

CHAPTER 150.

[S. B. 249.]

RELATING TO PUBLIC UTILITIES IN CITIES AND TOWNS.

AN ACT authorizing cities and towns to construct, condemn and purchase, purchase, acquire, add to, maintain, conduct and operate certain public utilities, providing for modes of payment therefor, repealing all acts in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That any incorporated city or town with-

Waterworks. in the state be, and hereby is, authorized to construct, condemn and purchase, purchase, acquire, add to, maintain, conduct and operate waterworks, within or without its limits, for the purpose of furnishing such city or town and the inhabitants thereof, and any other persons, with an ample supply of water for all uses and purposes, public and private, including water power and other power derived therefrom, with full power to regulate and control the use, distribution and price thereof; to construct and

Sewerage. maintain systems of sewerage, and systems and plants for refuse collection and disposal, with full jurisdiction and authority to manage, regulate and control the same within and without the limits of the corporation; to construct, condemn and purchase, purchase, acquire, add to, maintain and operate works, plants and facilities for the preparation and manufacture of all such stone or asphalt products or compositions or other materials which may be

Road materials. used in street construction or maintenance, together with the right to use the same and also to fix the price of and to sell the same for use in the construction of municipal improvements of such city or town; and to construct, condemn and purchase, purchase, acquire, add to, maintain and operate works, plants and facilities for the purpose of furnishing such city or town and the inhabitants thereof, and any other persons, with gas, electricity and other

Light and heat. means of power and facilities for lighting, heating, fuel and power purposes, public and private, with full author-

ity to regulate and control the use, distribution and price thereof, together with the right to handle and sell, or lease, any meters, lamps, motors, transformers and equipment or accessories of any and every kind, necessary and convenient for the use, distribution and sale thereof; to authorize the construction of such plant or plants by others for the same purpose, and to purchase such gas, electricity or power from others either within or without the city or town for its own use and for the purpose of selling to its inhabitants and other persons doing business within such city or town, and to regulate and control the use and price thereof; to construct, condemn and purchase, purchase, acquire, add to, maintain, operate or lease cable, electric and other railways within the limits of such city or town for the transportation of freight and passengers above, upon or underneath the ground, with full authority to regulate and control the use and operation thereof, and to fix, alter, regulate and control the fares and rates to be charged thereon; and for the purposes aforesaid, it shall be lawful for any city or town in this state to take, condemn and purchase, purchase, acquire and retain water from any public or navigable lake or water course, percolating or subterranean, or any underflowing water within the state, and, by means of aqueducts or pipe lines, to conduct the same to said city or town; and such city or town is hereby authorized and empowered to erect and build dams or other works across or at the outlet of any lake or watercourse in this state, for the purpose of storing and retaining water therein up to and above high water mark; and for all the purposes of erecting such aqueducts, pipe lines, dams or waterworks or other necessary structures in storing and retaining water, as above provided, or for any of the purposes provided for by this act, such city or town shall have the right to occupy and use the beds and shores up to the high water mark of any such water course or lakes, and to acquire the right by purchase, or by condemnation and purchase, or otherwise, to any water, water rights, easements or privileges named in this act, or nec-

Street rail-
ways.

Water
rights.

Storage of
water.

essary for any of said purposes, and any such city or town shall have the right to acquire by purchase or by condemnation and purchase any lands, properties or privileges necessary to be had to protect the water supply of such city or town from pollution: *Provided*, That should private property be necessary for any such purposes or for storing water above high water mark, such city or town may condemn and purchase, or purchase and acquire such private property: *And provided further*, That no such dam or other structure shall impede, obstruct or in any way interfere with public navigation of such lake or watercourse.

Navigation
to be un-
obstructed.

SEC. 2. Whenever the city council or other corporate authorities of any such city or town shall deem it advisable that the city or town of which they are officers shall purchase, acquire or construct any public utility mentioned in section 1 hereof or make any additions and betterments thereto or extensions thereof, the common council or other corporate authorities shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof as near as may be, and the same shall be submitted for ratification or rejection to the qualified voters of said city at the general or special election, except in the following cases where no submission shall be necessary:

Ordinance.

Election.

