CHAPTER 453

MUNICIPAL ELECTRIC POWER

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453.30 [Repealed, 1965 c 45 s 73]

453.31 [Repealed, 1965 c 45 s 73]

453.51 INTENT.

Sections 453.51 to 453.62 are intended to provide a means for those Minnesota cities which now or hereafter own and operate a utility pursuant to law for the local distribution of electric energy to secure, by individual or joint action among themselves or by contract with other public or private entities within or outside the state, an adequate, economical, and reliable supply of energy. It is also the purpose of sections 453.51 to 453.62 to provide a means for Minnesota cities to construct and operate hydroelectric generating plants. To accomplish these purposes it is necessary for such cities to have power, by agreement between or among two or more of their number, to create a separate municipal corporation with the power and authority to finance and acquire facilities for the generation or transmission of electric energy, or interests in such facilities or rights to part of all of the capacity thereof. It is determined that an adequate, economical, and reliable supply of electric energy is essential to the orderly growth and prosperity of these communities, and a shortage of such energy is inimical to the safety, health, morale, and welfare of residents of the state and to the sound growth and developments of its communities. Such a shortage exists and is expected to continue or increase because of the difficulty, among others, in the operation of municipal generating plants, of achieving economies of size, limiting environmental impacts, and providing for peak loads. Accordingly it is determined that the exercise of the powers granted herein will benefit the people of the state and serve a valid public purpose in improving and otherwise promoting their health, welfare, and prosperity.

History: *1976 c 313 s 1; 1Sp1985 c 10 s 91*

453.52 DEFINITIONS.

Subdivision 1. **Application.** The terms defined in this section have the following meanings whenever used in sections 453.51 to 453.62 unless the context requires otherwise.

Subd. 2. **Agency agreement.** "Agency agreement" means the written agreement between or among two or more cities or existing municipal power agencies establishing a municipal power agency.

Subd. 3. **City.** "City" means a city organized and existing under the laws of Minnesota or a city charter adopted pursuant thereto, and authorized by such laws or charter to engage in the local distribution and sale of electric energy; provided that any city so engaged on January 1, 1976, is authorized to continue such distribution and sale, and every city now or hereafter so authorized may exercise, either individually or as a member of a municipal power agency, all of the powers granted in sections 453.51 to 453.62. "City" also includes a city organized and existing under the laws of another state or a city charter adopted pursuant thereto which participates in a municipal power agency with Minnesota cities and pays a full pro rata share of the expenses of the agency.

"City" also includes a park and recreation board in a city of the first class.

Subd. 4. **City council.** "City council" means the city council or other similar board, commission, or body within a city which is charged by law or its charter with the general control of the city's governmental affairs.

Subd. 5. **Distribution.** "Distribution" means the conveyance of electric energy to retail consumers from a transmission system, or from a generation facility situated within or in the immediate vicinity of a city.

Subd. 6. **Generation.** "Generation" means the production of electricity by any means and the acquisition of fuel of any kind for that purpose, and includes but is not limited to the acquisition of fuel deposits and the acquisition or construction and operation of facilities for extracting fuel from natural deposits, for converting it for use in another form, for burning it in place, and for transportation and storage.

Subd. 7. **Governing body.** (a) "Governing body," with respect to a city, means the city council or, if another board, commission, or body is empowered by law or its charter or by resolution of the city council to establish and regulate rates and charges for the distribution of electric energy within the city, such board, commission, or body shall be deemed to be the "governing body"; provided, however, that when the levy of a tax or the incurring of an obligation payable from taxes or any other action of such board, commission, or body requires the concurrence, approval, or independent action of the city council or another body under the city's charter or any other law, such action shall not be exercised under sections 453.51 to 453.62 until such concurrence or approval is received or such independent action is taken; and provided further, that the concurrence of the city council or other elected body charged with the general management of a city shall be required, prior to the adoption by the city of any resolution approving an agency agreement or any amendment thereto.

