

No. 507, A.]

[Published August 9, 1949.

**CHAPTER 620.**

AN ACT to create 66.94 of the statutes, relating to the creation of a public corporation for public ownership and operation of a transportation system in any county having a population of 500,000 or more and in municipalities of neighboring counties, and the establishment of fares, standards of service and operating regulations in connection with such system.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

66.94 of the statutes is created to read:

66.94 METROPOLITAN TRANSIT AUTHORITY. (1) DEFINITIONS. The following terms when used in this section, unless a different meaning clearly appears from the context, shall have the following meanings:

(a) "Authority" means any metropolitan transit authority established pursuant to this section.

(b) "Board" means the metropolitan transit board.

(c) "Transportation system" means all plants, equipment, property, franchises and rights of whatever nature useful for transportation of passengers for hire, except all transportation facilities extending beyond the boundaries of the metropolitan district, and includes, without limitation, street railways, elevated railroads, subways, underground railroads, motor vehicles, trackless trolley busses, motor busses, and any combination thereof, or any other form of mass transportation operation.

(d) "Metropolitan district" or "district" embraces all the territory in any county having a population of 500,000 or more and in those cities, villages and towns located in counties immediately adjacent thereto having a population of less than 500,000, through or into which a transportation system extends from such county.

(e) "Bonds" shall mean any bonds, interim certificates, certificates of indebtedness, equipment obligations, notes, debentures, or other obligations of the authority, issued pursuant to this section.

(f) "Trust indenture" shall include instruments pledging the revenues of real or personal properties.

(g) "Contract" shall mean any agreement of the authority whether contained in a resolution, trust indenture, lease, bond or other instrument.

(h) "Real property" shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments, and every estate and right therein, legal and equitable, including terms for years and liens by way of judgments, mortgages or otherwise.

(i) "Obligee of the authority" or "obligee" shall include any bondholder, trustee, or trustees for any bondholders, any lessor, demising property to the authority used in connection with the function of the transit board, or any assignee or assignees of such lessor's interest, or any part thereof, and the United States of America when it is a party to any contract with the authority.

(j) "Municipalities" means cities, villages and towns.

(2) CREATION OF THE AUTHORITY. There is hereby created in each county having a population of 500,000 or more a political subdivision, body politic and corporate of the state, under the name of "Metropolitan Transit Authority" which shall exercise the powers conferred by this section within the metropolitan district of which such county is a part.

(3) ORIGINAL EXERCISE OF POWERS. The authority shall not exercise any of the powers hereby granted until this section is adopted by the electors of one or more cities, villages and towns having a population in the aggregate of more than 100,000 within the metropolitan district.

(4) MANNER OF ADOPTION. This section may be adopted by any city, village or town within the metropolitan district in the following manner: The governing body of any municipality, by ordinance passed at least 30 days prior to submission of the question, may direct that the question of the adoption of this section be submitted to the electors therein at any general, special, judicial or local election. The clerk of such municipality or the election commission of any city of the first class shall thereupon submit the question to popular vote. Public notice of the election shall be given in the same manner as in case of a regular municipal election except that such notice shall be published or posted at least 20 days prior to the election. If a majority of those voting on the question vote in the affirmative thereon, this section shall be adopted in such municipality. The proposition on the ballot to be used at such election shall be in substantially the following form:

Shall an act to create a public corporation for public ownership and operation of a transportation system in the metropolitan district be adopted?

YES ( ) NO ( )

(5) LEGAL STATUS. (a) *Actions, seal, office.* The authority may sue and be sued in its corporate name. It may adopt a corporate seal and change the same at pleasure. The principal office of the authority shall be located within the metropolitan district.

(b) *Costs and expenses; not to be shifted to taxpayers.* All costs and expenses incident to the acquisition, maintenance and operation of the transportation system shall be borne by the authority to the same extent as though the transportation system were operated under private ownership and to avoid shifting such costs and expenses upon the taxpayers located in such metropolitan district it is declared:

1. The authority shall pay license fees for motor busses and trackless trolleys to the same extent and in comparable amounts to the fees that are paid in the area located in the metropolitan district at the time the authority acquires such transportation system.

2. The authority shall pay such portion of the costs and expenses incident to removal of rails, structures and pavement in the track zone and the cost of repavement in such zone whenever rail lines located in the public streets are abandoned and whenever there is a change of grade in any such street or relocation of street car tracks therein as has been ordinarily paid by the owner or owners of such transportation system at the time the authority acquires such system.

3. The authority shall remove or pay for the costs incident to the removal of snow in the public streets used in its operations to the same extent that the prior owner or owners of such transportation system were obligated at the time the authority acquires such transportation system.