(1) When the work proposed is an addition to, or betterment of, or extension of, or an increased water supply for, existing water works, or an addition, betterment or extension of an existing system or plant of any other public utility mentioned in section 1 hereof, for which no general indebtedness is to be incurred by such city or town: *Provided*, Such undertaking shall have been authorized by the common council of such city or town prior to July first, nineteen hundred and ten; or

Without elec-
tion.

(2) Where in any charter of any city or town in the State of Washington heretofore or hereafter adopted by a vote of the people, an article or provision has been adopted authorizing the city council or other corporate authorities of such city to provide by ordinance for

Charter
provisions.

acquiring, opening or operating any of said public utilities, for which no general indebtedness is to be incurred by such city or town. If a general indebtedness is to be incurred, the amount of such indebtedness and the terms thereof shall be included in the proposition submitted to the qualified voters as aforesaid and such proposition shall be adopted and assented to by three-fifths of the qualified voters of the said city or town voting at said election. If no general indebtedness is to be incurred such proposition may be adopted by a majority vote. Ten days' notice of such election shall be given in the newspaper doing the city or town printing, by publication in each issue of said paper during said time. Whenever a proposition has been adopted as aforesaid or in the cases mentioned in sub-divisions first and second of this section where no submission shall be necessary the common council or other corporate authorities of such city or town shall have power to proceed forthwith to purchase, construct and acquire the public utility contemplated or to make additions, betterments and extensions thereto and to make payment therefor as hereinafter provided in section 3 and section 4.

SEC. 3. Whenever the qualified voters of any such city or town shall have heretofore adopted or shall hereafter adopt a proposition for any public utility as aforesaid, and shall have authorized a general indebtedness, general city or town bonds may be issued as hereinafter provided. Said bonds shall be registered or coupon bonds; Bonds. shall be issued in denominations of not less than one hundred, or more than one thousand dollars; shall be numbered from one up consecutively; shall bear the date of their issue; shall be payable not more than twenty years from date; and shall bear interest not exceeding six per cent per annum, payable semi-annually, with interest coupons attached, and the principal and interest shall be made payable at such place as may be designated. The bonds and each coupon shall be signed by the mayor and attested by the clerk under the seal of the city or town. There shall be levied each year a tax upon the taxable

property of such city or town, as the case may be, sufficient to pay the interest on said bonds as the same accrue, and before seven years prior to the maturity thereof, an annual sinking fund sufficient for the payment of said bonds at maturity, which taxes shall become due and collectable as other taxes. Said bonds shall be printed and engraved, or lithographed, on good bond paper, and a duly authenticated copy of this act, together with the ordinance of the city or town directing the submission of such plan or system to the qualified voters of such city or town for ratification or rejection shall be printed on each bond, together with a printed copy of a signed statement by the mayor and clerk showing the result of said election. Such bonds shall be sold in such manner as the corporate authorities shall deem for the best interest of the city or town. A register shall be kept of all the bonds, which register shall show the number, date, amount, interest, to whom delivered—if coupon bonds—and the name of the payee—if registered bonds; and when and where payable, and each and every bond executed, issued or sold under the provisions of this sub-division.

The total indebtedness incurred under the authority of this act, added to all other indebtedness of such city or town at any time outstanding, shall not exceed five per centum of the value of the taxable property therein, to be ascertained in the case of towns by the last assessment for state and county purposes, and in the case of cities by the last assessment for city purposes, previous to the incurring of such indebtedness: *Provided, however,* That any such city or town may become indebted to a larger amount, but not exceeding five per centum additional, for supplying such city or town with water, artificial light and sewers when works for supplying such water, light, and sewers shall be owned and controlled by the municipality.

