

CHAPTER 47.

[H. B. 323.]

MUNICIPALLY OWNED STREET RAILWAYS.

AN ACT relating to municipally owned street railway or surface transportation systems in cities having more than three hundred thousand population; providing for the borrowing of money from the Reconstruction Finance Corporation or any other agency of the United States government for street railway and surface transportation purposes in such cities, and for the issuance of bonds payable from the revenues of such systems to evidence such loans, the proceeds thereof to be used for the purpose of purchasing and acquiring equipment and extensions, repairs, improvements and betterments to, and the operation of, said systems, and to refund outstanding indebtedness payable from the revenues of said system, to validate all such outstanding indebtedness and to create transportation commissions in such cities, and to prescribe the powers and duties thereof, and to repeal all laws or parts of laws and the provisions of any city charter in conflict herewith in so far as such conflict exists.

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

Power to borrow from government agency.

SECTION 1. Any city of more than 300,000 population owning and operating a street railway or surface transportation system shall have the power to borrow money from the Reconstruction Finance Corporation or from any other agency of the United States Government for the purpose of funding and refunding all or any number of revenue bonds or revenue warrants or both and the interest thereon issued by any such city in connection with such street railway or surface transportation system and payable from or drawn upon the revenues thereof and which were outstanding on February 1, 1939, and for the purpose of adding to, purchasing, acquiring, constructing, extending, improving, bettering, operating and maintaining such street railway or surface transportation systems for such cities, including the purchasing of trolley and motor buses and other equipment and the extension, repair, im-

provement and betterment of said system, and in connection with any such loan may enter into an agreement or agreements with the Reconstruction Finance Corporation or any such agency providing such terms and conditions for the granting of such loan as the city council or other governing body of such city may approve. Such agreement or agreements may be represented by the adoption by the city council or other governing body of any such municipality of a resolution or resolutions or by the execution of a written instrument or instruments.

Agreement.

SEC. 2. Any such loan shall be evidenced by bonds payable solely from the revenues to be derived from the operation of such street railway and surface transportation system. Such bonds may be authorized by ordinance or resolution duly adopted by the city council or other governing body of any such city, which resolution or ordinance shall provide for the creation of a special fund or funds into which fund or funds the city council or other governing body of such city may obligate and bind such city to set aside and pay a fixed proportion of the gross revenues of such street railway and surface transportation system and all extensions thereof and additions thereto 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, which fund or funds shall be drawn upon solely for the purpose of paying the principal of and interest on the bonds issued pursuant to this act. Such bonds shall bear interest at not exceeding 6% per annum and shall be in such form and tenor and executed in such manner, shall be payable at such time or times, and may contain such provisions for registration as to principal and principal and interest and reconversion thereof to coupon bonds as the city council or other governing body of any such city shall determine. Such bonds

Bonds payable solely from revenue.

Interest.

Negotiable though payable from special fund.

shall be negotiable instruments under the Law Merchant even though said bonds shall be payable solely from such special fund or funds and shall never be deemed to be a charge upon the tax revenues of such city. Such bonds may contain a reservation of an option of redemption at such time or times, upon such terms and conditions, and at such premiums as the city council or other governing body of any such city may elect. Such bonds shall state upon their face that they are payable from such special fund or funds and should the corporate authorities of any such city fail to set aside and pay into such fund or funds the payments provided for in such ordinance or resolution, the holder of any such bonds may bring suit or action against the corporate authorities of such city to compel compliance with the terms of such ordinance or resolution. Pending the preparation and execution of such bonds, temporary bonds may be issued in such form as the city council or other governing body of any such city may elect. (All revenue bonds and revenue warrants issued by any such city in connection with such street railway or surface transportation system and payable from or drawn upon the revenues thereof and which were outstanding on February 1, 1939, are hereby ratified, validated and confirmed. The Reconstruction Finance Corporation or any other agency of the United States Government making any such loan, or any other holder or owner of any bonds authorized by and issued pursuant to the provisions of this act (shall not be required to see to the application of the moneys derived from such bonds to the purposes for which said bonds are issued as specified in any resolution or ordinance authorizing the issuance thereof.) No defense of invalidity, or irregularity in any such bonds and warrants funded or refunded by the issuance of bonds hereunder shall be a valid de-

Temporary bonds.

