paid public employees.

[1933 c 111 s 2; 1943 c 518 s 1; 1947 c 51 s 1] (1860½d)

**453.13 RESERVE FUND.** It shall be the duty of the commission, on the first day of each month, to set aside into a reserve fund a sum equal to one-twelfth of not less than two percent of the replacement value of the fixed assets, which sum shall, in any event, be equal to ten percent of the gross receipts collected by the commission during the preceding month. This reserve fund shall be used by the

commission only for the purpose of replacing existing buildings, plants, systems, and stationary equipment for which the reserve is established. The commission is hereby prohibited from using the reserve fund for any other purpose.

The fixed assets of the commission for the purpose of this section shall not include buildings used by other departments of the village, and no reserve shall be created for the replacement of these buildings. Only buildings as are principally used and necessary in the operation or administration of water, light, power, gas, and heating plants may be replaced from this reserve fund, and no revenue received from the operation thereof may be used for the maintenance of any other buildings of the village.

The commission shall have authority to invest, and it shall invest, the reserve fund and operating surpluses, in amounts to be determined by the commission, in such securities as permitted, by the state board of investment or in certificates of indebtedness and duly authorized bonds of the village. All income earned by these securities shall belong to and become a part of the reserve fund. When the fund equals a total of 75 percent of the replacement value of the fixed assets of the commission, it will no longer be necessary to add the monthly sum specified above. When this sum falls below 75 percent of the replacement value of the fixed assets, the commission will thereupon renew the placing into the reserve fund these monthly payments. The commission shall require any bank in which any of its funds are deposited to give bond as required of banks acting as depositories of municipal funds.

[1933 c 111 s 3] (1860½e)

#### 453.14 NO LIMITATION OR EXTENSION OF POWERS OF TAXATION.

Nothing in sections 453.11 to 453.14 shall be construed to limit or extend the powers of the village to levy, as provided by section 412.251, clause 9, or to be in lieu of such levies, nor shall be construed to limit or extend the powers or limitations with respect to levies for or expenditures from other funds by the village or commission for the operation of the water and light department, or for replacements, additions, or extensions to such system from such funds. Nothing in sections 453.11 to 453.14 shall be construed to limit the power of the village to make levies in excess of the present per capita limitations for indebtedness existing prior to January 1, 1929, as provided by sections 275.11 and 275.17 to 275.21.

[1933 c 111 s 4; 1961 c 560 s 35] (1860½f)

- 453.15 [Repealed, 1965 c 45 s 73]
- 453.16 [Repealed, 1965 c 45 s 73]
- 453.17 [Repealed, 1965 c 45 s 73]
- 453.18 [Repealed, 1965 c 45 s 73]
- 453.19 [Repealed, 1965 c 45 s 73]
- 453.20 [Repealed, 1965 c 45 s 73]
- 453.21 [Repealed, 1965 c 45 s 73]
- 453.22 [Repealed, 1965 c 45 s 73]
- 453.23 [Repealed, 1965 c 45 s 73]
- 453.24 [Repealed, 1965 c 45 s 73]
- 453.25 [Repealed, 1965 c 45 s 73]
- 453.26 [Repealed, 1965 c 45 s 73]
- 453.27 [Repealed, 1965 c 45 s 73]
- 453.28 [Repealed, 1965 c 45 s 73]
- 453.29 [Repealed, 1965 c 45 s 73]
- 453.30 [Repealed, 1965 c 45 s 73]
- 453.31 [Repealed, 1965 c 45 s 73]