(b) With respect to an existing municipal power agency, "governing body" means the agency's board of directors.

Subd. 8. **Municipal power agency.** "Municipal power agency" means a separate political subdivision and municipal corporation created by agreement between or among two or more cities or existing municipal power agencies pursuant to section 453.53 to exercise any of the powers of acquisition, construction, reconstruction, operation, repair, extension, or improvement of electric generation or transmission facilities or the acquisition of any interest therein or any right to part or all of the capacity thereof.

Subd. 9. **Person.** "Person" means a natural person, a public agency, or a private corporation, firm, partnership, cooperative association, or business trust of any nature whatsoever, organized and existing under the laws of any state or of the United States or of any other country or political subdivision thereof and shall also include other countries and their political subdivisions, departments, agencies and instrumentalities.

Subd. 10. **Project.** "Project" means any plant, works, system, facilities, and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission, purchase, sale, exchange, or interchange of electric energy or any interest therein or capacity thereof.

Subd. 11. **Public agency.** "Public agency" means any city or other municipal corporation, political subdivision, governmental unit, or public corporation created by or pursuant to the laws of this state or of another state or of the United States, and any state or the United States, and any person, board, or other body declared by the laws of any state or the United States to be a department, agency, or instrumentality thereof.

Subd. 12. **Real property.** "Real property" means lands, structures, franchises, and interests in land, including but not limited to lands under water, riparian rights, fees simple absolute, lesser interests such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments, legal and equitable estates, interests, and rights, terms of years, liens on real property by way of judgments, mortgages, or otherwise, and claims for damage to real property.

Subd. 13. **Transmission.** "Transmission" means the transfer of electric energy from a generating facility to, between, or among one or more cities or municipal power agencies or other persons with whom they may contract, and includes but is not limited to conversion of current and voltage and transfer of energy from another source in exchange for energy supplied by such contracting parties, but does not include distribution.

History: *1976 c 313 s 2; 1980 c 405 s 1; 1981 c 356 s 222; 1Sp1981 c 4 art 3 s 10; 1999 c 198 s 1; 2009 c 19 s 1-3*

453.53 MUNICIPAL POWER AGENCIES; INCORPORATION.

Subdivision 1. **Two or more cities or existing municipal power agencies; resolution.** (a) Any two or more cities or existing municipal power agencies may form a municipal power agency by the execution of an agency agreement authorized by a resolution of the governing body of each city or municipal power agency.

(b) The agency agreement shall state:

(1) that the municipal power agency is created and incorporated under the provisions of sections 453.51 to 453.62 as a municipal corporation and a political subdivision of the state, to exercise thereunder a part of the sovereign powers of the state;

(2) the name of the agency, which shall include the words "municipal power agency";

(3) the names of the cities or municipal power agencies which have approved the agency agreement and are the initial members of the municipal power agency;

(4) the names and addresses of the persons initially appointed by the resolutions approving the agreement to act as the representatives of the members, respectively, in the exercise of their powers as members;

(5) limitations, if any, upon the terms of representatives of the respective members, provided that such representatives shall always be selected and vacancies in their offices declared and filled by resolutions of the governing bodies of the respective members;

(6) the names of the initial board of directors of the municipal power agency, who shall be not less than five persons who are representatives of the respective members, selected by the vote of a majority of such representatives; or the agreement may provide that the representatives of the members from time to time shall be and constitute the board of directors;

(7) the location by city, town, or other community in the state, of the registered office of the municipal power agency;

(8) that the cities or municipal power agencies which are members of the municipal power agency are not liable for its obligations; and

(9) any other provision for regulating the business of the municipal power agency or the conduct of its affairs which may be agreed by the members, consistent with sections 453.51 to 453.62.

Subd. 2. **Filing agreement, resolution; incorporation certificate.** The agency agreement and a certified copy of the resolution of the governing body of each member shall be filed for record with the secretary of state. Upon the filing of the agency agreement and a certified copy of the resolution of the governing body of each member, the existence of the municipal power agency as a political subdivision of the state and a municipal corporation shall begin.

