

No. 160, S.]

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## CHAPTER 294.

AN ACT to amend chapter 326, laws of 1889, as amended by chapter 312, laws of 1893, relating to the general charter law of the state of Wisconsin.

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

SECTION 1. Subdivision thirty-fourth of chapter 326, laws of 1889, is hereby amended by adding the words, "and for furnishing lighting to the inhabitants of such city upon such terms as may be provided by the common council by ordinance" after the word "otherwise" in the third line of said subdivision. And by striking out the word "to" in the third line of said subdivision and by adding in place of said word "to" the following words: "May own and operate its own lighting plant, or may," so that said subdivision when amended shall read as follows: "Thirty-fourth. To provide for lighting the streets, public grounds and buildings, with gas or otherwise, and for furnishing lighting to the inhabitants of such city upon such terms as may be provided by the common council by ordinance; and for such purpose may own and operate its own lighting plant, or may contract by ordinance or otherwise, with any person, persons, company, or corporation, for a term not exceeding ten years at any one time, at such price, on such terms, and subject to such limitations as may be prescribed by such ordinance or contract."

City may own and operate its own lighting plant.

SECTION 2. Section 95, of chapter 326, laws of 1889, is amended by adding the words, "or lighting works," after the words, "water works," in the first line thereof, so that such section shall read as follows: Section 95. In cities where the water works or lighting works are

Lighting and water works shall be operated by board of public works.

owned by the city the same shall be operated under the direction of the board of public works.

Provisions for lighting or water works shall be adopted by three-fourths of the members of the council.

SECTION 3. Section 96, of chapter 326, laws of 1889, is hereby amended by inserting the word "purchase" after the word "construction" in the third line thereof and by adding the words, "or lighting works," after the words, "water works," in the fourth line thereof, and also by inserting the words "or lighting works" after the words "water works," in the seventh line thereof and by striking out the words "a majority" where they appear in the ninth line thereof and inserting the words "three-fourths" in place thereof, so that said section shall read as follows: Section 96. The common council shall have power to legislate on all matters with reference to the construction, purchase, operation, management and protection of water works or lighting works for the city, not contravening the provisions of this act or the constitution or laws of the state; provided, however, that all provisions relating to water works or lighting works not herein otherwise provided, shall be adopted by a vote of not less than three-fourths of all the members of the council.

City may acquire lands for lighting or water works buildings.

SECTION 4. Section 97, of chapter 326, laws of 1889, is hereby amended by adding the words, "or for the construction and operation of lighting works to supply the city and the inhabitants thereof with electric or other lighting," after the word "water" in the sixth line thereof, and by adding the words "or lighting works" after the words "water works," in the eighth line thereof, so that said section shall read as follows: Section 97. The city may acquire, by purchase or otherwise, as specified in this act for acquiring real estate for the public use, such lands as may be necessary for the construction and operation of water works to supply the city and the inhabitants thereof with water; or for the construction and operation of lighting works to supply the city and the inhabitants thereof with electric or other lighting; provided, that in cases where the water works or lighting works are owned by private persons or corpora-

tions, the expenses of acquiring such real estate shall be paid by such persons or corporations on a proper conveyance being made to such persons or corporations of such real estate.

SECTION 5. Section 98, of chapter 326, laws of 1889, is amended by adding the words "or lighting works" after the words "water works," in the first line thereof, and by adding the words "or charges for lighting" after the words "water rates," in the second line thereof, so that said section shall read as follows: Section 98. When cities own the water works or lighting works the water rates or charges for lighting shall be collected by the city treasurer, and shall be first devoted to the expenses of maintaining and operating the works, and paying the principal and interest of any indebtedness created in the construction thereof, and the balance, if any, shall be paid into the general fund.

Rates to be collected by the city treasurer.