4. The authority shall be subject to all property taxes, income taxes and other taxes imposed by the laws of this state to the same extent and in the same manner as though the corporation were in private ownership.

(6) MEMBERS OF THE BOARD. The governing and administrative body of the authority shall be a board consisting of 7 members to be known as the metropolitan transit board. Members of the board shall be men of recognized business ability. No member of the board or employe of the authority shall hold any other office or employment under the federal, state or any county or any municipal government except an honorary office without compensation or an office in the military service. No member of the board or employe of the authority shall have any private financial interest or profit directly or indirectly in any contract, work or business of the authority nor in the sale or lease of any property to or from the authority. No member of the board shall be paid any salary, fee or compensation for his services except that he shall be reimbursed for actual expenses incurred by him in the performance of his duties.

(7) SELECTION AND REPLACEMENT. (a) *Appointment and terms of office.* The members of the board shall hold office for terms of 7 years, except for the initial terms herein provided. Three members shall be selected from residents of the city within the district having the largest population according to the last federal census. Three members shall be selected from residents of other municipalities in the district. Four members shall constitute a quorum.

(b) *Same; vacancies.* Members representing the city having the largest population shall be appointed in the manner prescribed by law for the appointment of officers in general in such cities for initial terms of one year, 3 years and 7 years, respectively. Their successors shall be similarly appointed for terms of 7 years. In the event of a vacancy, a successor shall be appointed to fill the unexpired term in like manner. In addition to death, resignation, legal incompetency or conviction of a felony, a vacancy

shall be deemed to occur when a member shall change his permanent residence to any place outside of such city.

(c) *Members representing other municipalities.* From the municipalities, other than the city of the largest population, within the district, the governor shall appoint 3 members to the board for initial terms of 2, 4, and 6 years, respectively. At the expiration of the initial terms the successors shall be appointed in the same manner for terms of 7 years.

(d) *Seventh member.* After appointment and confirmation in the manner herein provided, the 6 members shall nominate by a majority vote as the seventh member any resident of the district to be appointed by the governor for an initial term of 5 years, subject to confirmation by the mayor of the city with the largest population within the district. The successor to the seventh member shall be appointed in like manner for a term of 7 years. If the members shall fail within 30 days of their confirmation to nominate a seventh member, the governor shall appoint any resident within the district as the seventh member.

(e) *Successors, vacancies.* Successors to members shall be nominated and appointed in the same manner as their predecessors. In the event of a vacancy, a successor shall be nominated and appointed in like manner. In addition to death, resignation, legal incompetency or conviction of a felony, a member shall vacate his office by removing his permanent residence from the district.

(8) **VACANCIES.** Any member may resign from his office to take effect when his successor has been appointed and is qualified. The appointing authority may remove any member of the board appointed by him in case of incompetency, neglect of duty, or malfeasance in office. They may give him a copy of such charges and an opportunity to be heard publicly thereon in person or by counsel upon not less than 10 days' notice. Upon failure of a member to qualify within the time required or abandonment of his office or his removal from office, his office shall become vacant.

(9) **GENERAL POWERS.** The authority shall have power to acquire, construct or operate and maintain for public service a transportation system or systems or any part thereof in the district and the power to dispose of the same and to enter into agreement for the operation of such system or parts thereof with others and all other powers necessary or convenient to accomplish the purposes of this section.

(10) **POWER TO ACQUIRE EXISTING TRANSPORTATION FACILITIES.** The authority may acquire by purchase, condemnation, lease, gift, or otherwise, all or any part of the plant, equipment, rights and property, reserve funds, employes, pension or retirement funds, special funds, franchises, licenses, patents, permits, and papers, documents and records belonging to any person or public body operating a transportation system within the district, and to lease any municipality or privately owned facilities for operation and maintenance by the authority.

(11) **POWER TO ACQUIRE AND DISPOSE OF PROPERTIES.** The authority shall have power to acquire by purchase, condemnation, lease, gift or otherwise any other property and rights useful for its purposes, and to sell, lease, transfer or convey any property or rights when no longer useful, or to exchange the same for other property or rights which are useful for its purposes.

(12) **JOINT USE OF PROPERTY.** The authority shall have power to enter into agreements for the joint use of any property and rights by the authority and any railroad, person, or public body owning or operating any transportation facilities either within or without the district for the joint use of any property of the authority or such railroad, person or public body operating any transportation facilities for any suitable purpose and for the establishment of through routes, joint fares and transfer of passengers.

(13) **RIGHT OF EMINENT DOMAIN.** (a) *As to what property.* The authority shall have the right of eminent domain to acquire any existing transportation facilities within the district and any private property or property devoted to any public use which is necessary for the purposes of the authority except such property which is used for the purpose of operating transportation facilities extending beyond the boundaries of the district. The authority shall have the right where necessary to acquire by eminent domain the right to use jointly all such property which is used for the purpose of operating transportation facilities extending beyond the boundaries of the district. The right of eminent domain shall be exercised in accordance with the procedure set out in chapter 32 or in accordance with any other applicable laws.

