

No. 629, S.]

[Published July 13, 1907.

CHAPTER 578.

AN ACT to create sections 1797t—1 to 1797—12, inclusive, of the statutes, relating to franchises of street railway companies and to purchase of the property of street railway companies by the municipality.

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

SECTION 1. There are added to the statutes twelve new sections to read:

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Approved July 12, 1907.

(In effect from and after date of publication.)

No. 823, A.]

[Published July 13, 1907.

CHAPTER 579.

AN ACT to repeal sections 458a, 458b, 458d, 458g, 458h, statutes of 1898, and section 1, chapter 64, laws of 1903, and to create sections 458a, 458b, 458b—1 and 458b—2, statutes of 1898, relating to the granting of state certificates and licenses by the state superintendent of public instruction.

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

SECTION 1. Sections 458a, 458b, 458d, 458g, 458h, as amended by chapter 171, laws of 1901, of the statutes of 1898; section 1 of chapter 64, laws of 1903, and all other laws or parts of laws in conflict herewith, are repealed.

SECTION 2. There are added to the statutes of 1898, four new sections to read:

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Approved July 12, 1907.

(In effect from and after date of publication.)

rapher, who shall receive a salary not to exceed fifteen hundred dollars per annum, together with his traveling expenses, which shall be approved by such commission and be paid as the expenses of clerks of the railroad commission are paid.

(Ch. 429.1907.)

Bulletins of information. SECTION 1797s. Said commissioner is hereby authorized to prepare bulletins containing information concerning the use and improvement of navigable rivers for transportation purposes, and of the benefits to be derived therefrom, and the state printer is hereby authorized to print ten thousand copies of the same yearly, and deliver them to the commission for distribution, provided that the whole number of printed pages shall not exceed one hundred each year.

(Ch. 429. 1907.)

Office, supplies, expenses. SECTION 1797t. Such commission shall hold an office at such place as shall be fixed by the governor, and shall be provided by the superintendent of public property with necessary office and supplies, and all necessary expenses shall be incurred, audited and paid in the manner prescribed for the railroad commission.

(Ch. 429, 1907.)

Governor to appoint. SECTION 1797u. It is hereby made the duty of the governor to appoint such commission within thirty days after the passage and publication of this act.

(Ch. 429, 1907.)

Appropriation. SECTION 1797v. A sum sufficient to carry out the provisions of this act is hereby appropriated out of any moneys in the state treasury not otherwise appropriated.

(Ch. 429, 1907.)

Street railway franchises: definitions of terms used in sections 1797t—1 to 1797t—12 inclusive. SECTION 1797t—1. 1. The term "municipal council" as used in this act shall mean and embrace the common council, the board of aldermen, the board of trustees, the town or village board, or any other governing body of any town, village or city wherein the property of a street railway company or any part thereof is located.

2. The term "municipality" as used in this act shall mean any town, village or city wherein property of a street railway company or any part thereof is located.

3. The term "indeterminate permit" as used in this act shall mean and embrace every grant, directly or indirectly from the state, to any street railway company, of power, right or privilege to own, operate, manage or control any street railway plant or equipment or any part thereof within this state, which shall continue in force until such time as the municipality shall exercise its option to purchase as provided in this act or until it shall be otherwise terminated according to law.

4. The term "commission" as used in this act shall mean the railroad commission of Wisconsin.

(Ch. 578, 1907.)

Street railway grants hereafter indeterminate; municipal acquisition. SECTION 1797t—2. Every license, permit or franchise hereafter granted to any street railway company shall have the effect of an indeterminate permit subject to the provisions of this act, and subject to the provision that the municipality in which the major part of its property is situated may purchase the property of such street railway company actually used and useful for the convenience of the public at any time as provided herein, paying therefor just compensation to be determined by the commission and according to the terms and conditions fixed by said commission. Any such municipality is authorized to purchase such property, and every such street railway company is required to sell such property at the compensation and according to the terms and conditions determined by the commission as herein provided.

(Ch. 578, 1907.)

Voluntary re-license under indeterminate permit; contract waiver implied. SECTION 1797t—3. Any street railway company operating under an existing license, permit or franchise shall, upon filing at any time prior to the expiration of such license, permit or franchise, with the clerk of the municipality which granted such franchise and with the commission, a written declaration legally executed that, it surrenders such license, permit or franchise, receive by operation of law in lieu thereof, an indeterminate permit as provided in this act; and such street railway company shall hold such permit under all the terms, conditions and limitations of this act. The filing

of such declaration shall be deemed a waiver by such street railway company of the right to insist upon the fulfillment of any contract theretofore entered into relating to any rate, fare, charge or service regulated by sections 1797—1 to 1797—38 of the statutes, as amended.

(Ch. 578, 1907.)

Grants hereafter: implied consent and waiver. SECTION 1797t—4. Any street railway company accepting or operating under any license, permit or franchise hereafter granted, except where such license, permit or franchise is for an extension of any line or system constructed or authorized at the time this act shall go into effect, and which license, permit or franchise for such extension shall expire at the same date as the license, permit or franchise under which such line or system is then being operated, shall, by acceptance of any such indeterminate permit be deemed to have consented to a future purchase of its property actually used and useful for the convenience of the public, by the municipality in which the major part of it is situate for the compensation and under the terms and conditions determined by the commission, and shall thereby be deemed to have waived the right of requiring the necessity of such taking to be established by the verdict of a jury, and to have waived all other remedies and rights relative to condemnation by such municipality, except such rights and remedies as are provided in this act.

(Ch. 578, 1907.)

