

CHAPTER 193.

[S. H. B. 369.]

SEWAGE AND REFUSE DISPOSAL OF CITIES AND TOWNS.

AN ACT relating to sewers and drains, and refuse, and authorizing cities and towns to construct, condemn and purchase, purchase, acquire, add to, maintain, conduct and operate systems of sewerage and systems and plants for refuse collection and disposal; providing for modes of payment therefor; providing for making and collection of special charges; authorizing the operation of system of sewerage as part of waterworks utilities; and repealing chapter 39 of the Session Laws of 1931.

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

Construction of disposal systems.

SECTION 1. Any incorporated city or town within the state be, and hereby is, authorized to construct, condemn and purchase, acquire, add to, maintain, conduct and operate systems of sewerage and systems and plants for refuse collection and disposal together with additions, extensions and betterments thereto, within and without its limits, with full jurisdiction and authority to manage, regulate and control the same, and to fix, alter, regulate and control the rates and charges for the use thereof. A system of sewerage shall be construed to mean and include a system of sewers, outfalls, works, plants and facilities for sewage treatment and disposal, or any or all of such facilities.

Construction.

Procedure.

SEC. 2. Whenever the City Council, or other legislative body of any such city or town, shall deem it advisable that such city or town shall purchase, acquire or construct any public utility mentioned in section 1 hereof, or make any additions and betterments thereto, or extensions thereof, such City Council, or other legislative body of any such city or town, 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

Ordinance.

be, and the same shall be submitted for ratification or rejection to the qualified voters of such city or town at a general or special election, except in the following cases where no submission shall be necessary:

Submitted to voters.

Exemption from election.

(1) When the adoption of a system of sewerage or system for collection and disposal of refuse, and the construction and operation of same, has been required and ordered by the State Board of Health.

Order of Board of Health.

(2) When no general indebtedness is to be incurred by such city or town in the acquiring, construction, maintenance or operation of such public utility, or when the work proposed is an addition or extension thereto or betterment thereof for which no general indebtedness is to be incurred by such city or town.

When no general indebtedness will be incurred.

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 a three-fifths majority of the qualified voters of such city or town voting at said election. 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: *Provided, however,* That where the proposition to be submitted includes a proposed levy of taxes in excess of the levy to which the same is or may be limited by statute or the Constitution of the State of Washington without a vote of the people, then the procedure to be followed in the holding of such election shall be as prescribed by such statutory or constitutional provision regulating the holding of special elections authorizing levies in excess of such limitation.

Amount of indebtedness included in proposition.

Vote necessary.

Notice of election.

Proviso.

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

Bonds may
be issued
upon
adoption.

Denomina-
tion.

Interest
limit.

Bond form.

Levy to
retire bonds.

May create
special fund
from
revenues.

utility as aforesaid and shall have authorized a general indebtedness, or the State Board of Health has ordered the adopting of and construction and operation of such system of sewerage or system for collection and disposal of refuse, general city or town bonds may be issued as hereinafter provided. Said bonds shall be registered or coupon bonds; shall be issued in denominations of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000); shall be numbered from one upwards consecutively; shall bear the date of their issue; shall be serial in form finally maturing not more than thirty years from date; shall bear interest not exceeding six per cent (6%) per annum, payable annually or 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, and the seal of such city or town shall be affixed to each bond, but not the coupons. Signatures on the coupons may be printed or lithographic facsimile of the signatures of said officials. Said bonds shall be printed, engraved or lithographed, on good bond paper. The proceedings relative to the sale of said bonds shall be as prescribed by sections 5583-3 and 5583-4, Remington's Revised Statutes, as now, or as hereafter amended.

There shall be levied each year upon all taxable property within such city or town a tax sufficient to pay the interest on said bonds and the principal thereof as the same shall mature, which taxes shall become due and collectible as other taxes. In addition thereto the City Council, or other legislative body of such city or town, may set aside into a special fund any sums or amounts which may accrue from the collection of service rates and charges for the private and public use of said sewerage system or systems for the collection and disposal of refuse, in excess of the cost of operation and maintenance

thereof as constructed or added to, and the same shall be applied solely to the payment of such interest and bonds, and where the said rates and charges shall be sufficient therefor no general tax need be levied.

SEC. 4. Whenever the City Council, or other legislative body 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 City Council, or other legislative body, shall not desire to incur a general indebtedness, and whenever the City Council, or other legislative body 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 subdivisions first and second of section 2 hereof the City Council, or other legislative body, shall have power to create a special fund or funds for the sole purpose of defraying the cost of such public utility or additions, betterments or extensions thereto, into which special fund or funds the City Council or other legislative body 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 cent (6%) per annum. Said bonds shall be registered or coupon bonds; shall be issued in denominations of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000); shall be numbered from one upwards consecutively; shall bear the date of their issue; shall be serial in form finally maturing not more than thirty years from date; shall bear interest not exceeding six per cent (6%) per annum, payable annually or semi-annually, with interest cou-

City may create special fund from revenues.

Procedure.

Interest rate.

