

CHAPTER 457

WATER AND LIGHT PLANTS

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457.01 WATER AND LIGHT PLANTS IN VILLAGES. Any village, whether governed by this chapter or otherwise, may erect water-works, and lighting plants and heating plants, for supplying water, and light and heat for public purposes, or for the private use of its inhabitants, or both, and may conduct and control the same, and fix and collect proper and uniform charges for such private supply, or it may purchase or lease any such works or plant already erected, and operate the same for the purposes aforesaid. No such erection, purchase, or lease shall be made without approval by the voters of the village, such as is required by law for the issuing of village bonds for like objects. The proposal so to do, and a proposal to issue bonds to raise money therefor, may be submitted either separately, or as a single question.

[R. L. s. 744; 1913 c. 486 s. 1] (1229)

457.02 WATER-WORKS AND LIGHT PLANTS. When at any general or special election, held in any city in the class hereinafter mentioned, the electors thereof by an affirmative vote of three-fifths of the legal voters, voting thereat, so determine, each city of the fourth class in the state, whether organized or existing under special or general law or under a home rule charter, is hereby authorized and empowered, in addition to all powers to issue bonds conferred upon it by its charter, or by virtue of any general or special law, and in addition to all other bonds that it is by law authorized to issue, to issue its bonds in the aggregate amount mentioned in section 457.03 to be determined as therein set forth and to dispose of the same as provided in section 457.06, and to use the proceeds thereof for the purpose of acquiring, constructing, extending, enlarging, improving, or purchasing municipal water-works, or light, or power plants or either or all or any part thereof, and the lands or flowage rights therefor whether the whole or any part of such plant or the land or flowage rights therefor is situate within or without the corporate limits of the city, but in each case the city may either acquire such water-works system or light or power plants or any part or portion thereof or any or all lands or flowage rights necessary therefor by purchase at such price not exceeding its fair value and on such terms as may be agreed on between said city and the owner or owners thereof or by condemnation. The procedure in the event of condemnation shall be that prescribed by chapter 117 or that prescribed by the city charter and the purchase price of the plant or system or portion thereof, or lands or flowage rights as so fixed by agreement or condemnation may be paid out of the proceeds of the bonds by sections 457.02 to 457.08, authorized to be issued and the balance of the proceeds, if any, may be used for extension, enlargement, or improvement of the plant or plants so acquired.

[1909 c. 43 s. 1; 1917 c. 134 s. 1] (1754)

457.03 POWERS OF COUNCIL; SUBMISSION TO VOTERS; NOTICE. When the council of any such city, at a regular called meeting thereof, determined by resolution, duly adopted, by a three-fourths majority vote of all the members thereof, entered upon the minutes of the proceedings, that it is necessary either to acquire by purchase or condemnation, water-works or light plants already in existence, or construct, extend, enlarge, or improve a municipal water or light plant, or either or all thereof, as the case may be, and that the funds in the

treasury of the city available therefor, are not sufficient for such purpose, and that it is necessary to issue the bonds of the city in an amount to be determined by the council in such resolution, not exceeding in the aggregate 15 per cent of the assessed valuation of the taxable property of the city according to the last preceding assessment thereof, the council may cause the proposition of issuing the bonds, in such an amount, to be submitted to the electors of the city at any general or special election to be held therein. The resolution shall fix the time of the voting, if the same be submitted at a special election, which shall be not less than ten days after the date of the adoption of the resolution, and the special election shall be conducted as provided by law for general elections. The notice of the election at which the proposition is to be submitted, whether general or special, shall contain a statement of the total amount of the principal of the bonds and the purpose to which it is proposed to put the same.