No defense of invalidity.

fense in any action at law or equity for a judgment upon or for the enforcement or collection of any bonds authorized by and issued pursuant to this act, and no court shall have jurisdiction to entertain any such defense in any such action or proceeding.

SEC. 3. Any such city may from time to time refund any bonds authorized by and issued pursuant to this act by the issuance of new bonds, as herein provided, whether the bonds to be refunded have or have not matured and may issue bonds to refund matured coupons evidencing interest upon any such bonds so refunded. Any such city may issue bonds partly to refund bonds and matured coupons as above provided, and partly for any other purposes in connection with the construction, extension, improvement, betterment, operation and maintenance of such street railway and surface transportation system.

Refunding of bonds.

SEC. 4. Any ordinance or resolution authorizing the issuance of bonds pursuant to the provisions of this act may contain covenants of any such city to protect and safeguard the security and rights of the holders of any of such bonds. Without limiting the generality of the foregoing, any such ordinance or resolution may contain covenants as to:

Ordinances may contain covenants.

(1) the creation of a special fund into which the proceeds of all bonds issued pursuant to this act shall be deposited and the terms and conditions upon which payments may be made from said fund, and for the payment of interest on bonds issued pursuant hereto from the moneys in said fund;

Creation of special fund.

(2) maintaining rates, fares and charges sufficient at all times to provide revenues to pay the interest and principal on all bonds and other obligations payable from said revenues and to meet all other payments from said revenues pursuant to, or as provided in, any ordinance, resolution or agreement adopted or entered into in connection with

Fares sufficient to provide revenues.

the issuance of bonds under this act, and to pay the operating and maintenance costs of such street railway and surface transportation system;

Limitation upon power to divert revenue.

(3) limitations upon the power of the city council or other governing body of any such municipality, or any other corporate authorities thereof, to divert revenues of any such street railway or surface transportation system to any other purposes than the maintenance and operation of any said system, and the payment of indebtedness and all other obligations or payments to be made from said revenues, and requiring the application of surplus revenues over and above said payments to the retirement of bonds or other obligations constituting a charge on said revenues;

Specification of depositaries.

(4) the collection, depositing, custody and disbursement of the revenues of any such street railway and surface transportation system, including a specification of the depositaries to be designated to hold such deposits and granting to such depositaries, or other banks or trust companies, authority to act as fiscal agent of any such city for the custody of the proceeds of bonds and the moneys held in any funds created pursuant to this act, or any such resolution or ordinance authorizing such bonds, and to represent bondholders in the event of a default on such bonds or in the event of a default in the performance of any duty or obligation of any such city or the corporate authorities thereof in connection therewith, with such power and duty as such resolution or ordinance may provide;

Preparation of annual budget.

(5) the preparation of an annual budget and of monthly budgets for the operation, maintenance, renewal and replacement of said street railway or surface transportation system and the manner in which such budgets will be prepared and adopted, including the holding of public hearings thereon and

limiting the authority to incur indebtedness or make expenditures in excess of such budgets;

(6) the creation and administration of reserve and other funds for the payment of all indebtedness payable from the revenues of said system at or prior to maturity, and for the creation of working funds, depreciation funds, renewal funds, replacement funds, reserves for extraordinary repairs and any other fund deemed necessary or desirable to insure the continued profitable operation of said street railway or surface transportation system;

Creation of reserve and other funds.

(7) the deposit of collateral security or indemnity bonds to secure the proceeds of all bonds issued pursuant to this act and of all revenues of any such street railway or surface transportation system and all moneys deposited in any special fund created under the authority of this act, or any covenant hereunder;

Deposit of collateral security.

(8) the obligation of any such city to maintain such street railway or surface transportation system in good condition and to operate same in an economical and efficient manner;

Obligation of city to maintain.

(9) the amount and kind of insurance to be carried by any such city in connection with its street railway or surface transportation system, and the equipment and properties thereof, the companies in which such insurance shall be carried and the term thereof, and the application of the proceeds of any such insurance, and all adjustments of losses under any policy of insurance carried on such system;

Insurance.

(10) limitations upon the amount of additional bonds, warrants or other obligations payable from the revenues of such street railway or surface transportation system which may be issued thereafter, and the terms and conditions upon which such additional bonds, warrants or other obligations may be issued;

Limitation on amount of additional obligations.

Limitation
of liens.