(b) *Right to require removal of other systems, etc.* Upon payment of the necessary costs and expenses incident thereto the authority shall have power to require persons owning or operating mass transportation systems or public utility structures and appliances in, upon, under, over, across or along the public streets, highways or other public ways in, over or upon which the authority has the right to own, construct, operate or maintain transportation facilities (1) to remove these public utility structures and ap-

pliances from the locations and (2) to relocate them in such places elsewhere within the public streets, highways or ways as may be designated by the public authorities having control of such public street, highways or ways, either temporarily or for the remainder of the period of the easement, grant, license or franchise which the specified persons and corporations have to occupy such public highways, streets or ways. If any such person fails or refuses to so remove or relocate them, the authority may at its own cost and expense remove or relocate them.

(14) **POWER TO OPERATE LOCAL TRANSPORTATION FACILITIES.** (a) *Use of public ways.* The authority shall have the right, but not exclusive of the public right to use any public road, street or other public way in the district for interurban transportation of passengers, but shall not have the right to use any street or other public way in any municipality for local transportation of passengers within such municipality unless this section shall have been adopted by such municipality, and the governing body of such municipality shall have given its consent thereto by ordinance. The right to use any road, street or other public way, or to operate over any bridge, viaduct or elevated structures above and subways beneath the surface of any road, street or public ground, including approaches, entrances, sidings, stations and connections for the purpose of local transportation in any municipality adopting this section, shall be upon such terms as are determined by the municipality in which such rights of way or facilities are located, and shall be subject to such reasonable rules and regulations and the payment of such license fees as the grantor may by ordinance from time to time prescribe.

(b) *Part service.* If any municipality located within the metropolitan district does not elect to become a part of the authority, such municipality shall not thereby lose its right to existing transportation services and the authority shall, at the request of the governing body of such municipality, render service in such municipality subject to all of the terms and regulations incident to the operation of motor busses, trackless trolleys and streetcars imposed by chapters 193, 194 and 195.

(15) **POWER TO BORROW MONEY.** (a) *Purpose.* The authority shall have the continuing power to borrow money for the purpose of acquiring any transportation system or part thereof (including any cash funds of such system reserved to replace worn out or obsolete equipment and facilities), for acquiring necessary cash working funds or establishing reserve funds, for acquiring, constructing, reconstructing, extending or improving its transportation system or any part thereof and for acquiring any property and equipment useful for the construction, reconstruction, extension, improvement or operation of its transportation system or any part thereof. For the purpose of evidencing the obligation of the authority to repay any money borrowed the authority may, pursuant to ordinance adopted by the board, from time to time issue and dispose of interest bearing revenue bonds or certificates and may also from time to time issue and dispose of such bonds or certificates to refund any bonds or certificates previously issued in accordance with the terms expressed therein.

(b) *Source of payment.* All such bonds shall be payable solely from the revenues or income to be derived from the operation of such transportation system.

(c) *Terms.* They may bear such date or dates, may mature at such time or times not exceeding 40 years from the date of issue, may bear interest at such rate not exceeding 5 per cent per annum payable semiannually, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place, may be made subject to redemption in such manner and upon such terms with or without premium as is stated on the face thereof, may be authenticated in such manner and may contain such terms and covenants as may be provided in such ordinance.

(d) *Negotiability.* Notwithstanding the form thereof, in the absence of an express recital to the contrary on the face thereof, all such bonds shall be negotiable instruments.

(e) *Temporary financing.* Pending the preparation and execution of any such bonds temporary bonds may be issued with or without interest coupons as may be provided by ordinance.

(f) *Trust agreement; lien.* To secure the payment of any such bonds and for the purpose of setting forth the covenants and undertakings of the authority in connection with the issuance thereof and of any additional bonds payable from such revenue or income, as well as the use and application of the revenue or income to be derived from the transportation system, the authority may execute and deliver trust agreements but no lien upon any physical property of the authority shall be created thereby.

(g) *Remedy for breach.* A remedy for any breach of the terms of any such trust agreement by the authority may be by mandamus proceedings in any court of competent jurisdiction to compel performance and compliance therewith, but the trust agreement may prescribe by whom or on whose behalf such action may be instituted.

(h) *Public credit not pledged.* Under no circumstances shall any bonds of the authority become an indebtedness or obligation of the state or of any county, city, town, village, school district or other municipal corporation, nor shall any such bond become an indebtedness of the authority within the purview of any constitutional limitation or provision, and it shall be plainly stated on the face of each bond and certificate that it does not constitute such an indebtedness or obligation but is payable solely from the revenues or income as aforesaid. For the purpose of debt limitation, the authority shall be considered a public utility.