Subd. 3. **First board.** The initial board of directors of the municipal power agency, unless otherwise provided by the agency agreement, shall be elected prior to the filing of the agreement by a majority vote of the persons acting as representatives of the members, from among their members. After commencement of existence, the first meeting of the board of directors shall be held at the call of the directors, after notice, for the purpose of adopting the initial bylaws, electing officers, and for any other business that comes before the meeting.

Subd. 4. **Bylaws.** (a) The bylaws of the municipal power agency, and any amendments thereto, shall be proposed by the board of directors and shall be adopted by a majority vote of the representatives of the members, unless the agency agreement requires a greater vote, at a meeting held after notice.

(b) Subject to the provisions of the agency agreement, the bylaws shall state:

(1) the qualifications of members, and limitations, if any, upon their number;

(2) conditions of membership, if any;

(3) manner and time of calling regular meetings of representatives of members;

(4) manner and conditions of termination of membership; and

(5) such other provisions for regulating the affairs of the municipal power agency as the representatives of the members shall determine to be necessary.

Subd. 5. **Minnesota registered office.** Every municipal power agency shall maintain an office in this state to be known as its registered office. When a municipal power agency desires to change the location of its registered office, it shall file with the secretary of state a certificate of change of location of registered office, stating the new location by city, town, or other community and effective date of change. When the certificate of change of location has been duly filed, the board of directors may make the change without any further action.

Subd. 6. **Directors.** Each of the directors shall hold office for the term for which selected and until a successor has been selected and has qualified. Directors shall discharge their duties in good faith, and with that diligence and care which an ordinary prudent person in a like position would exercise under similar circumstances. The agency agreement or the bylaws may prescribe the number, term of office, powers, authority, and duties of directors, the time and place of their meetings, and other regulations concerning directors. Except where the agency agreement or bylaws prescribe otherwise, the term of office of a director shall be for one year. Except where the agency agreement or bylaws prescribe otherwise, a meeting of the board of directors may be held at any place, within or without the state, designated by the board, after notice, and an act of the majority of the directors present at a meeting at which a quorum is present is the act of the board. Except where the agency agreement or bylaws prescribe otherwise, any vacancy occurring on the board shall be filled by a person nominated by the remaining members of the board and elected by a majority of representatives of the member cities.

Subd. 7. **Officers.** Except where the agency agreement or bylaws prescribe otherwise, the board of directors shall appoint a president from its membership, and a secretary and treasurer, and any other officers

or agents deemed to be necessary, who may but need not be city representatives or directors. An officer may be removed with or without cause by the board of directors. Officers of the municipal power agency shall have the authority and duties in the management of the business of the municipal power agency that the agency agreement or bylaws prescribe, or, in the absence of such prescription, as the board of directors determines.

Subd. 8. **Member representatives.** Except as otherwise provided in the agency agreement or the bylaws, the duly authorized representatives of each member shall act as, and vote on behalf of, such member. Except where the agency agreement or bylaws provide otherwise, representatives of the members shall hold at least one meeting each year for the election of directors and for the transaction of any other business. Except where the agency agreement or bylaws prescribe otherwise, special meetings of the representatives may be called for any purpose upon written request to the president or secretary to call the meeting. Such officer shall give notice of the meeting to be held between ten and 60 days after receipt of such request. Unless the agency agreement or bylaws provide for a different percentage, a quorum for a meeting of the representatives of the members is a majority of the total members and a quorum for meetings of the board of directors is a majority of the membership of such board.

Subd. 9. **Amendments to agency agreement.** The agency agreement may be amended as proposed at any meeting of the representatives of the members for which notice, stating the purpose, shall be given to each representative and, unless the agency agreement or bylaws require otherwise, shall become effective when ratified by resolutions of a majority of the governing bodies of the members. Each amendment and the resolutions approving it shall be filed for record with the secretary of state.