[1909 c. 43 s. 2; 1911 c. 289 s. 1] (1755)

457.04 ELECTION, HOW CONDUCTED. In voting upon such proposition those in favor of issue of bonds, shall have written or printed, or partly written and partly printed on the ballots used, the words "Issue of Bonds," "Yes," "No," and each elector voting on such proposition shall make a cross mark thus: (X) in one of the two spaces left for the purpose, upon the margin of the ballot used as provided in Laws 1893, Chapter 4, Section 28. The elector desiring to vote in favor of issuing bonds shall make a cross mark thus: (X) in the place left opposite the word "Yes," and the elector desiring to vote against the issuing of bonds, shall make a cross mark thus: (X) in the place so left opposite the word "No," and no ballot shall be counted on the proposition except those having the cross mark (X) opposite one only of the words "Yes," "No." The voting shall be conducted in the same manner as provided by law for the election of city officers, and shall be counted, returned, and canvassed in the same manner, as provided by law for the election of city officers, and if upon such canvass it appears that a three-fifths majority of all the votes cast upon the proposition, shall be in favor of issuing bonds, the same may thereafter be issued in accordance with the provisions of sections 457.02 to 457.08, but not otherwise.

[1909 c. 43 s. 3] (1756)

457.05 BONDS, WHEN ISSUED. When the electors of any such city at any such election shall declare in favor of issuing the bonds of the city under sections 457.02 to 457.08, such city, and the council thereof, is hereby authorized and empowered by an affirmative vote of three-fourths of the members of the council, to issue the bonds of the city, in an amount to be determined by the council, not exceeding in the aggregate the amount contained in the proposition, adopted by the electors at the election, and the council may dispose of the same, as provided in sections 457.06 to 457.08, and may use the same and the proceeds thereof for any of the purposes which the resolution provided for in section 457.03 shall specify, but not otherwise.

[1909 c. 43 s. 4] (1757)

457.06 BONDS, DENOMINATIONS. Such bonds shall be of such denomination as the council may determine, shall be payable at such place as the council may designate; at such times, not more than 30 years from date of issue, as the council may determine; shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as such city may deem best, and shall draw interest payable semiannually, at such place as the council may determine, at a rate not exceeding five per cent per annum, to be represented by coupons attached to the bonds. These bonds and coupons shall be signed by the mayor and attested by the clerk, or similar officer, or recorder of such city and the corporate seal of the city shall be imprinted upon the bonds.

[1909 c. 43 s. 5; 1917 c. 507 s. 1] (1758)

457.07 BONDS, HOW DISPOSED OF. The council of any such city shall have authority by a majority vote of all its members to dispose of such bonds in such manner as in the judgment of the council shall best subserve the interest of the city, but it shall not negotiate the sale, dispose of, nor sell these bonds, nor any of them, at less than their par value and accrued interest, and neither the bonds or the proceeds of the sale thereof shall be used for any other purpose than specified in the resolution contemplated by section 457.03, and such purpose shall be again distinctly stated in the resolution of the council authorizing the issuance thereof.

[1909 c. 43 s. 6] (1759)

457.08 LIEN OF BONDS. The principal and interest of any such bonds so issued is hereby declared to be a first lien upon the municipal water-works or light plants respectively constructed or acquired by means of the bonds or the proceeds of the sale thereof, and the faith and credit of the city issuing the same is hereby irrevocably pledged to the payment thereof, any provision of the law of this state, whether general or special, or by virtue of Laws 1899, Chapter 351, as amended, to the contrary notwithstanding.

[1909 c. 43 s. 7] (1760)

457.085 WATER-WORKS AND LIGHT PLANTS IN CERTAIN CITIES. Subdivision 1. **Special election.** When at any general or special election held in any city in the class mentioned in this section, the electors thereof, by an affirmative vote of three-fifths of the legal voters voting thereat, so determine, each city of the fourth class in the state, whether organized or existing under special or general law, or under and by virtue of the provisions of Laws 1899, Chapter 351, as amended, is hereby authorized and empowered, in addition to all powers to issue bonds conferred upon it by its city charter or by virtue of any general or special law, and in addition to all other bonds that it is by law authorized to issue, to issue its bonds in the aggregate amount mentioned in this section to be determined as set forth in this section and to dispose of the same, as provided in this section, and to use the proceeds thereof for the purpose of constructing, extending, enlarging, improving, or purchasing municipal water-works or light plants or either or all thereof, but in each case the city may either acquire such existing water-works system or electric light plant by purchase at such price, not exceeding its fair value, and on such terms as may be agreed on between the city and the owner thereof, or, if such arrangement as to price and terms cannot be arrived at, may acquire such system by condemnation thereof. The procedure in the event of condemnation, shall be that prescribed by chapter 117, or that prescribed by such city's charter, and the purchase price of the plant or system, as so fixed by agreement or condemnation, may be paid out of the proceeds of the bonds by this section authorized to be issued.