(i) *Sale of securities.* Before any such bonds (excepting refunding bonds) are sold, the entire authorized issue, or any part thereof, shall be offered for sale as a unit after advertising for bids at least 3 times in a daily newspaper of general circulation published in the district, the last publication to be at least 10 days before bids are required to be filed. Copies of such advertisement may be published in any newspaper or financial publication in the United States. All bids shall be sealed, filed and opened as provided by ordinance and the bonds shall be awarded to the highest and best bidder or bidders therefor. The authority shall have the right to reject all bids and readvertise for bids in the manner provided for in the initial advertisement. If no bids are received, such bonds may be sold at not less than par value, without further advertising, within 60 days after the bids are required to be filed pursuant to any advertisement.

(16) FINANCING OF EQUIPMENT. (a) *Purchase of equipment.* The authority shall have power to purchase equipment such as cars, trackless trolleys and motor busses, and may execute agreements, leases and equipment trust certificates in the form customarily used in such cases appropriate to effect such purchase and may dispose of such equipment trust certificates. All money required to be paid by the authority under the provisions of such agreements, leases and certificates shall be payable solely from the revenue or income to be derived from the transportation system and from grants and loans as provided in subsection (18). Payment for such equipment, or rentals therefor, may be made in instalments, and the deferred instalments may be evidenced by equipment trust certificates payable solely from such revenue or income, and it may be provided that title to such equipment shall not vest in the authority until the equipment trust certificates are paid.

(b) *Security.* The agreement to purchase may direct the vendor to sell and assign the equipment to a bank or trust company, duly authorized to transact business in the state, as trustee for the benefit and security of such certificates and may direct the trustee to deliver the equipment to one or more designated officers of the authority and authorize the trustee simultaneously therewith to execute and deliver a lease of the equipment to the authority.

(c) *Forms of agreements.* The agreements and leases shall be duly acknowledged in the form required for acknowledgment of deeds. Such agreements, leases and certificates shall be authorized by ordinance of the board and shall contain such covenants, conditions and provisions as may be deemed necessary or appropriate to insure the payment of the certificates from the revenue or income to be derived from the transportation system.

(d) *Related agreements to be consistent.* The covenants, conditions and provisions of the agreements, leases and certificates shall not conflict with any of the provisions of any trust agreement securing the payment of bonds or certificates of the authority.

(e) *Filing.* An executed copy of each such agreement and lease or duplicate original thereof shall be filed in the office of the register of deeds of each county in which the authority is doing business, and such filing shall constitute notice to any subsequent judgment creditor or any subsequent purchaser. Each vehicle so purchased and leased shall have the name of the owner and lessor plainly marked on both sides thereof followed by the words "Owner and Lessor".

(17) RIGHT TO INVEST IN SECURITIES OF AUTHORITY. The state and all counties, cities, villages, incorporated towns and other municipal corporations, political subdivisions and public bodies, and public officers of any thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan 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, moneys or other funds belonging to them or within their control in any bonds or certificates issued pursuant to this section, but nothing contained in this subsection shall be construed as relieving any person from any duty of exercising reasonable care in selecting securities for purchase or investment.

(18) POWER OF AUTHORITY TO ACCEPT PUBLIC GRANTS AND LOANS. The authority shall have power to apply for and accept grants and loans from the fed-

eral government, the state or any municipality, or any agency or instrumentality thereof, to be used for any of the purposes of the authority and to enter into any agreement in relation to such grants or loans when such agreement does not conflict with any of the provisions of any trust agreements securing the payment of bonds or certificates of the authority.

(19) **POWER OF AUTHORITY TO INVEST AND REINVEST FUNDS.** The authority shall have power to invest and reinvest any funds held in reserve or sinking funds not required for immediate disbursement in bonds or notes of the United States, bonds of the state, or of any county or municipality in which the authority is engaged in the operation of its business, and, at not to exceed their par value or their call price, in bonds or certificates of the authority, and to sell these securities whenever the funds are needed for disbursements. Such investment or reinvestment of any funds shall not be in conflict with any provisions of any trust agreement securing the payment of bonds or certificates of the authority.

(20) **INSURANCE AND INDEMNITY CONTRACTS.** The authority shall have power to procure and enter into contracts for any type of insurance and indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employers' liability, against any act of any member, officer or employe of the board or of the authority in performance of the duties of his office or employment or any other insurable risk.

(21) **POWER OF TAXATION DENIED TO AUTHORITY.** The authority shall not have power to levy taxes for any purpose whatsoever.