Subd. 10. **City appropriations.** Each member city shall have full power and authority, within budgetary limits applicable to it, to appropriate money for the payment of expenses of the formation of the municipal power agency and of its representative in exercising its functions as a member of the agency.

History: *1976 c 313 s 3; 1986 c 444; 1987 c 384 art 1 s 38; 2009 c 19 s 4-9; 2011 c 106 s 25*

453.54 MUNICIPAL POWER AGENCIES; POWERS.

Subdivision 1. **Listed here; essential; sovereign.** A municipal power agency shall have all of the powers enumerated in this section, in furtherance of the purpose stated in section 453.51, and in the exercise thereof shall be deemed to be performing an essential governmental function and exercising a part of the sovereign powers of the state of Minnesota. All powers of the municipal power agency shall be exercised by its board of directors, unless otherwise provided by the agency agreement or bylaws.

Subd. 2. **Projects.** It may plan, acquire, construct, reconstruct, operate, maintain, repair, extend, or improve one or more projects within or outside the state; or acquire any interest in or any right to capacity of a project and may act as agent, or designate one or more of the other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, reconstruction, operation, maintenance, repair, extension, or improvement of the project.

Subd. 3. **Investigate sources, supplies; feasibility, costs.** It may investigate the desirability of and necessity for additional sources and supplies of electric energy, and make studies, surveys, and estimates as may be necessary to determine the feasibility and cost thereof.

Subd. 4. **Cooperation.** It may cooperate with other persons in the development of sources and supplies of electric energy.

Subd. 5. **Apply for project approvals.** It may apply to any public agency for consents, authorizations, or approvals required for any project within its powers and take all actions necessary to comply with the conditions thereof.

Subd. 6. **Authorized acts.** It may perform any act authorized by sections 453.51 to 453.62 through or by means of its officers, agents, or employees or by contract with any person.

Subd. 7. **Money.** It may acquire, hold, use, and dispose of income, revenues, funds, and money.

Subd. 7a. **Investments in technology.** It may invest in various technologies to minimize long-run costs of providing electrical services to consumers. These investments include energy conservation measures and renewable resources.

Subd. 8. **Personal property.** It may acquire, own, hire, use, operate, and dispose of personal property.

Subd. 9. **Real property.** It may acquire, own, use, lease as lessor or lessee, operate, and dispose of real property and interests in real property, and make improvements thereon.

Subd. 10. **Grant, charge for use.** It may grant the use by franchise, lease, or otherwise, and make charges for the use of any property or facility owned or controlled by it.

Subd. 11. **Debt.** It may borrow money and issue negotiable bonds or notes, secured or unsecured, in accordance with section 453.55.

Subd. 12. **Investments.** Subject to any agreement with bondholders or note holders, it may invest money of the municipal power agency not required for immediate use, including proceeds from the sale of any bonds or notes, in such obligations, securities, and other investments as the municipal power agency shall deem prudent, notwithstanding the provisions of any other law relating to the investment of public funds.

Subd. 13. **Eminent domain.** It may exercise the power of eminent domain in accordance with section 453.56.

Subd. 14. **Location, character of projects.** It may determine the location and character of, and all other matters in connection with, any and all projects it is authorized to acquire, hold, establish, effectuate, operate, or control.

Subd. 15. **Contracts for projects, energy sale or transmission.** It may contract with any person, within or outside the state, for the construction of any project or for the sale, with or without advertising for bids, or transmission of electric energy generated by any project, or for any interest therein or any right to capacity thereof, on such terms and for such period of time as its board of directors determines.

Subd. 16. **Buy, sell, exchange, transmit electricity.** It may purchase, sell, exchange, or transmit electric energy within and outside the state in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and may enter into agreements with any person with respect to that purchase, sale, exchange, or transmission, on such terms and for such period of time as its board of directors determines.

Subd. 17. **Insurance.** It may procure insurance against any losses in connection with its property, operations, or assets in such amounts and from such insurers as it deems desirable.