Subd. 2. **Bond issue; powers of council; submission to voters; notice of election.** When the council of any city at a regular called meeting thereof determine by resolution duly adopted by a three-fourths majority vote of all the members thereof entered upon the minutes of the proceedings that it is necessary either to purchase water-works or light plants already in existence, or construct, extend, enlarge or improve a municipal water or light plant or either or all thereof, as the case may be, and that the funds in the treasury of the city available therefor, are not sufficient for such purpose, and that it is necessary to issue the bonds of such city in an amount to be determined by such council in such resolution, such council may cause the proposition of issuing such bonds in such amount to be submitted to the electors of such city at any general or special election, to be held therein. Such resolution shall fix the time of the voting, if the same be submitted at a special election, which shall be not less than ten days after the date of the adoption of the resolution, and the special election shall be conducted as provided by law for general elections. The notice of such election at which the proposition is to be submitted, whether general or special, shall contain a statement of the total amount of the principal of the bonds, and the purpose to which it is proposed to put the same.

Subd. 3. **Bond issue; ballots; conduct of election.** In voting upon such proposition, those in favor of issue of bonds shall have written or printed or partly written and partly printed on the ballots used, the words, "Issue of Bonds," "Yes," "No," and each elector voting on such proposition shall make a cross mark thus: (X), in one of the two spaces left for the purpose, upon the margin of the ballot used as provided in Laws 1893, Chapter 4, Section 28. The elector desiring to vote in favor of issuing bonds shall make a cross mark thus: (X) in the place left opposite the word "Yes," and the elector desiring to vote against the issuing of bonds, shall mark a cross mark thus: (X) in the place so left opposite the word "No," and no ballot shall be counted on said proposition except those having said cross mark (X) opposite one only of the words "Yes," "No." The voting shall be conducted in the same manner as provided by law for the election of city officers and shall be counted, returned and canvassed in the same manner as provided by law for the election of city officers, and, if upon such canvass, it appears that a three-fifths majority of all the votes cast upon the proposition, shall be in favor of issuing bonds, the same may thereafter be issued in accordance with the provisions of this section, but not otherwise.

Subd. 4. **Bond issue; sale and use of proceeds.** When the electors of any such city at any such election shall declare in favor of issuing the bonds of such city hereunder, such city, and the city council thereof, is hereby authorized and empowered by an affirmative vote of three-fourths of the members of such council, to issue the bonds of the city, in an amount to be determined by the council, not exceeding in the aggregate the amount contained in the proposition, adopted by the electors at said election, and such council may dispose of the same, as provided in this section, and may use the same and the proceeds thereof for any of the purposes which the resolution provided for in subdivision 2 shall specify, but not otherwise.

Subd. 5. **Bond issue denominations; maturity; interest.** Such bonds shall be of such denomination as the council may determine; shall be payable at such place as the council may designate; at such times, not less than ten, nor more than 30, years from the date of issue; shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as such council may deem best, and shall draw interest payable semiannually, at such place as the council may determine, at a rate not exceeding five per cent per annum, to be represented by coupons attached to the bonds. These bonds and coupons shall be signed by the mayor and attested by the clerk, or similar officer, or recorder of such city, and the corporate seal of the city shall be imprinted upon the bonds.