(22) **ORDINANCES, RULES AND REGULATIONS.** The board shall have power to pass all ordinances and make all rules and regulations proper or necessary to regulate the use, operation and maintenance of its property and facilities, and to carry into effect the powers granted to the authority.

(23) **ORGANIZATION OF BOARD.** As soon as possible after the appointment of the initial members, the board shall organize for the transaction of business, select a chairman and a temporary secretary from its own number, and adopt by-laws, rules and regulations to govern its proceedings. The initial chairman and each of his successors shall be elected by the board from time to time for the term of his office as a member of the board or for the term of 3 years, whichever is shorter and shall be eligible for re-election.

(24) **CONDUCT OF BOARD MEETINGS.** Regular meetings of the board shall be held at least once in each calendar month, at a time and place fixed by the board. Five members of the board shall constitute a quorum for the transaction of business, but a lesser number may adjourn a meeting to a definite date or sine die at its option. All action of the board shall be by ordinance or resolution and the affirmative vote of at least 4 members shall be necessary for the adoption of any ordinance or resolution. All such ordinances and resolutions before taking effect shall be approved by the chairman of the board by signing the same, and such as he shall not approve he shall return to the board with his objections thereto in writing at the next regular meeting of the board. But in case the chairman shall fail so to return any ordinance or resolution, he shall be deemed to have approved the same and it shall take effect accordingly. Upon the return of any ordinance or resolution by the chairman with his objections, it shall be reconsidered by the board, and if upon such reconsideration it is again passed by the affirmative vote of at least 5 members, it shall go into effect notwithstanding the veto of the chairman. All ordinances, resolutions and all proceedings of the authority and all documents and records in its possession shall be public records, and open to public inspection, except such documents and records as shall be kept or prepared by the board for use in negotiations, action or proceedings to which the authority is a party.

(25) **SECRETARY AND TREASURER.** The board shall appoint a secretary and a treasurer, who need not be members of the board, to hold office during the pleasure of the board, and fix their duties and compensation. The secretary shall not be engaged in any other business or employment during his tenure of office. Before entering upon the duties of their respective offices they shall take and subscribe an official oath, and the treasurer shall execute an official bond with corporate sureties to be approved by the board. The bond shall be payable to the authority in whatever penal sum may be directed by the board conditioned upon the faithful performance of the duties of the office and the payment of all money received by him according to law and the orders of the board. The board may, at any time, require a new bond from the treasurer in such penal sum as it may determine. The obligation of the sureties shall not extend to any loss sustained by the insolvency, failure or closing of any national or state bank wherein the treasurer has deposited funds if the bank has been approved by the board as a depository. The oaths of office and bond shall be filed in the principal office of the authority.

(26) **MANNER OF HANDLING FUNDS.** All funds shall be deposited in the name of the authority and shall be withdrawn only by check or draft signed in the manner as

provided by the board. The board may designate any of its members or any employe to affix the signature of the chairman and another to affix the signature of the treasurer to any check or draft for payment of salaries or wages and for the payment of any other obligation of not more than \$1,000. In case any officer whose signature appears upon any check, draft, bond, certificate or interest coupon, issued pursuant to this section, ceases to hold his office, his signature nevertheless shall be valid and sufficient for all purposes with the same effect as if he had remained in office.

(27) APPOINTMENT OF A GENERAL MANAGER. The board shall appoint a general manager who shall be a man of recognized ability and experience in the operation of transportation systems to hold office during the pleasure of the board. The general manager shall have management of the properties and business of the authority and the employes thereof, subject to the general control of the board. He shall direct the enforcement of all ordinances, resolutions, rules and regulations of the board, and shall perform such other duties as may be prescribed from time to time by the board. The board may appoint a general attorney and a chief engineer, and shall provide for the appointment of such other officers, attorneys, engineers, consultants, agents and employes as may be necessary for the construction, extension, operation, maintenance, and policing of its properties. It shall define their duties and may require bonds of them. The general manager, general attorney, chief engineer and all other officers provided for under this subsection shall be exempt from subscribing any oath of office. The compensation of all officers, attorneys, consultants, agents and employes shall be fixed by the board.