Subd. 18. **Gift, grants, loans, aid.** It may contract for and accept any gifts or grants or loans of funds or property or financial or other aid in any form from any public agency or other person, and may comply, subject to the provisions of sections 453.51 to 453.62, with the terms and conditions thereof.

Subd. 19. **Give security.** It may mortgage, pledge, and grant a security interest in any or all of its real and personal property to secure the payment of its bonds, notes, or other obligations or contracts.

Subd. 20. **Pay as much as private taxes.** It shall pay to each taxing authority within whose taxing jurisdiction its property is situated, in lieu of taxes on its property, the amounts of the taxes which would be payable if its property were owned by a private person. For this purpose the property of a municipal power agency shall be valued in the same manner and by the same procedure as the property of private persons.

Subd. 21. **All other powers.** It may exercise all other powers not inconsistent with the Constitution of the state of Minnesota or the United States Constitution, which powers may be reasonably necessary or appropriate for or incidental to the effectuation of its authorized purposes or to the exercise of any of the powers enumerated in this section, and generally may exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

History: *1976 c 313 s 4; 1983 c 301 s 202; 1Sp1985 c 10 s 92*

453.55 BONDS AND NOTES FOR ANY CORPORATE PURPOSE.

Subdivision 1. **In necessary amounts.** A municipal power agency may from time to time issue its bonds or notes in such principal amounts as the municipal power agency shall deem necessary to provide sufficient funds to carry out any of its corporate purposes and powers, including but not limited to the acquisition or construction of any project to be owned or leased, as lessor or lessee, by the municipal power agency, or the acquisition of any interest therein or any right to capacity thereof, the funding or refunding of the principal of, or interest or redemption premiums on, any bonds or notes issued by it whether or not such bonds or notes or interest to be funded or refunded have or have not become due, the establishment or increase of reserves to secure or to pay such bonds or notes or interest thereon, and the payment of all other costs or expenses of the municipal power agency incident to and necessary or convenient to carry out its corporate purposes and powers.

Subd. 2. **How payable; pledge.** Except as may be otherwise expressly provided by sections 453.51 to 453.62 or by the municipal power agency, every issue of bonds or notes of the agency shall be payable out of any revenues or funds of the agency, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. A municipal power agency may issue such types of bonds or notes as it may determine, including bonds or notes as to which the principal and interest are payable exclusively from the revenues from one or more projects, or from an interest therein or a right to capacity thereof, or from one or more revenue producing contracts made by the municipal power agency with any person, or from its revenues generally. Any such bonds or notes may be additionally secured by a pledge of any grant, subsidy, or contribution from any public agency or other person, or a pledge of any income or revenues, funds, or moneys of the municipal power agency from any source whatsoever.

Subd. 3. **Negotiable.** All bonds and notes of a municipal power agency shall be negotiable within the meaning and for all the purposes of the Uniform Commercial Code, subject only to any registration requirement.

Subd. 4. **Formalities.** Bonds or notes of a municipal power agency shall be authorized by resolution of its board of directors and may be issued under such resolution or under a trust indenture or other security agreement, in one or more series, and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such conversion, registration, and exchange privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment at such place or places within or outside the state, be subject to such

terms of redemption with or without premium, and contain or be subject to such other terms as the resolution, trust indenture, or other security agreement may provide, and shall not be restricted by the provisions of any other law limiting the amounts, maturities, interest rates, or other terms of obligations of public agencies or private persons.

Subd. 5. **Issued, delivered.** Any bonds or notes may be issued and delivered, notwithstanding that one or more of the officers executing them shall have ceased to hold office at the time when the bonds or notes are actually delivered.

Subd. 6. **Temporary bonds.** Pending preparation of definitive bonds, a municipal power agency may issue temporary bonds which shall be exchanged for the definitive bonds.

Subd. 7. **Public or private sale, price.** Bonds or notes of a municipal power agency may be sold at public or private sale for such price or prices and in such manner as the agency determines.