Subd. 6. **Bond issue; sale of bonds; use of proceeds.** The council of any such city shall have authority, by a majority vote of all its members, to dispose of such bonds in such manner as in the judgment of the council shall best subserve the interest of the city, but it shall not negotiate the sale, dispose of, nor sell these bonds, nor any of them, at less than their par value and accrued interest, and neither the bonds or the proceeds of the sale thereof shall be used for any other purpose than specified in the resolution contemplated by subdivision 2, and such purpose shall be again distinctly stated in the resolution of the council authorizing the issuance thereof.

Subd. 7. **Bond issue; lien of bonds.** The principal and interest of any such bonds, so issued is hereby declared to be a first lien upon the municipal water works or light plants respectively constructed or purchased by means of said bonds or the proceeds of the sale thereof, and the faith and credit of such city issuing the same is hereby irrevocably pledged to the payment thereof; any provision of the law of this state, whether general or special, or by virtue of Laws 1899, Chapter 351, as amended, to the contrary notwithstanding. The bonds of any such city issued pursuant to the terms and provisions of this section at any time outstanding shall not be included in determining any such city's net indebtedness under the provisions of its charter or of any applicable law.

[1905 c. 334 ss. 1, 2, 3, 4, 5, 6, 7; 1907 c. 59 s. 1; 1907 c. 178 s. 1; 1923 c. 181 ss. 1, 3] (1753-1, 1753-2, 1753-3, 1753-4, 1753-5, 1753-6, 1753-7)

457.09 TAX LEVY FOR WATER AND LIGHT PLANTS. The council or governing body of any incorporated village in this state whose water and light plant is operated and controlled by a water, light and building commission is hereby authorized annually at the time of levying the general corporation taxes to levy a special tax not exceeding five mills on each dollar of the taxable property in the village for the purpose of paying the cost of operating the village water and light plant and other municipal plants and utilities under the supervision of the commission in supplying the village with the necessary water for fire protection and street sprinkling and the necessary electric current or other means of light, for lighting the streets and public parks and public buildings in such village, and for the purpose of paying the cost of operating such municipal plants and utilities in supplying such village with any other services given or rendered to the village by the commission.

[1913 c. 241 s. 1; 1933 c. 280 s. 1] (1245)

457.10 HOW COLLECTED. Such tax shall be known as the village water and light tax and shall be levied and collected in same manner as the general corporation taxes, anything in the charter of the village or in any law of this state which may prohibit the levying of any tax in excess of any specific percentage of the taxable property in the village to the contrary notwithstanding. When collected such tax shall be paid into the water and light fund of the village.

[1913 c. 214 s. 2] (1246)

457.11 CLERK AND RECORDER TO MAKE AND FILE ESTIMATE. Before making such special tax levy, the water, light and building commission of the village each year shall, at the request of the village council, on or before the following first day of August make and file with the village recorder or clerk a statement containing an estimate of the probable cost of supplying the village with the necessary water and light and other services given and rendered to the village for the ensuing year.

[1913 c. 214 s. 3; 1933 c. 280 s. 2] (1247)

457.12 CONTRACTS FOR WATER AND LIGHT IN CITIES OF SECOND AND THIRD CLASS. Any city of the second or third class, if it have no water system of its own, may contract with a private person or corporation to supply its inhabitants with water for public and private use, for such period, not exceeding 30 years, and upon such conditions, as its council may determine; and, as a part of such contract, it may authorize the laying, maintenance, and operation of mains, hydrants, connections, and other appliances in the streets and other public grounds. In like manner, any such city not owning a lighting system may contract for the public and private lighting thereof for a period not exceeding 15 years, and may authorize the placing of poles, wires, and other necessary lighting apparatus in the streets and public grounds. Any such contract may be extended from time to time for periods not exceeding the limits herein fixed.