(28) SUPERVISION OF OFFICERS AND EMPLOYES. The board shall classify all the officers, positions and grades of regular employment required, excepting that of the general manager, secretary, treasurer, general attorney, and chief engineer, with reference to the duties thereof and the compensation fixed therefor, and adopt rules governing appointments to any of such offices or positions on the basis of merit and efficiency. No discrimination shall be made in any appointment or promotion because of race, creed, color or political or religious affiliation. No officer or employe shall be discharged or demoted except for cause which is detrimental to the service. Any officer or employe who is discharged or demoted may file a complaint in writing with the board within 10 days after notice of his discharge or demotion. If any employe is a member of a labor organization, the complaint may be filed by such organization for and in behalf of such employe. The board shall grant a hearing on such complaint within 30 days thereafter. The time and place of the hearing shall be fixed by the board and due notice thereof given to the complainant, the labor organization by or through which the complaint was filed and the general manager. The hearing shall be conducted by the board, or any member thereof or any officers' committee or employes' committee appointed by the board. The complainant may be represented by counsel. If the board finds, or approves a finding of the member or committee appointed, that the complainant has been unjustly discharged or demoted, he shall be restored to his office or position with back pay. The decision of the board shall be final and not subject to review. The board may abolish any office or reduce the force of employes for lack of work or lack of funds, but in so doing the officer or employe with the shortest service record in the class and grade to which he belongs shall be first released from service and shall be reinstated in order of seniority when additional force of employes is required.

(29) EMPLOYEES. (a) *Collective bargaining.* The authority shall have the same rights, duties and obligations with respect to collective bargaining by and with its employes as do public utility corporations organized under chapter 180.

(b) *Employes of existing systems.* If the authority acquires any existing transportation system or part thereof, all of the employes in the operating and maintenance divisions of such system or part thereof and all other employes, except executive officers, shall be transferred to and appointed as employes of the authority, subject to all rights and benefits of this section, and such employes shall be given seniority credit in accordance with the records of their previous employer.

(c) *Retirement systems.* Members and beneficiaries of any pension or retirement system or other benefits established by such previous employer shall continue to have the rights, privileges, benefits, obligations and status with respect to such established system. There shall be established and maintained by the authority a sound pension and retirement system adequate to provide for all payments when due under such established system or as modified from time to time by ordinance of the board. For this purpose, both the board and the participating employes shall make such periodic payments to the established system as may be determined by such ordinance. The board, in lieu of social security payments, shall make payments into such established system at least equal in amount to the amount so required to be paid by private corporations. Provision shall be made by the board for all officers and employes of the authority appointed pursuant to this section to become, subject to reasonable rules and regulations, members or benefi-

aries of the pension or retirement system with uniform rights, privileges, obligations and status as to the class in which such officers and employees belong.

(30) ESTABLISHMENT OF FARES AND STANDARDS OF SERVICE. (a) *Powers of board.* The board shall, notwithstanding any law to the contrary, have exclusive authority and it shall be its duty to establish rates, fares and other charges, to determine and make effective standards of service and to make all rules and regulations for the operation of the transportation system. The board shall have exclusive authority and shall determine routings and change the same whenever deemed advisable subject to the provisions of any ordinance of any municipality granting rights to the authority.

(b) *Fares.* Rates, fares and other charges for transportation shall be so fixed that revenues shall at all times be sufficient in the aggregate for:

1. Payment of all operating costs, including all charges which may be incurred pursuant to subsections (29) and (34) and all other costs and charges incidental to the operation of the transportation system;

2. Payment of interest and principal of all bonds payable from said revenues and to meet all other charges upon such revenues as provided by any trust agreement executed by the authority;

3. Payment of all costs and charges incurred pursuant to subsections (32) and (33) and any other costs and charges for acquisition, installation, construction or replacement or reconstruction of equipment, structures or rights-of-way not financed through the issuance of bonds or certificates under subsection (15); and

4. Any compensation required to be paid to any municipality for the use of streets, viaducts, bridges, subways and other public ways.

(c) *Complaints and hearings.* Upon a complaint made by any municipal corporation or by any 25 residents of the district that any fare, charge, schedule or service is unreasonable, insufficient or unjustly discriminatory, the board shall set a time and place for hearing thereon. At least 10 days' notice of such time and place shall be given by publication in a newspaper or newspapers of general circulation in the district. The hearing and proceeding for review shall be conducted in the same manner and subject to the provisions of chapter 227, except that any petition for review shall be heard by the circuit court for the county for which such district was created.

(31) CHARGES FOR GOVERNMENT TRANSPORTATION. The board may provide free transportation within any municipality in which they are employed for firemen when in uniform, and policemen when in uniform and when not in uniform and certified for special duty and for its employes when in uniform or upon presentation of identification, and may enter into agreements with the United States Post Office Department for the transportation of mail and the payment of compensation in lieu of fares for the transportation of letter carriers when in uniform.