Subd. 8. **Without state consent, other event.** Bonds or notes of a municipal power agency may be issued under the provisions of sections 453.51 to 453.62, and rents, rates, and charges may be established pursuant to section 453.57 and pledged for the security of bonds or notes and interest and redemption premiums thereon, without obtaining the consent of any department, division, commission, board, bureau, or agency of the state of Minnesota and without any other proceeding or the happening of any other condition or occurrence except as specifically required by sections 453.51 to 453.62.

Subd. 9. **Contract with holders; terms.** The resolution, trust indenture, or other security agreement under which any bonds or notes are issued shall constitute a contract with the holders of the bonds or notes, and may contain provisions, among others, prescribing:

(1) the terms and provisions of the bonds or notes;

(2) the mortgage or pledge of and the grant of a security interest in any real or personal property and all or any part of the revenue from any project or any revenue producing contract made by the municipal power agency with any person to secure the payment of bonds or notes, subject to any agreements with the holders of bonds or notes which might then exist;

(3) the custody, collection, securing, investment, and payment of any revenues, assets, money, funds, or property with respect to which the municipal power agency may have any rights or interest;

(4) the rates or charges for electric energy sold by, or services rendered by, the municipal energy agency, the amount to be raised by the rates or charges, and the use and disposition of any or all revenue;

(5) the creation of reserves or sinking funds and the regulation and disposition thereof;

(6) the purposes to which the proceeds from the sale of any bonds or notes then or thereafter to be issued may be applied, and the pledge of the proceeds to secure the payment of the bonds or notes;

(7) limitations on the issuance of any additional bonds or notes, the terms upon which additional bonds or notes may be issued and secured, and the refunding of outstanding bonds or notes;

(8) the rank or priority of any bonds or notes with respect to any lien or security;

(9) the creation of special funds or moneys to be held in trust or otherwise for operating expenses, payment, or redemption of bonds or notes, reserves or other purposes, and the use and disposition of moneys held in these funds;

(10) the procedure by which the terms of any contract with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which consent may be given;

(11) the definition of the acts or omissions to act which shall constitute a default in the duties of the municipal power agency to holders of its bonds or notes, and the rights and remedies of the holders in the event of default including, if the municipal power agency so determines, the right to accelerate the due date of the bonds or notes or the right to appoint a receiver or receivers of the property or revenues subject to the lien of the resolution, trust indenture, or other security agreement;

(12) any other or additional agreements with or for the benefit of the holders of bonds or notes or any covenants or restrictions necessary or desirable to safeguard the interests of the holders;

(13) the custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds;

(14) the vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers, and duties in trust as the municipal power agency may determine; or the limiting or abrogating of the rights of the holders of any bonds or notes to appoint a trustee, or the limiting of the rights, powers, and duties of such trustee; or

(15) the appointment of and the establishment of the duties and obligations of any paying agent or other fiduciary within or outside the state.

Subd. 10. **Security; UCC filings.** For the security of bonds or notes issued or to be issued by a municipal power agency, the municipal power agency may mortgage or execute deeds of trust of the whole or any part of its property and franchises in the same manner and with the same effect as provided for public service corporations in section 301B.04. Any mortgage or deed of trust covering the whole or any part of easements or other interests in real estate less than fee simple used in the generation or transmission of electric power, and covering fixtures annexed thereto, may be filed in the office of the secretary of state with or as a part of the financing statement covering the fixtures, with the same force and effect as provided in the case of public utilities under the provisions of section 507.327. All filings required under the Uniform Commercial Code to perfect a security interest against the personal property or fixtures of a municipal power agency shall be made and maintained in the Office of the Secretary of State, with the same force and effect as provided in the case of a debtor public utility under the provisions of sections 336B.01 to 336B.03.

Subd. 11. **Liability; indemnification.** Neither the officials, the directors, nor the members of a municipal power agency nor any person executing bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof. A municipal power agency shall have power to indemnify and to purchase and maintain insurance on behalf of any director, officer, employee, or agent of the municipal power agency, in connection with any threatened, pending, or completed action, suit, or proceeding, to the same extent and in the same manner and with the same force and effect as provided in the case of a private corporation under the provisions of section 302A.521.

