

ACTS

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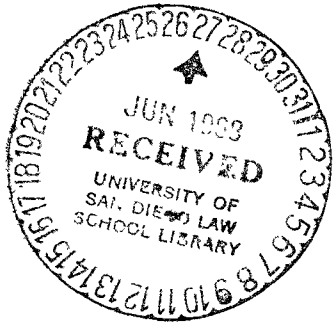
One Hundred and Forty-seventh Legislature

OF THE

STATE OF NEW JERSEY

AND

Seventy-ninth Under the New Constitution



TRENTON, N. J.
MACCRELLISH & QUIGLEY CO., STATE PRINTERS.

1923

CHAPTER 195.

An Act to authorize two or more municipalities in this State by means of a commission to acquire, either by purchase or condemnation, and operate privately owned water works now or hereafter supplying water therein, and in other municipalities, if any, in which water is supplied by the same water works, together with the franchises, rights, and any or all other appurtenant property of the owner or owners, of such works, and to enlarge and extend the same.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The governing body of two or more municipalities in this State in which now or hereafter water is supplied for domestic and public use by privately owned water works, whether such water works are owned by one or more corporations or parties, may make application to any justice of the Supreme Court for the appointment of a commission in their behalf to acquire such water works, either by purchase or condemnation, together with all rights and franchises relating thereto, and the rights and franchises to obtain an additional supply of water, and any or all other property of the owner of such water works that may be necessary to maintain, operate, enlarge or extend the water works so acquired, and to enlarge, extend, maintain and operate the same to supply water in the municipalities acquiring such water works as aforesaid and in all other municipalities theretofore supplied with water by the same water works, provided that all of the municipalities so supplied with water shall be notified in writing of such application at least sixty days before the same is made, and may join therein. Any vacancy in said commission shall be filled by appointment as above provided, and upon such notice as a justice of the Supreme Court shall direct; inability of any member of the commission

Application for commission to acquire water system and additional supply.

All municipalities notified.

to serve shall be treated as a vacancy. The application to appoint the commission or to fill any vacancy may be continued from time to time by the justice of the Supreme Court to whom the same is made.

2. Every commission appointed in pursuance of the first section of this act shall consist of not more than five persons, residents of the municipalities making the application for their appointment and joining therein, if any; they shall organize as soon as practicable by electing one of their number as president, and shall appoint a secretary and a treasurer, who need not be members of the commission, and adopt a seal, and a name whereby they may sue and be sued. The secretary shall keep full and correct minutes of all the meetings and transactions of the commission, and perform such other duties as may be required of him; the treasurer shall give bond for the faithful performance of his duties in such amount as the commission shall prescribe. The offices of secretary and treasurer may be held by the same person. The members of the commission shall receive for their services compensation to be fixed by agreement with municipalities having at least two-thirds of the population by the last national or State census of all of the municipalities making the application for their appointment and joining therein, if any; or, in case of failure to agree, by a justice of the Supreme Court. The secretary and the treasurer shall each receive such compensation as the commission may determine. All expenses incurred prior to the acquisition of the water works shall be considered as part of the cost thereof; all expenses subsequently incurred for operating the water works and all other expenses and charges not properly chargeable to capital account shall be paid or set aside out of earnings.

3. Immediately after organization the commission shall proceed to negotiate for the purchase of the entire water works supplying water in the municipalities making the application for its appointment, and in the other municipalities, if any, supplied with water by the same water works; and may enter into a contract to purchase such water works for compensation to be

Commission,
ow compose •

Organization

Minutes,

Treasurer
bonded -

Compensation.

Expenses

Negotiations,

Contract served on each municipality.