(32) MODERNIZATION FUND. It shall be the duty of the board, as promptly as possible, to rehabilitate, reconstruct and modernize all portions of any transportation system acquired by the authority and to maintain at all times an adequate and modern transportation system suitable and adapted to the needs of the municipalities served, and for safe, comfortable and convenient service. To that end the board shall establish a modernization fund which shall include, but is not limited to cash in renewal, equipment or depreciation funds which are part of transportation systems or part thereof acquired by the authority and any excess cash derived from the sale of revenue bonds or certificates. The moneys in the modernization fund shall be disbursed for the purpose of acquiring or constructing extensions and improvements and betterment of the system, to make replacements of property damaged or destroyed or in necessary cases where depreciation fund is insufficient, to purchase and cancel its revenue bonds and certificates prior to their maturity at a price not exceeding par, and to redeem and cancel its revenue bonds and certificates according to their terms. The board may make temporary loans from the modernization fund for use as initial working capital.

(33) DEPRECIATION POLICY. To assure modern, attractive transportation service the board may establish a depreciation policy which makes provision for the continuous and prompt replacement of worn out and obsolete property and the board may make provision for such depreciation of the property of the authority as is not offset by current expenditures for maintenance, repairs and replacements. The board from time to time shall make a determination of the relationship between the service condition of the properties of the authority and the then established depreciation rates and reserves and may make adjustments or modifications of such rates in such amounts as it may deem appropriate because of experience and estimated consumption of service life of road, plant, and equipment.

(34) DAMAGE RESERVE FUND. (a) *Establishment of fund.* The board shall withdraw from the gross receipts of the authority and charge to operating expenses such an amount of money as in the opinion of the board shall be sufficient to provide for the



adjustment, defense and satisfaction of all suits, claims, demands, rights and causes of action and the payment and satisfaction of all judgments entered against the authority for damage caused by injury to or death of any person and for damage to property resulting from the construction, maintenance and operation of the transportation system. The board shall deposit such moneys in a fund to be known and designated as the damage reserve fund.

(b) *Use of fund.* The board shall use the moneys in the damage reserve fund to pay all expenses and costs arising from the adjustment, defense and satisfaction of all suits, claims, demands, rights and causes of action and the payment and satisfaction of all judgments entered against the authority for damages caused by injury to or death of any person and for damage to property resulting from the construction, maintenance and operation of the transportation system.

(c) *Liability insurance.* The cost of obtaining and maintaining insurance against such contingencies shall be paid out of the moneys in the damage reserve fund. All moneys received from such insurance coverage or protection shall be paid into the damage reserve fund.

(d) *Workmen's compensation.* The authority and its employes shall be subject to chapter 102.

(35) CLAIMS AGAINST AUTHORITY FOR PERSONAL INJURIES, DEATHS OR PROPERTY DAMAGES. Civil actions to enforce claims against the authority for personal injuries, wrongful deaths or property damages may be commenced and prosecuted upon the same terms and conditions and in the same manner as such actions are commenced and prosecuted against street railway companies which are in private ownership.

(36) SPECIAL FUNDS. The authority may establish and create such other and additional special funds as may be found desirable by the board and in and by such ordinances may provide for payments into all special funds from specified sources with such preferences and priorities as may be deemed advisable and may also by any such ordinances provide for the custody, disbursement and application of any moneys in any such special funds consistent with the provisions of this section.

(37) PUBLIC BIDDING ON CONTRACTS. (a) *Exceptions.* All contracts for the sale of property of the value of more than \$2,500 or for any concession in or lease of property of the authority for a term of more than one year shall be awarded to the highest responsible bidder, after advertising for bids. All construction contracts and contracts for supplies, materials, equipment and services, when the expense thereof will exceed \$2,500, shall be let to the lowest responsible bidder, after advertising for bids, excepting (1) when by vote of at least 5 members of the board, it is determined that an emergency requires immediate delivery of supplies, materials or equipment or performance of services; (2) when repair parts, accessories, equipment or services are required for equipment or services previously furnished or contracted for; (3) when the nature of the services required is such that competitive bidding is not in the best interest of the public, including, without limiting the generality of the foregoing, the services of accountants, architects, attorneys, engineers, physicians, superintendents of construction, and others possessing a high degree of skill; (4) when services such as water, light, heat, power, telephone or telegraph are required. All contracts involving less than \$2,500 shall be let by competitive bidding whenever possible, and in any event in a manner calculated to insure the best interests of the public.

(b) *Rejection of bids.* In determining the responsibility of any bidder, the board may take into account past dealings with the bidder, experience, adequacy of equipment, ability to complete performance within the time set, and other factors beside financial responsibility, but in no case shall any such contract be awarded to any other than the highest bidder (in case of sale, concession or lease) or the lowest bidder (in case of purchase or expenditure) unless authorized or approved by a vote of at least 5 members of the board, and unless such action is accompanied by a statement in writing setting forth the reasons, which statement shall be kept on file in the principal office of the authority and open to public inspection.

