

No. 612, S.]

[Published July 24, 1919.

CHAPTER 594.

AN ACT to create subsection (12) of section 34.02 and subsection (10) of section 20.12 of the statutes, relating to the department of engineering, and making an appropriation.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is added to section 34.02 a new subsection and to section 20.12 a new subsection, to be numbered and to read: (34.02) (12) To rebuild and repair discarded machinery of the several state institutions where found advisable, and put the same back into service.

(20.12) (10) On July 1, 1919, thirty thousand dollars, to carry out the provisions of subsection (12) of section 34.02 of the statutes. This appropriation may be used for the construction of a suitable building on state property at the State Light, Heat and Power Plant and for the installation of the necessary machinery and equipment therefor.

SECTION 2. This act shall take effect upon July 1, 1919.

Approved July 18, 1919.

No. 266, S.]

[Published July 24, 1919.

CHAPTER 595.

AN ACT to create sections 927—16, 927—16a, 927—16b, 927—16c and 927—16d of the statutes, providing for the creation of special funds from the revenues of public utilities acquired or constructed by municipalities and the issuing of bonds payable exclusively from such special funds.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There are added to the statutes four new sections to be numbered and to read: Section 927—16. 1. Whenever the qualified voters of any city, village or town shall have heretofore determined, or shall hereafter determine by a majority vote to purchase, acquire or construct any public utility or utilities, the common council or other governing authority of such city, village or town shall have power and is hereby authorized to provide for the payment thereof, and to provide for any extensions, additions and improvements that are necessary, in the manner following:

2. Said common council or other governing authority shall by ordinance set aside the income and revenues of such public utility into a separate and special fund to be used and applied in the

maintenance and operation thereof, and in the payment of the cost thereof. Said ordinance shall fix and determine (a) the proportion of the revenues of such public utility which shall be necessary for the reasonable and proper operation and maintenance thereof; (b) the proportion of the said revenues which shall be set aside as a proper and adequate depreciation account; and (c) the fixed proportion of the said revenues which shall be set aside and applied to the payment of the principal and interest of the bonds herein authorized.

3. In fixing and determining the proportion of the revenues of such public utility required for operation and maintenance, the common council or other governing authority shall have regard to the cost of operation and maintenance of the utility, and shall not set aside into such special fund a greater amount or proportion of the revenues and proceeds thereof than in their judgment shall be properly required for the said operation and maintenance. The sums so set aside for operation and maintenance shall be used and applied exclusively for that purpose, until the accumulation of a surplus of the amount hereinafter specified.

4. The proportion set aside to the depreciation fund shall be expended in making good depreciation in the said public utility or in new constructions, extensions or additions to the property of such public utility. Any accumulations of such depreciation fund may be invested, and if invested, the income from the investment shall be carried in the depreciation fund. Said fund and the proceeds thereof shall not be used for any purpose, other than as herein provided.

5. The fixed proportion which shall be set aside for the payment of the principal and interest of the bonds herein authorized shall from month to month as the same shall accrue and be received, be set apart and paid into a special account in the treasury of the said city, village or town, to be identified as "THE ----- BOND AND INTEREST REDEMPTION ACCOUNT", the full title of such account to be specified by the said ordinance. In fixing and determining the amount or proportion which shall be set aside for the payment of the principal and interest of the bonds herein authorized, the common council or other governing authority may provide that the amount to be set aside and paid into the said bonds and interest redemption account for any year or years shall not exceed a fixed sum which sum shall be at least sufficient to provide for the payment of the interest and principal of the said bonds maturing and becoming

payable in each such year, together with a surplus or margin of ten per cent in excess thereof.

6. If any surplus shall be accumulated in the said operating and maintenance fund, which shall be equal to the cost of maintaining and operating the said plant during the remainder of the calendar, operating or fiscal year then current, and the cost of maintaining and operating the said utility during the calendar, operating or fiscal year then next ensuing, any excess over such surplus may be by said common council or other governing authority transferred to either the depreciation account to be used for any improvements, extensions or additions to the properties of such public utility, or to the bond and interest redemption account, as said common council or other governing authorities may designate.

7. If and when a surplus shall be created in the said bond and interest redemption account which shall be in excess of the interest and principal of any bonds becoming payable during the calendar, operating or fiscal year then current, together with the amount of interest or principal of any bonds which shall become due and payable during the calendar, operating or fiscal year then next ensuing, the said common council or other governing authority may transfer any excess over such surplus to either the operation and maintenance account, or to the depreciation account, which said common council or other governing authorities may designate.