Bonds registered.

Bond form.

pons 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, and the seal of such city or town shall be affixed to each bond, but not the coupons. Signatures on the coupons may be printed or lithographic facsimile of the signatures of said officials. Said bonds shall be printed, engraved or lithographed, on good bond paper. 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 City Council, or other legislative body 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 of amount of the revenue pledged to such fund, 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 on 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 interest of the city or town, and the corporate authorities may provide in any contract for the construction and acquirement

Bond valid claim against fund.

Bonds may be sold.

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 be hereafter 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.

Must set
aside propor-
tion for fund.

SEC. 5. The City Council, or other legislative body of such city or town, shall have the right and authority to provide by ordinance for revenues by fixing rates and charges for the furnishing of service to those served by such system of sewerage or system for refuse collection and disposal, which rates and charges shall be uniform for the same class of service. In the event that special indebtedness bonds or warrants are issued against the revenues of such system of sewerage or system for refuse collection and disposal, the legislative body shall provide by ordinance for revenues by fixing rates and charges for the furnishing of such service, which shall be sufficient to take care of costs of maintenance and operation, bond and warrant principal and interest, sinking fund requirements, and other charges incidental thereto. All property owners within the area served by such sewerage system shall be compelled to connect their private drains and sewers with such city or town system, under such penalty as the legislative body of such city or town may by ordinance direct.

City to
fix rates.

Rates to
cover costs
and retire-
ment.

Lien created for rates.

SEC. 6. Cities and towns owning their own sewer systems are hereby granted a lien for delinquent and unpaid rates and charges, including interest thereon, for sewer service against the premises to which the same has been furnished, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Such city or town may by ordinance provide that such delinquent rates and charges shall bear interest at not exceeding eight per cent (8%) per annum. Such lien shall be effective for a total of not to exceed six months' delinquent charges without the necessity of any writing or recording. In order to make such lien effective for more than six months' charges the city or town Treasurer, Clerk, or official charged with the administration of the affairs of such utility shall cause to be filed for record in the office of the county Auditor of the county in which such city or town is located, a notice in substantially the following form:

Interest on delinquent rates.

Lien notice.

“SEWERAGE LIEN NOTICE

City or Town of.....

—vs—

.....Reputed Owner

Notice is hereby given that the City or Town of has and claims a lien for sewer charges against the following described premises, situated in County, Washington, to-wit:

(here insert legal description of premises)

Said lien is claimed for not exceeding six months such charges and interest now delinquent, amounting to \$....., and is also claimed for future sewerage charges against said premises.

Dated

City or Town of.....

By”

Said lien notice may be signed by the city or town Treasurer or Clerk or other official in charge of the

administration of such utility. Such lien notice shall be recorded as prescribed by law for the recording of mechanics' liens.

SEC. 7. Such city or town may foreclose the lien herein granted in an action in the Superior Court in the county in which the city or town is situated. All or any of the tracts or premises subject to any such lien may be proceeded against in the same action, and all parties appearing of record as owning or claiming to own, having or claiming to have, any interest in or lien upon the tracts or premises impleaded in such action shall be made defendants thereto. All parties personally liable for the payment of any charges involved in said action may be made parties defendant. Any such action may be commenced at any time after six months subsequent to the furnishing of sewerage service for which payment has not been made, provided that any such action seeking the foreclosure of the lien for future services, notice of which is required to be recorded in the office of the County Auditor, shall be commenced within two years from the date of the filing of such notice of lien. Such action shall be tried before the court without jury. In such action the court may allow, in addition to interest on such charges at the rate of not exceeding eight per cent (8%) per annum from date of delinquency, costs and disbursements provided by statute, and such attorneys' fees as the court may adjudge reasonable.

Foreclosure
of lien.

Procedure.

Parties
defendant.Costs,
interest
and fees.

Where the owners and parties interested in any particular tract or premises shall default, the court may enter judgment of foreclosure and sale as to such parties and tracts or premises and the action may proceed as to the remaining defendants and tracts or premises. The judgment shall specify separately the amount of the sewerage charges, with interest, penalty and costs chargeable to each tract or premises. The judgment shall have the effect of a

Default
judgment.

Effect of judgment.

separate judgment as to each tract or premises described in the judgment, and any appeal shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken. In the judgment the court shall order the tracts or premises therein described sold at one general sale, and an order of sale shall issue pursuant thereto for the enforcement of the judgment. Judgment may be entered as to any one or more separate tracts or parcels involved in the action, and the Court shall retain jurisdiction of other properties.

Order of sale.

Redemption.

All sales shall be subject to the right of redemption within one year from date of sale. The service of summons, and all other proceedings except as herein otherwise prescribed, including appeal, order of sale, sale, redemption, and issuance of order, shall be governed by the statutes now or hereafter in force relating to the foreclosure of mortgages on real property. For the purpose of this act the terms "judgment debtor" or "successor in interest" in the statutes governing redemption shall be deemed and held to include an owner or a vendee.

Procedure of foreclosure.

Terms defined.

City may sell or lease foreclosed property.