(c) *Evasion, collusion.* Contracts shall not be split into parts involving expenditure of less than \$2,500 for the purpose of avoiding the provisions of this section, and all such split contracts shall be void. If any collusion occurs among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid a fixed amount or to refrain from bidding or otherwise, the bids of such bidders shall be void. Each bidder shall accompany his bid with a sworn statement that he has not been a party to any such agreement.

(d) *Employes not to bid.* Members of the board, officers and employes of the authority, and their relatives within the fourth degree by the terms of the civil law, are for-

bidden to be interested directly or indirectly in any contract for construction or maintenance work or for the delivery of materials, supplies or equipment.

(e) *Readvertising.* The board shall have the right to reject all bids and to readvertise for bids. If after such readvertisement no responsible and satisfactory bid within the terms of the advertisement shall be received, the board may award such contract without competitive bidding, if it shall not be less advantageous to the authority than any valid bid received pursuant to advertisement.

(f) *Rules of the board.* The board shall adopt rules and regulations to carry into effect the provisions of this subsection.

(38) **ADVERTISEMENT FOR BIDS.** Advertisements for bids shall be published at least twice in a daily newspaper of general circulation published in the metropolitan district, the last publication to be at least 10 calendar days before the time for receiving bids, and such advertisements shall also be posted on readily accessible bulletin boards in the principal office of the authority. Such advertisements shall state the time and place for receiving and opening of bids, and by reference to plans and specifications on file at the time of the first publication, or in the advertisement itself, shall describe the character of the proposed contract in sufficient detail to fully advise prospective bidders of their obligations and to insure free and open competitive bidding. All bids in response to advertisements shall be sealed and shall be publicly opened by the board, and all bidders shall be entitled to be present in person or by representatives. Cash or a certified or satisfactory cashier's check, as a deposit of good faith, or a bid bond with satisfactory surety or sureties in a reasonable amount to be fixed by the board before advertising for bids, shall be required with the proposal of each bidder. Bond for faithful performance of the contract with surety satisfactory to the board and adequate insurance may be required by the board. The contract shall be awarded as promptly as possible after the opening of bids. All bids shall be placed on file open to public inspection. All bids shall be void if any disclosure of the terms of any bid in response to an advertisement is made or permitted to be made by the board before the time fixed for opening bids.

(39) **ESTABLISHMENT OF FISCAL YEAR.** The board shall establish a fiscal operating year. At least 30 days prior to the beginning of the first full fiscal year after creation of the authority, and annually thereafter, the board shall cause to be prepared a tentative budget which shall include all operation and maintenance expense for the ensuing fiscal year. The tentative budget shall be considered by the board at a public meeting, held upon notice published in a newspaper of general circulation published in the district not less than 10 days prior to such meeting, and, subject to any revision and amendments as may be determined, shall be adopted prior to the first day of the ensuing fiscal year as the budget for that year. No expenditures for operations and maintenance in excess of the budget shall be made during any fiscal year except by the affirmative vote of at least 5 members of the board. It shall not be necessary to include in the annual budget any statement of necessary expenditures for pensions or retirement annuities, for interest or principal payments on bonds, or for capital outlays, but it shall be the duty of the board to make provision for payment of same from appropriate funds.

(40) **ANNUAL REPORT.** As soon after the end of each fiscal year as may be expedient, the board shall print a detailed report and financial statement of its operations and of its assets and liabilities. A reasonably sufficient number of copies of such report shall be printed for distribution to persons interested, upon request, and a copy thereof shall be filed with the governor, the county clerks of the counties in which the authority is engaged in the operation of its business and the clerk of each municipality which has adopted this section or granted rights to the authority by ordinance. A separate copy of such report shall be mailed to the principal officer and the governing body of each such municipality.

(41) **SEVERABILITY.** If any subsection of this section or any part thereof or the application thereof to any person or circumstances be held invalid or unconstitutional, neither the validity of the remainder of the act nor that of any other part, clause, sentence or provision or the application thereof to other persons or circumstances shall be affected thereby.

(42) **CONFLICT OF LAWS.** Insofar as any provision of this section is inconsistent with the provisions of any other law, the provisions of this section shall be controlling, except as provided in subsection (44).

(43) **APPLICATION OF SECTION.** This section shall be construed as constituting complete statutory authority for the creation of metropolitan transit authorities and the acquisition, ownership and operation of a transportation system by such authority and for the issuance of bonds as herein authorized, any other law relating to the matters herein contained to the contrary notwithstanding.

(44) Notwithstanding any provision of this section the authority shall be deemed an employer under chapter 111, subchapter III, and the authority shall be subject to the

same laws as other similar organizations engaged in like activities, and any provision of this section in conflict with the provisions of this subsection is to the extent of such conflict superseded by the provisions of this subsection.

Approved August 3, 1949.

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