8. To provide for the payment thereof and to provide for any extensions, additions and improvements thereof, the said common council or other governing authority shall be and is hereby authorized to issue and sell bonds bearing interest at a rate not exceeding six per centum per annum, payable annually or semiannually, executed in such manner and payable at such times not exceeding forty years from the date thereof, and at such places as the common council or other governing authority of such city, village or town shall determine, which bonds shall be payable only out of the said special redemption fund. Any and all bonds shall have and are hereby declared to have in the hands of bona fide holders all the qualities of negotiable instruments under the law merchant. In case any of the officers whose signatures or counter-signatures appear on the bonds or the coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signature or counter-signature shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until the delivery of the bonds. Any such bonds and the interest thereon issued against any such

redemption fund shall be a valid claim of the holders thereof only against the said special redemption fund and the fixed proportion or amount of the revenues pledged to such fund, and shall not constitute an indebtedness of such city, village or town within the meaning of the constitutional provisions and limitations. Each such bond shall state plainly upon its face that it is payable only from the special fund, naming the said fund and the ordinance creating it and that it does not constitute an indebtedness of such city, village or town. The said bonds may be issued either as registered bonds or as coupon bonds payable to bearer. Coupon and bearer bonds may be registered as to principal in the holder's name on the books of the city, village or town, such registration being noted on the bond by the clerk or other designated officer, after which no transfer shall be valid unless made on the books of the city, village or town by the registered holder and similarly noted on the bond. Any bond so registered as to principal may be discharged from such registration by being transferred to bearer after which it shall be transferable by delivery but may be again registered as to principal as before. The registration of the bonds as to the principal shall not restrain the negotiability of the coupons by delivery merely, but the coupons may be surrendered and the interest made payable only to the registered holder of the bonds. If the coupons be surrendered, the surrender and cancellation thereof shall be noted on the bond and thereafter interest on the bond shall be payable to the registered holder or order in cash or at his option by check or draft payable at the place or one of the places where the coupons were payable. Such bonds shall be sold in such manner and upon such terms as the governing authorities shall deem for the best interests of said city, village or town, provided, however, that such bonds, shall not be sold for less than par. The governing authorities may provide in any contract for the purchase, acquisition or construction of any utility, that payment thereof shall be made in such bonds at the par value thereof.

9. The reasonable cost and value of any service rendered to such city, village or town by such public utility by furnishing water for public purposes or by the maintenance of hydrants and other facilities for fire protection, or by furnishing light, heat or power for the use of the said city, village or town shall be charged against the said city, village or town and shall be by it paid for in monthly installments as the service accrues out of the current revenues of the said city, village or town collected or in process of collection and the tax levy of the said city, village or town made by it to raise money to meet its necessary

current expenses. The compensation for such service rendered to such city, village or town shall in the manner hereinbefore provided, be paid into the separate and special fund created by setting aside the income and revenues of such public utility and shall be subject to apportionment to the operating and maintenance, depreciation and bond and interest redemption accounts.

10. The rates for all services rendered by such public utility to the municipality or to citizens, corporations or other consumers, shall be reasonable and just, taking into account and consideration the value of the said public utility, the cost of maintaining and operating the same, the proper and necessary allowance for depreciation thereof, and a sufficient and adequate return upon the capital invested.

11. All moneys received from any bonds issued pursuant hereto shall be applied solely for purchasing, acquiring or constructing such public utility, and in the payment of the cost of any necessary extensions, additions and improvements, and there shall be and there is hereby granted and created a statutory mortgage lien upon the public utility so purchased, constructed or acquired to and in favor of the holders of the said bonds and each of them, and to and in favor of the holders of the coupons of said bonds. The public utility so purchased, acquired or constructed shall remain subject to such statutory mortgage lien until the payment in full of the principal and interest of the bonds issued pursuant thereto. Any holder of the said bonds or of any of the coupons attached thereto may either at law or in equity by suit, action, mandamus or other proceeding, protect and enforce the statutory mortgage lien hereby conferred, and may by suit, action, mandamus or other proceedings, enforce and compel performance of all duties required by this act, of the city, village or town issuing the said bonds or of any officer thereof, including the making and collecting of reasonable and sufficient rates lawfully established for service rendered by such utility, the segregation of the income and revenues of the said utility and the application of the respective funds created pursuant to the provisions of this statute. If there be any default in the payment of the principal or interest of any of the said bonds, any court having jurisdiction of the action may appoint an administrator or receiver to administer the said public utility on behalf of the said city, village or town and the said bondholders, with power to charge and collect rates lawfully established sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations

outstanding against said utility, and to apply the income and revenues thereof in conformity with this statute and the said ordinance, or the said court may declare the whole amount of said bonds due and payable and may order and direct the sale of the said public utility. Under any sale so ordered, the purchaser shall be vested with an indeterminate permit to maintain and operate the said public utility. If any city, village or town shall have acquired or constructed any such public utility and shall have paid therefor and for any extensions and betterments authorized at the time of acquisition in the manner herein provided, such city, village or town may provide for the extension, addition or improvement of such public utility by an additional issue or issues of bonds in the manner herein provided; provided, however, that such additional issue or issues of bonds shall be subordinate to all prior issues of bonds which may have been made hereunder. Any city, village or town may issue new bonds in the manner herein provided and secured in the same manner, to provide funds for the payment of the principal and interest of any bonds then outstanding, provided that upon any re-issue of such bonds the question shall not be required to be submitted to the electors whenever such re-issue shall be approved by a vote of not less than two-thirds of the common council or other governing authority.