SEC. 8. Any city or town may at any time after deed is issued to it under and by virtue of any proceedings mentioned in this act, lease or sell or convey any such property at public or private sale for such price and on such terms as may be determined by resolution of the City or Town Council or other legislative body, any provisions of law, charter or ordinance to the contrary notwithstanding.

After foreclosure may pay existing liens.

SEC. 9. Any city or town after the entry of judgment of foreclosure against any premises may pay delinquent general taxes or purchase certificates of delinquency for general taxes on such premises, or purchase such premises at county tax foreclosures or from the county after foreclosure, for the purpose of protecting such premises. Such city or town after entry of judgment of foreclosure against any prem-

ises may, for the purpose of protecting such premises, pay local or special assessments which are delinquent or are about to become delinquent and where such premises have been foreclosed upon for local or special assessments and the time for redemption has not expired may redeem such premises. No moneys shall be expended for the purposes enumerated in this section except upon enactment by the City or Town Council or other legislative body of a resolution determining the desirability or necessity of making such expenditure.

May pay assessment for protection.

Procedure.

SEC. 10. As an additional and concurrent method of enforcing the lien in this act granted, any city or town operating its own municipal water system may by ordinance provide for the enforcement of said lien by cutting off the water service from the premises to which such sewer service has been furnished, after the charges become delinquent and unpaid, until such rates and charges are paid. The right to enforce such lien by cutting off and refusing water service as herein provided shall not be exercised after two years from the date of the recording of sewerage lien notice, as in this act provided, except to enforce payment of six months' charges for which no lien notice is required to be recorded.

Alternative enforcement.

Cut off water.

Limitation.

SEC. 11. Any city or town owning or operating its own sewer system, whenever topographic conditions shall make it feasible and whenever such existing sewer system shall be adequate therefor in view of the sewerage and drainage requirements of the property in such city or town, served or to be served by such system, may contract with any organized and established sewer district, serving any area wholly or partially without the limits of such city or town, for the discharge into such city or town owned sewer system of sewage from any part or parts of such sewer district, upon such terms and conditions

City may contract with existing district.

and for such periods of time as may be deemed reasonable.

Sewage disposal deemed part of water system.

SEC. 12. (a) Whenever any city or town shall be operating a waterworks utility pursuant to section 9488 of Remington's Revised Statutes of the State of Washington, and in the judgment of the City or Town Council or other corporate authorities the public health is being endangered by the lack of a system of sewerage or the inadequacy thereof, and the danger to the public health may be abated by the construction, maintenance and operation of a sewerage system or of additions, extensions or betterments thereto, such City or Town Council or other corporate authorities may by ordinance provide for the construction of such system of sewerage or of additions, extensions or betterments thereto, and that such system of sewerage, including additions, extensions, and betterments thereto, shall be considered as a part of and belonging to the waterworks utility of such city or town, and that the cost of construction thereof and the maintenance and operation thereof may be chargeable to the waterworks utility of such city or town: *Provided*, That if a general indebtedness is to be incurred to pay a part or all of such construction, maintenance or operation costs no such indebtedness shall be incurred without such indebtedness first being authorized by a vote of the people.

General indebtedness submitted to vote.

May be designated as part in any event.

(b) In any event any city or town may also by a vote of the people authorize its system of sewerage to be operated as a part of and as belonging to its waterworks utility whether or not danger to the public health be involved. The proposition authorizing such operation may be submitted to the voters at a special or general election in the manner as provided in section 2 of this act. If a majority of the voters voting at such election shall vote in favor of such proposition, then the same shall be deemed to have carried: *Provided, however*, If at such election there shall also be submitted to the voters any proposition

Election.

Majority vote necessary.

authorizing the incurring of a general indebtedness for the construction of such system of sewerage or of additions, extensions or betterments thereto and such proposition fail to carry by the majority vote required by section 2 of this act in order to incur such indebtedness, then the proposition authorizing the operation of the system of sewerage as a part of the waterworks utility shall be deemed to have failed of passage: *Provided further*, That the rejection by the voters of a proposition under this sub-section shall not prevent the city or town in a proper case from proceeding under sub-section (a) of this section.

Vote not to defeat proposition.

The operation of any waterworks utility of which the system of sewerage shall be made a part, as in this section provided, shall thereafter be governed by the state statutes relating to the establishment and operation of waterworks utilities and the provisions of this act shall not be applicable to such operation.

Joint utility governed as water utility

SEC. 13. This act shall not be construed or held to repeal, amend or modify any existing law, but shall be additional thereto and concurrent therewith for the purposes and objects in this act specified.

Additional to existing law.

SEC. 14. Chapter 39, Session Laws of 1931 (section 9198-1 to 9198-7, inclusive, of Remington's Revised Statutes), is hereby repealed.

Statutes repealed.

SEC. 15. If any section, sub-section, clause or sentence of this act shall be held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of the act.

Partial invalidity.

Passed the House March 6, 1941.

Passed the Senate March 11, 1941.

Approved by the Governor March 24, 1941.