SECTION 6. Chapter 326, laws of 1889, is hereby amended by adding thereto a section immediately following number 106 thereof, to be numbered section 106a, and to read as follows: Section 106a. The common council in every city governed by this act, or which shall adopt these sections of this act relating to lighting works, may by ordinance fix the rates to be charged to the inhabitants thereof for lighting furnished by such city, and may provide for the collection of the same either quarterly or semi-annually, in advance or otherwise, provided such rates shall be uniform for like services in all parts of the city.

Common council to fix the rates to be paid in advance.

SECTION 7. Subdivision six, section 133, laws of 1889, is amended by adding the words "lighting works" after the words "water works" in said subdivision, so that said subdivision shall read as follows: Sixth. Water works, lighting works, sewers and drains. Subdivision seventh, section 133, laws of 1889, is amended by striking out the words "lighting works for streets and public buildings" so that said subdivision shall read as follows: Seventh. Public parks, public drives, boulevards, cemeteries, garbage grounds, public hospitals, and purchasing sites for public buildings.

Subdivisions 6 and 7 amended.

City not to erect competing works if owners of private works are willing to sell to the city.

SECTION 8. Whenever any city decides by a vote of not less than three-fourths of all the members of the common council to own and operate its own lighting works for the purpose of furnishing light to the inhabitants of such city, other than for lighting streets, public buildings and parks, and if at such time there shall be in operation lighting works owned and operated by a private person, persons or corporation, established under authority of such city, in such case such city shall not erect competing works for private lighting, provided the owners of such existing works shall be willing to sell such works to the city as hereinafter provided. The price to be paid for such existing lighting works shall be its fair value for the purpose for which it is used, including as an element of value, the earning capacity of such works, based upon the actual earnings derived therefrom, no portion of such works to be estimated, however, at less than its fair value for any other purpose. The city clerk shall notify the owner of such works when the city has voted to own its own lighting works for furnishing light to its inhabitants, whereupon such owners, if they elect to sell, shall within thirty days after service of such notice file with the city clerk a schedule describing the real estate and all other property composing the whole of such works, the terms and price they will sell for and when to be delivered to the city. In case such city and owners cannot agree on the terms of the sale, then three appraisers shall be selected, as follows: One by the city, one by the owners of said works and the third by these two; each appraiser shall be a citizen of this state and reside outside of the county in which such city is situated, unless otherwise mutually agreed. Each shall within ten days after his appointment and acceptance, file with the clerk of such city his oath of office; and such appraisers shall immediately proceed to examine the property of such lighting works, hear the parties interested, and determine the fair value of such works, on the basis heretofore set forth,

Proceedings to be had to effect a sale to the city.

and shall file their findings and conclusions in writing with the city clerk, describing such property and the price, terms and time of delivery agreed upon; such filing to be not later than thirty days from the time of their first meeting. In case that either party shall feel aggrieved by such findings, such party may within thirty days after the filing of the same by such arbitrators, apply by petition to the circuit court of the county in which such city is situated, setting forth the facts, and praying an adjudication between the parties, together with a certified copy of such findings, and thereafter said court or the presiding judge thereof, after giving both parties an opportunity to be heard at a time and place to be fixed by order, shall appoint a commission of three disinterested persons, all non-residents of the county in which said city is situated, who shall file their oath of office with such court and give the parties an opportunity to be heard, and shall examine the property and receive such evidence as the parties desire to offer, and shall thereupon adjudicate upon all matters properly submitted to the arbitrators in accordance with the provisions of this act, and what the price, time and other conditions of the sale and delivery shall be. Such commissioners shall act under the supervision of said circuit court and shall file their award in writing for revision or confirmation by the court. The court shall have jurisdiction upon the revision or confirmation of the award of the arbitrators to enter a judgment according to equity and to enforce the same as in equitable actions.

SECTION 9. The provisions of this act shall not apply to cities which constitute the division known as the first class.

SECTION 10. This act shall take effect and be in force from and after its passage and publication.

Approved April 19, 1895.