(11) limitations upon the creation of additional liens or encumbrances on the real or personal property of any such street railway or surface transportation system;

Conditions
of sale or
mortgage.

(12) the terms and conditions upon which the properties, or any part thereof, of any such street railway or surface transportation system may be purchased, acquired, sold, mortgaged, leased or otherwise disposed of, and the use or other disposition of the proceeds of any such sale, mortgage or lease;

Provisions
for opera-
tion, etc.

(13) the operation, maintenance, management, accounting and auditing, and the keeping of records, reports and audits of any such street railway or surface transportation system and the publication of same;

Appointment
of receiver.

(14) the appointment, powers and duties of a receiver in the event of a default in the payment of the principal of or interest on any bonds issued pursuant to this act, or in the event of a default in the performance of any duty or obligation of any such city, or the corporate authorities thereof, in connection therewith, such receiver to be appointed as a matter of right upon application to any court of competent jurisdiction at the instance of a holder or owner, or holders or owners, of any such bonds;

Amendment
of ordinance
or resolution.

(15) the amendment or modification of any ordinance or resolution authorizing the issuance of any bonds hereunder, and the terms and conditions, and the amount or percentage of assenting bonds necessary to effectuate such amendment or modification;

Transporta-
tion without
payment
limited.

(16) limitations on the transportation of persons and commodities through the facilities of such street railway or surface transportation system without payment therefor; and

(17) such other covenants as may be deemed necessary or desirable to insure a successful and

profitable operation of any such street railway or surface transportation system.

The provisions of this act and of any such ordinance or resolution shall constitute a contract with the holders of such bonds and the provisions thereof shall be enforceable by any owner or holder of such bonds by mandamus or any other appropriate suit, action or proceeding at law or in equity in any court of competent jurisdiction.

Provisions of act and ordinance constitutes contract; enforcement.

SEC. 5. There is hereby created in each such city a commission to be known as "The Transportation Commission of the City of.....": *Provided, however,* That such commission shall not transact any business or exercise any powers hereunder until or unless the city council or other governing body of any such city shall so order and shall contract a loan from the Reconstruction Finance Corporation or any other agency of the Federal Government and the terms of such loan shall require the functioning of such commission in such city, and shall provide for the issuance of bonds under the authority hereof to evidence such loan. Upon the determination of the necessity for such a commission, the mayor shall appoint three transportation commissioners subject to the approval of the city council or other governing body of such city; one such commissioner shall be appointed for a term of two (2) years, one for a term of four (4) years, and one for a term of six (6) years, and until the successors shall have been appointed and duly qualified. At the expiration of the term of office of a commissioner, or in the event of a single vacancy at any one time in the commission from any cause, the remaining two commissioners shall appoint his successor. In the event there should occur at any one time one or more vacancies in the commission in excess of one, then the mayor shall make the necessary number of appointments to fill the va-

Transportation commissions created.

Under control of city council.

Loan contracted.

Appointment of commission.

Vacancies.

cancy or vacancies in excess of one. Any such appointee or appointees of the mayor shall be designated to fill the shorter or shortest of the vacant terms. Commissioners shall be eligible to succeed themselves. All appointments of commissioners subsequent to the appointment of the first commissioners shall be for a period of six (6) years, except for appointments to any vacancy in partly expired terms. Commissioners may be removed by the mayor only after the filing of written charges of unfitness, and when said charges have been sustained by a two-thirds vote of the entire membership of the city council, or other governing body of said city. Said commissioners shall be men of recognized business ability not directly or indirectly interested in any public service corporation or in any contract with the city, and shall have been qualified electors and freeholders of said city for at least four consecutive years immediately prior to appointment, and they shall receive no compensation. Said transportation commissioners shall have exclusive power and are hereby directed to:

Meetings.

(a) Adopt rules and regulations governing the meetings thereof and shall elect from among their number a chairman who shall serve as chairman for one year. No chairman shall be eligible to succeed himself as chairman, but he may be elected for subsequent terms. They shall appoint a secretary who shall keep a record of their proceedings.

Chairman.

Rules and Regulations.

(b) Make all rules and regulations governing the operation of the street railway and surface transportation facilities owned and operated by such city, and shall have complete control of all the employees of said system subject to the civil service provisions of the charter of any such city.

Superintendence and control.