Subd. 12. **Deal bonds and notes.** A municipal power agency shall have power to purchase, out of any funds available therefor, bonds or notes, and to hold, pledge, cancel, or resell the bonds or notes, subject to and in accordance with any agreements with the holders.

Subd. 13. **Payable solely from pledged or available revenue.** The principal of and interest upon any bonds or notes issued by a municipal power agency shall be payable solely from the revenues or funds pledged or available for their payment as authorized in sections 453.51 to 453.62. Each bond and note shall

contain a statement that the principal thereof or interest thereon is payable solely from revenues or funds of the municipal power agency and that neither the state nor any political subdivision thereof, other than the municipal power agency, nor any member of the municipal power agency is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof or of any member city is pledged to the payment of the principal of or the interest on the bonds or notes. Nothing herein, however, precludes the use of tax or other revenue by a city for payment of amounts due and performance of covenants under any contract of the city as provided in section 453.58, subdivision 3.

History: *1976 c 313 s 5; 1985 c 56 s 1; 1985 c 248 s 59; 2005 c 69 art 1 s 21; art 3 s 25; 2009 c 19 s 10*

453.56 EMINENT DOMAIN.

Except as otherwise provided by this section, a municipal power agency may acquire all real or personal property that it deems necessary for carrying out the purposes of sections 453.51 to 453.62, whether in fee simple absolute or a lesser interest, by condemnation and the exercise of the power of eminent domain in accordance with chapter 117. A municipal power agency shall have no power of eminent domain with respect to any real or personal property owned by any person as part of a system, whether existing, under construction, or being planned, of facilities for the generation, transmission, or distribution of electric power. The authority of a municipal power agency to acquire real or personal property by condemnation or the exercise of the power of eminent domain shall be a continuing power, and no exercise thereof shall exhaust it.

History: *1976 c 313 s 6*

453.57 RULES AND RATES.

A municipal power agency may make and enforce bylaws or rules which it deems necessary or desirable, and may establish, levy, and collect or may authorize, by contract, franchise, lease, or otherwise, the establishment, levying, and collection of, rents, rates, and other charges for the services afforded by the municipal power agency or by or in connection with any project or properties which it may construct, erect, acquire, own, operate, or control, or with respect to which it may have any interest or any right to capacity thereof, and for the sale of electric energy or of generation or transmission capacity or service as it may deem necessary, proper, desirable, and reasonable. Rents, rates, and other charges shall be at least sufficient to meet the expenses thereof, including reasonable reserves, interest, and principal payments, including payments into one or more sinking funds for the retirement of principal. A municipal power agency may pledge its rates, rents, and other revenues, or any part thereof, as security for the repayment, with interest and redemption premiums, if any, of any moneys borrowed by it or advanced to it for any of its authorized purposes and as security for the payment of amounts due and owing by it under any contract.

History: *1976 c 313 s 7*

453.58 CITY POWERS.

Subdivision 1. **By resolution; no incorporation.** A city may by resolution of its governing body exercise any of the powers granted in sections 453.51 to 453.62 to a municipal power agency, upon fulfillment of the conditions provided in sections 453.51 to 453.62 for the exercise of any such power, but without complying with the terms of section 453.53 hereof relating to incorporation, and notwithstanding any provision of any city charter or any other law denying, limiting, or placing conditions upon the exercise of any such power. Nothing in this section shall be construed to repeal any charter provision or law requiring an election or

other condition precedent to the establishment after January 1, 1976, of a city electric energy distribution system.

Subd. 2. **Publication.** Every resolution adopted in accordance with subdivision 1 shall be published in the official newspaper of the city. No action may be brought and no defense may be interposed in an action brought more than 30 days after publication of the resolution, placing at issue the validity of any provision of the resolution or the power of the city to make any contract or to issue any bond, note, or other obligation authorized thereby.