SEC. 4. Whenever the qualified voters of any such city or town shall have heretofore adopted or shall hereafter adopt a proposition for any public utility as heretofore provided and either no general indebtedness shall have been authorized or the common council or other corporate

authorities shall not desire to incur a general indebtedness, and whenever the common council or other corporate authorities of any such city or town shall be authorized to exercise any of the powers conferred by section 1 hereof without submitting any proposition as provided in subdivision first and second of section 2 hereof, the common council or other corporate authorities shall have power to create a special fund or funds for the sole purpose of defraying the cost of such public utility or addition, betterment or extension thereto, into which special fund or funds the common council or other corporate authorities of such city or town may obligate and bind the city or town to set aside and pay a fixed proportion of the gross revenues of such public utility, or any fixed amount out of and not exceeding a fixed proportion of such revenues, or a fixed amount without regard to any fixed proportion, and to issue and sell bonds or warrants bearing interest not exceeding six per centum per annum, payable semi-annually, executed in such manner and payable at such times and places as the common council or other corporate authorities of such city or town shall determine, but such bonds or warrants and the interest thereon shall be payable only out of such special fund or funds. In creating any such special fund or funds the common council or other corporate authorities of such city or town shall have due regard to the cost of operation and maintenance of the plant or system as constructed or added to, and to any proportion or part of the revenue previously pledged as a fund for the payment of bonds, warrants, or other indebtedness, and shall not set aside into such special fund a greater amount or proportion of the revenue and proceeds than in their judgment will be available over and above such cost of maintenance and operation and the amount or proportion, if any, of the revenue so previously pledged. Any such bonds or warrants and interest thereon issued against any such fund as herein provided shall be a valid claim of the holder thereof only as against the said special fund and its fixed proportion or amount of the revenue pledged to such fund,

Special fund.

Considerations in creating fund.

Special fund only liable.

and shall not constitute an indebtedness of such city or town within the meaning of the constitutional provisions and limitations. Each such bond or warrant shall state upon its face that it is payable from a special fund, naming the said fund and the ordinance creating it. Said bonds and warrants shall be sold in such manner as the corporate authorities shall deem for the best interests of the city or town, and the corporate authorities may provide in any contract for the construction and acquirement of the proposed improvement that payment therefor shall be made only in such bonds and warrants at par value thereof.

When any such special fund shall have been heretofore or shall be hereafter created and any such obligation shall have been heretofore or shall hereafter be issued against the same, a fixed proportion, or a fixed amount out of and not exceeding such fixed proportion, or a fixed amount without regard to any fixed proportion, of revenue shall be set aside and paid into said special fund as provided in the ordinance creating such fund, and in case any city or town shall fail to thus set aside and pay said fixed proportion or amount as aforesaid, the holder of any bond or warrant against such special fund may bring suit or action against the city or town and compel such setting aside and payment.

Suit to create fund.

SEC. 5. That in all cases where the qualified electors of any city or town have heretofore, at any election, ratified any plan or system of any public utility mentioned in section 1 of this act, and shall have authorized a general indebtedness of such city or town and the issuance of bonds therefor, or the creation of a special fund or funds out of the revenues of the public utility the plan or system of which was so ratified, and the issuance of bonds or warrants payable only out of such fund or funds; and pursuant to such authorization or ratification a general indebtedness shall have been incurred or authorized to be incurred, and bonds or other obligations issued or contracted to be issued or authorized to be issued, or a special fund or funds shall have been created out of the revenue

Ratification of former action.

of any such public utility by pledging or setting aside a fixed proportion of such revenues, or a fixed amount out of and not exceeding a fixed proportion or a fixed amount without regard to any fixed proportion, and bonds or warrants payable either upon the call of such city or town or at a fixed date, but only out of such special fund or funds, issued or contracted to be issued or authorized to be issued, or a contract or contracts for the purchase, construction, acquisition, improvement, betterment, or addition to such public utility entered into; such general indebtedness, bonds or other obligations, contracts, special funds, and bonds or warrants, payable out of such special funds, and all proceedings relating thereto, are hereby ratified, confirmed and validated; and any bonds or other obligations constituting a general indebtedness, or bonds or warrants payable out of such special funds heretofore so authorized, may be hereafter issued or sold as if all of said proceedings were taken pursuant to and under the authority of this act, and in full compliance therewith.

SEC. 6. All acts and parts of acts in conflict herewith are hereby repealed: *Provided, however,* That any and all Repeals. proceedings heretofore begun under the provisions of any existing act may be proceeded with either under the provisions of such act or under the provisions of this act, as the corporate authorities may elect.

SEC. 7. An emergency exists and this act shall take Emergency. effect immediately.

Passed by the Senate March 6, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.