Power of municipalities to acquire. SECTION 1797t—5.
1. At any time within three years prior to the expiration of the term of the license, permit or franchise under which any street railway is operating at the time this act goes into effect, any municipality shall have the power, subject to the provisions of this act, to acquire by condemnation the property of any street railway company, actually used and useful for the convenience of the public.

2. Any municipality shall have the power, subject to the provisions of this act, to acquire by purchase as provided in this act, the property of any street railway company actually used and useful for the convenience of the public operating under any indeterminate permit as provided herein.

(Ch. 578, 1907.)

Grants now existing: municipality's action to acquire.

SECTION 1797t—6. If the municipality shall have determined to acquire an existing plant then operated under a license, permit or franchise existing at the time this act takes effect, such municipality shall bring an action in the circuit court against the street railway company as defendant praying the court for an adjudication as to the necessity of such taking by the municipality, in which action the complaint shall be served with the summons. The street railway company shall serve and file its answer to such complaint within ten days after the service thereof; whereupon such action shall be at issue and stand ready for trial upon ten days' notice by either party. All such actions shall have precedence over any civil cause of a different nature pending in such court.

(Ch. 578, 1907.)

Under indeterminate permit, municipality's notice for acquisition.

SECTION 1797t—7. If the municipality shall have determined to acquire an existing plant and the street railway company owning such plant shall have consented to the taking over of such plant by the municipality by acceptance of an indeterminate permit as provided herein; or, in case such street railway company shall not have consented to such taking if the jury shall have found that a necessity exists for the taking of such plant, then the municipality shall give speedy notice of such determination and of such consent or such verdict of a jury to the street railway company and to the commission.

(Ch. 578, 1907.)

Compensation for property determined by commission.

SECTION 1797t—8. The commission shall thereupon after public hearing and within three months from the receipt of such notice and upon notice to the municipality and the street railway company interested, by order fix and determine and certify to the municipal council and to the street railway company, just compensation to be paid for the taking of the property of such street railway company actually used and useful for the convenience of the public, and all other terms and all conditions of sale and purchase which it shall ascertain to be reasonable. The compensation and other terms and the conditions of sale and purchase thus certified by the commission shall constitute the compensation and terms and conditions to be paid, followed and observed in the purchase of such plant from such

street railway company upon the filing of such certificate with the clerk of such municipality, the exclusive use of the property taken shall vest in such municipality.

(Ch. 578, 1907.)

Appeal from compensation order. SECTION 1797t—9. Any street railway company or the municipality being dissatisfied with such order, may commence and prosecute an action in the circuit court to alter or amend such order or any part thereof as provided in sections 1797m—64 to 1797m—73 inclusive of the statutes, and said sections so far as applicable shall apply to such action.

(Ch. 578, 1907.)

If decision for commission. SECTION 1797t—10. If the plaintiff shall not establish to the full satisfaction of the court that the compensation fixed and determined in such order is unlawful or that some of the terms or conditions fixed and determined therein are in some particulars unreasonable, the compensation, terms and conditions fixed in said order shall be the compensation, terms and conditions to be paid, followed and observed in the purchase of said plant from such street railway company.

(Ch. 578, 1907.)

If decision for street railway. SECTION 1797t—11. If the plaintiff shall establish to the full satisfaction of the court and the court shall adjudge that such compensation is unlawful or that some of such terms or conditions are unreasonable, the court shall remand the same to the commission with such findings of fact and conclusions of law as shall set forth in detail the reasons for such judgment and the specific particulars in which such order of the commission is adjudged to be unreasonable or unlawful.

(Ch. 578, 1907.)

Reconsideration of compensation. SECTION 1797t—12. 1. If the compensation fixed by the previous order of the commission be adjudged to be unlawful, the commission shall forthwith proceed to set a re-hearing for the re-determination of such compensation as in the first instance.

2. The commission shall forthwith otherwise alter and amend such previous order with or without a re-hearing as it

may deem necessary, so that the same shall be reasonable and lawful in every particular.

(Ch. 578, 1907.)

Two-cent passenger rate on railroads. SECTION 1798a.

No corporation operating a railroad in this state the gross receipts of which are or exceed three thousand five hundred dollars per mile per annum, shall demand, collect or receive a greater compensation for the transportation of persons than * * * *two cents per mile*; and every such corporation shall, * * * *at its* * * * *ticket stations within this state, on* * * * *its lines of road, sell tickets at a price not to exceed* * * * *two cents per mile*; but no such corporation shall be compelled to accept a single fare of less than five cents.

(Ch. 654, 1907.)

Spur tracks: use of streets, alleys and lanes; city's consent and regulation. SECTION 1802.

The owner of any elevator, warehouse, manufacturing plant or mill, or of any lumber, coal or wood yard located within one-half mile of any railroad or any side track thereof may at his own expense construct a spur track from any such elevator, warehouse, manufacturing plant, mill or yard to a point on the right of way within the terminal or yard limits of any such railroad and the railroad shall connect the same with its tracks within such terminal or yard limits. *Provided, however, that no such spur track be constructed across, along or upon any street, lane or alley, at grade or otherwise, within the corporate limits of any city however organized, until application therefor shall have been made to and acted upon by the proper authorities of such city. The proper authorities of such city may prescribe any reasonable terms and conditions for the construction of any such branch and spur track.* Such spur track shall at all times be under the control and management of and be kept in repair and operated for such owner or his assigns by such railroad, but the actual cost of so maintaining and operating shall be paid monthly by the owner thereof, and in case of neglect to so pay the same upon demand the obligation of this section upon any such railroad shall cease until such charges are paid. And no such spur track hereafter constructed or which has heretofore been constructed under the provisions of this section shall be removed without first having given the parties owning such elevator, warehouse,