Subd. 3. **Bonds require other law.** Nothing in sections 453.51 to 453.62 authorizes any city to issue general obligation bonds for any purpose specified in sections 453.51 to 453.62, without approval of its electors or performance of such other procedural conditions as may be required by its charter or the laws of this state. A city may, however, by resolution of its governing body and without approval of the electors or performance of other conditions provided in any charter or other law, enter into contracts with a municipal power agency for the purchase, sale, exchange, or transmission of electric energy and other services, on such terms and for such period of time as the resolution may provide. A city may appropriate and use tax and other revenues received in any year to make payments due or to comply with covenants to be performed during that year under any contract made by the city when acting as a municipal power agency, or any contract made by the city with a municipal power agency, as contemplated by sections 453.51 to 453.62, subject to the provisions of its charter and the laws of this state regarding budget and payment procedures and annual tax levy limitations.

Subd. 4. **No taxation of property; intent.** (a) Notwithstanding anything in sections 453.51 to 453.62 to the contrary, a city, by the exercise of any or all of the powers granted in sections 453.51 to 453.62, is not subject to any duty under section 453.54, subdivision 20, to pay amounts in lieu of taxes on any of its property. The sale or distribution of electric energy to private persons shall not cause a project to be treated as not used exclusively for a public purpose.

(b) This subdivision is adopted to clarify the powers intended to be granted to cities under this section, and the consequences thereof, is remedial in character, and applies to all property heretofore or hereafter acquired through the exercise of any of the powers of sections 453.51 to 453.62.

History: *1976 c 313 s 8; 1Sp1985 c 10 s 93*

453.59 CONSTRUCTION CONTRACTS.

A city or municipal power agency may contract for the planning, acquisition, construction, reconstruction, operation, maintenance, repair, extension, and improvement of generation and transmission facilities outside of its corporate limits or those of its members, or may contract with other public or private owners of these facilities to perform these functions, without advertising for bids, preparing final plans and specifications in advance of construction, or securing performance and payment bonds, except to the extent that its governing body determines that these actions are desirable in furtherance of the purposes of sections 453.51 to 453.62. Except as otherwise provided by this section, no contract shall be invalid or unenforceable by reason of nonperformance of the conditions required by any other law relating to public contracts. If a payment bond is secured as provided in section 574.26, it shall be enforceable as provided in sections 574.28 to 574.31, and no lien may be filed under chapter 514 for the furnishing of labor, skill, material, or machinery for the improvement covered thereby.

History: *1976 c 313 s 9*

453.60 AUTHORIZED INVESTMENTS; SECURITY FOR PUBLIC DEPOSITS.

Notwithstanding any other law to the contrary, the state of Minnesota and all its public officers, governmental units, agencies and instrumentalities, all banks, trust companies, savings banks and institutions, savings associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, money, or other funds belonging to them or within their control in any bonds or notes issued pursuant to sections 453.51 to 453.62, and the bonds or notes shall be authorized security for any and all public deposits.

History: *1976 c 313 s 10; 1995 c 202 art 1 s 25*

453.61 EMPLOYEES, DEFINITION.

Employees of a municipal power agency shall be "public employees" within the meaning of section 353.01, and the provisions of chapter 353 shall apply to employees of a municipal power agency.

History: *1976 c 313 s 11*

453.62 CONSTRUCTION.

Subdivision 1. **Liberally, broadly.** Sections 453.51 to 453.62 shall be construed liberally to effectuate its legislative intent and purpose, as complete and independent authority for the performance of each and every act and thing authorized by sections 453.51 to 453.62, and all authority granted shall be broadly interpreted to effectuate this intent and purpose and not as a limitation of powers.

Subd. 2. **This chapter prevails.** In the event of any conflict or inconsistency between sections 453.51 to 453.62 and any other law or charter provision, the provisions of sections 453.51 to 453.62 shall prevail.

History: *1976 c 313 s 12*