(c) Have all superintendence, control and management of the facilities, equipment and property

now or hereafter used and employed in furnishing surface transportation in such city.

(d) Fix all routings and change the same whenever it is deemed advisable in the discretion of the commission, and fix all rates, fares and charges for the transportation of persons and commodities through the facilities of such system: *Provided, however,* That such rates, fares and charges shall be at all times at least sufficient to provide sufficient revenues to pay the interest and principal on all bonds and other obligations payable from said revenues and to meet all payments therefrom, pursuant to or contained in any ordinance, resolution or agreement adopted or entered into in connection with the issuance of bonds under this act, and to pay the operating and maintenance costs of such street railway and surface transportation system.

Fix routings
and shares.

(e) From time to time determine the type, character and amount of new equipment, extensions, betterments and improvements to such system.

Determine
improve-
ments.

(f) Appoint and remove at pleasure a superintendent of transportation, who shall be a man of recognized ability and experience in the operation of surface transportation systems; fix the compensation of the superintendent of transportation, delegate to the superintendent of transportation the general management of such surface transportation systems, including the employees thereof, subject to the control of the commission, and direct the enforcement of all resolutions, rules and regulations pertaining to said systems as may be adopted by said commission, together with such further powers and duties as may be provided and prescribed from time to time by said commission.

Appoint or
remove
Superintend-
ent.

Direct
enforcement
of
resolutions

(g) Control and manage, in accordance with any covenants contained in any ordinance, resolution or other agreement adopted or entered into in connection with the issuance of bonds pursuant to

Other
powers.

this act and in accordance with the provisions of the charter of any such city to the extent that such charter provisions are not in conflict with such covenants, such street railway and surface transportation system and all revenues derived from the operation thereof, and no moneys shall be withdrawn from the revenues of said system without the approval of said commission, which shall certify all expenditures to the city comptroller, who shall issue warrants therefor to the city treasurer (unless otherwise provided in an ordinance or resolution authorizing bonds under the provisions of this act) to be paid solely from the revenues derived from the operation of the system: *Provided, however,* That nothing herein contained shall prevent the city council or other governing body of such cities from creating special funds and issuing revenue bonds and warrants payable therefrom for street railway purposes under section 9491 of Remington's Revised Statutes when requested so to do by said commission, but subject to and in accordance with any covenants contained in any ordinance, resolution or other agreement entered into in connection with the issuance of bonds pursuant to this act.

Existence.

Such transportation commission shall continue in existence and shall have the powers and perform the duties hereinabove provided for so long as any bonds issued hereunder are outstanding and unpaid.

Title to funds and property.

The title to all funds and property of such street railway systems shall be and remain in the name of such city.

Act repeals conflicting acts and supersedes city charter.

SEC. 6. This act shall be complete authority for the issuance of the bonds hereby authorized and any restrictions, limitations or regulations relative to the issuance of such bonds contained in any other act shall not apply to the bonds issued under this act and this act shall repeal any other act in conflict herewith and shall supersede the provisions of

any city charter in so far as said act or charter is in conflict herewith.

Passed the House March 2, 1939.

Passed the Senate March 1, 1939.

Approved by the Governor March 7, 1939.

CHAPTER 48.

[H. B. 300.]

ELECTION OF COMMITTEEMEN.

AN ACT relating to officers of county and state party committee organizations, and amending section 1 of chapter 200 of the Laws of 1927 (section 5198 of Remington's Revised Statutes).

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

SECTION 1. Section 1 of chapter 200 of the Laws of 1927 (section 5198 of Remington's Revised Statutes) is hereby amended to read as follows:

Amends
§ 5198 Rem.
Rev. Stat.

Section 1. The precinct committeeman of each party entitled to participate in the September primaries shall be elected at the September primaries. Any elector duly registered to vote in his precinct may file, at a cost of \$1.00 with the county auditor, a declaration of candidacy for precinct committeeman for the election precinct in which he resides. Said filing shall be in all respects and follow the form provided for the filing of declaration of candidacy for county offices. The name of such candidates so filing for precinct committeeman shall be printed or stamped upon the official ballot: *Provided*, That nothing herein contained shall prevent any voter from writing in on the ticket the name of one qualified registered elector of the precinct, for member of the party committee of his party county committee. The one having the highest number of votes shall be such committeeman of such party for such

Election of
committee-
man.