[R. L. s. 765] (1326)

457.13 LEASING, SELLING, OR ABANDONING OF WATER-WORKS OR LIGHTING PLANTS. Any village or any city of the fourth class in this state wherein there is constructed and in operation water-works and lighting plant or water-works or lighting plant for supplying water and light, or either of them, for public purposes or for the private use of its inhabitants or both, owned by any such city or village, may by resolution or ordinance of its governing body, passed and adopted in the usual manner sell, lease, or abandon any such plant or any specific part thereof, or discontinue wholly or in part the operations thereof; if a specific part of such plant is to be sold, leased, or abandoned, or the operation thereof discontinued, such resolution shall state the specific part to be so sold, leased, or abandoned, or to be discontinued. Before any such resolution or ordinance shall become effective, the same shall be submitted to the legal voters of the village or city at a regular village or city election or special election therein and approved by a two-thirds vote of the electors voting thereon at any such election. The ballots at any such election shall be printed and contain in full the resolution or ordinance to be voted upon and thereon immediately following the resolution or ordinance, there shall be printed in appropriate manner the words "yes" and "no" on separate lines and every voter desiring to vote in favor of such proposition shall thereupon make his cross (X) mark opposite the word "yes" and every voter desiring to vote against such proposition shall make such mark opposite the word "no." In case of villages such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for village officers, and in case of cities of the fourth class, such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for city officers in the respective cities of the fourth class according to the law or charter governing such city.

Thereupon if any such proposition shall be declared adopted and carried at any such election, the proper officers of any such village or city of the fourth class shall forthwith proceed to carry out the same according to such resolution.

This section shall apply to all villages in this state and to all cities of the fourth class however organized and whether operating under general or special laws or home rule charters, or otherwise.

[1917 c. 172 ss. 1, 2, 3; 1931 c. 133] (1865, 1866, 1867)

457.14 WATER, LIGHT AND HEATING PLANTS; PURCHASE; BONDS; SUBMITTED TO VOTERS. Any village in this state wherein is now constructed a public water, light and heat plant, or water or light or heating plants, not owned by the village, may by resolution or ordinance of the village council, passed and approved in the usual manner, purchase such plants, or any of them, and issue bonds running not to exceed 20 years and bearing interest not to exceed five per cent per annum, payable semiannually, for the purchase price or any part thereof

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and secure the same by lien in the form of a mortgage securing payments of the bonds upon the plant so purchased and extensions thereof and additions thereto. A written contract pursuant to and in addition to the resolution or ordinance may, if desired, be entered into between the village through its president and recorder and the persons or corporation selling the plant.

Before such resolution or ordinance or contract shall take effect the same shall be submitted to the village electors at a regular village or state or special election and approved by two-thirds of those voting thereon. The ballots may be substantially as follows: "For the purchase of a water, light and heating plant" (or the plant which is proposed to be purchased); or "Against the purchase of a water, light and heating plant" (or the plant which is proposed to be purchased).

[1909 c. 15 ss. 1, 2] (1230, 1231)

457.15 PRICE, HOW PAID. Any part of the purchase price may be paid in cash and it may, if desired, be provided in the bonds that any bond may be paid at any interest day, at the option of the village.

[1909 c. 15 s. 3] (1232)

457.16 POWER TO EMPLOY ATTORNEY. The village council may, if desired, employ attorneys for consultation in regard to the ordinance, contract, and bonds.

[1909 c. 15 s. 4] (1233) -

457.17 BONDS OR LOAN FROM STATE. The bonds so voted may be sold to the highest bidder for not less than par or a loan obtained from the State of Minnesota in the manner provided by law for the loan of state funds to the amount thereof or for a less amount and the amount to be paid for such plant in cash from the proceeds if such course be deemed desirable by the village council, or partly in cash and partly by the issue of bonds secured on the plant as provided in sections 457.14 to 457.16.

[1909 c. 15 s. 5] (1234)

457.18 OPERATION OF PLANTS. After such plant is acquired, the village council shall make all necessary rules and regulations for the protection, maintenance, and operation thereof, and the sale of its product and use of the proceeds which shall not be expended for any purpose not connected with such plant, until such bonds are paid.

[1909 c. 15 s. 6] (1235)