12. Said common council or other governing authority of such city, village or town shall have full power to adopt all ordinances necessary to carry into effect the provisions of this section, which ordinance may contain such provisions and stipulations for the administration of the special fund and for the security of the bondholders as the said council or other governing authority shall deem necessary.

13. The common council or other governing authority of any city, village or town purchasing, acquiring or constructing any public utilities under the provisions of this section shall have the power to pay all incidental expenses incurred in connection therewith, including commissions for selling said bonds, out of the current revenues of such city, village or town.

SECTION 927—16a. Any and all proceedings for the purchase, acquisition, taking over, condemning or providing funds for payment of any public utility or utilities by any city, village or town heretofore begun or taken under the provisions of any existing law of this state may be proceeded with either under the provisions of such law, if still in force, or under the provisions of this act, as the governing authorities of such city, village or town may elect.

SECTION 927—16b. The term “public utility” as used in sections 927—16 to 927—16c of the statutes, shall be construed to also include street railways.

SECTION 927—16c. Nothing in sections 927—16 to 927—16b, inclusive, of the statutes shall be construed as depriving the railroad commission of Wisconsin of any power or authority conferred by section 1797m—1 to 1797m—109, inclusive, of the statutes, or sections 1797—14 to 1797—35, inclusive, of the statutes, in so far as said sections 1797—14 to 1797—35, apply to street railways.

SECTION 927—16d. 1. The term “electric plant” as used in this section shall mean a plant for the production, transmission, delivery and furnishing of electric light, heat or power directly to the public.

2. If any city of the first class shall have determined to acquire a street railway and electric plant or either of them, or any other public utility in accordance with the provisions of this section, the mayor of such city, prior to the city taking possession of such property shall appoint, subject to the confirmation of the common council, seven persons of recognized business experience and standing to act as the board of directors for such street railway and electric plant or for such other public utility as it shall have determined to acquire. Two of such persons shall be appointed for a term of two years, two for a term of four years, two for a term of six years and one for a term of eight years. Thereafter at the expiration of the respective terms of the persons so appointed successors shall be appointed in like manner for terms of ten years each. Any such director may be removed by the mayor with the approval of the common council for misconduct in office or for unreasonable absence from meetings of the directors.

3. The directors so appointed shall have the following powers: (a) To employ a manager experienced in the management of street railways and electric plants or other like public utilities and fix his compensation and the other terms and conditions of employment not inconsistent with the provisions of this act; and to remove him at pleasure subject, however, to the terms and conditions of his employment.

(b) To advise and consult with the manager and other employes as to any matter pertaining to the maintenance, operation and extension of such street railway and electric plant or other public utility for which they shall have been appointed.

(c) To perform such other duties as ordinarily devolve upon a board of directors of a corporation organized under chapter

86 of the statutes and which is not inconsistent with the provisions of this act and of the laws governing cities of the first class, provided that no money shall be raised or authorized to be raised by said board of directors other than from revenues derived from the operation of said business except by action of the common council of such city.

4. The manager appointed by the board of directors shall have complete management and control of said business subject, however, to the powers herein conferred upon the board of directors and the common council of such city and shall have power to appoint assistants and all other employes which he deems necessary to the proper conduct of said business and fix their compensation and other terms and conditions of employment except that the board of directors may in their discretion prescribe rules for determining the fitness of persons for positions and employment.

5. The common council of such city shall fix the compensation, if any, of members of the board of directors and shall have the powers herein conferred upon it and such other powers as it now possesses with reference to street railways, electric plants and other public utilities.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 18, 1919.

No. 184, S.]

[Published July 24, 1919.

CHAPTER 596.

AN ACT to create sections 1458—10 and 20 82 of the statutes, creating a land settlement board, defining its powers and duties, and making appropriations.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Two new sections are added to the statutes to be numbered and to read: Section 1458—10. 1. There is hereby created a Wisconsin land settlement board. Said board shall consist of the dean of the college of agriculture, the commissioner of immigration and one soldier to be appointed by the governor. The attorney general shall be the legal adviser of the board and shall represent it in any suits or actions which may arise in the discharge of its duties. On or before the first day of August, 1919, the governor shall, subject to the approval of the senate, appoint one member, an honorably discharged soldier, sailor or marine of the last war, whose term will expire on the first day of January 1926. In January,