Proviso

Condemnation may be resorted to

If plant in more than one county.

agreed upon or fixed by condemnation proceedings as hereinafter provided. A copy of every contract to purchase such water works, without condemnation, made by the owner thereof and such commission, shall forthwith be served by the commission on each of the municipalities that made and joined in the application, if any, for the appointment of the commission, and said contract shall become binding only as to such two or more of the municipalities that made the application for the appointment of the commission, and joined therein, if any, as shall by resolution of their governing bodies file with the commission their assent thereto; *provided*, that such assents shall be so filed within three months after the copies of said contract have been served on the municipalities by the commission, as above provided. If the commission and the owner of the water works cannot agree on terms for the sale thereof, or if such proposed contract shall not become binding as herein provided, application shall be made by the commission to a justice of the Supreme Court for the appointment of commissioners to condemn the water works in pursuance of and in the manner prescribed by an act entitled "An act to regulate the ascertainment and payment of compensation for property condemned or taken for public use (Revision of 1900)," approved March twentieth, one thousand nine hundred, and the amendments and supplements thereto; and the commission is hereby further authorized to invoke and exercise in the manner prescribed in said act approved March twentieth, one thousand nine hundred, and its supplements and amendments, for the purpose aforesaid, either in its own name, or in the name of any or all of the municipalities so supplied with water, all of the powers of such municipalities, or any of them, to acquire property for public use. If the property of more than one owner is proposed to be acquired by condemnation, applications for the appointment of commissioners for that purpose may be consolidated by order of a justice of the Supreme Court, and thereafter carried on as far as practicable as one proceeding. If the water works is located in more than one county, a duplicate of the petition for the appointment of commissioners, and of

all orders, reports and other proceedings shall be filed in the office of the clerk of each county in which any part of the property is located. In all applications, orders, reports and proceedings a general description of the property to be condemned shall be sufficient. Any municipality may withdraw from the condemnation proceedings at any time within thirty days after the award of the commissioners shall have been made. The water works acquired by the commission appointed in pursuance of the first section of this act, whether by a single purchase or two or more purchases or by one, or more than one, condemnation proceeding, shall be the property of the municipalities making the application or applications for the appointment of such commission, and the municipalities, if any, joining therein, as if they constituted a single municipality. The term "water works" used in this act shall be construed to include one system or more than one system of water works, whether or not such water works extend into or supply water in other municipalities than those proposing to acquire or owning the same, and water works, rights and franchises owned by one corporation or party, or more than one, and shall include rights and franchises to obtain an additional supply of water, and any or all other appurtenant property of such owner or owners.

Municipality may withdraw from proceedings.

Ownership.

"Water works" construed.

4. Any such water works may be acquired subject to the lien of any mortgage or mortgages thereon; and for the purpose of raising the money to pay the compensation agreed upon or fixed by condemnation proceedings for the water works so acquired or to be acquired, and to pay the cost, or part of the cost, of enlarging, extending and improving the same, the commission appointed in pursuance of the first section of this act, and any succeeding commission, however appointed or elected, shall be and hereby is fully authorized to issue bonds in the names of the municipalities making the application for the appointment of such commission and of the municipalities, if any, joining therein, the bonds to be under the seal of the commission, signed by the president, and attested by the secretary thereof. The term of such bonds, which shall not exceed forty

Bond issue.

Terms of issue.

amortization provision therefor, and other conditions that may be deemed advisable, shall be prescribed by the commission issuing said bonds, and said bonds shall be sold in the manner provided by law for the sale of municipal bonds. The bonds so issued shall be the joint and several obligations of the municipalities in whose names they are issued, but the municipalities shall be liable as among themselves for the payment of the principal and interest thereon in the proportion that the assessed value for taxation of all the real estate in each of the municipalities for the year preceding the time when such water works shall be acquired bears to the total assessed value for said year of all the real estate in all of the municipalities making application for the appointment of the commission, and of the municipalities, if any, joining therein; and the amount of said bonds, or any portion thereof, shall not be taken into account in ascertaining the amount of indebtedness that any of the municipalities may now, or at any time hereafter, be authorized to incur by any law of this State.

5. The commission appointed pursuant to the first section of this act, and any succeeding commission, however appointed or elected, shall have power to enlarge and extend the water works and operate the same, or may make a contract for a period not exceeding ten years, or a succession of contracts each not exceeding said period, with any individual, firm or corporation, to operate such water works on such terms as may be agreed upon, and such commission may prescribe and change from time to time rates to be charged for water supplied by the water works so acquired, and by any extension or enlargement thereof, provided that rates for the same kind or class of service shall be uniform in all the municipalities supplied by such water works.

As soon as practicable after acquiring the water works rates shall be prescribed, and shall be revised from time to time whenever necessary, so that the water works shall be and remain self-supporting, the earnings to be sufficient to provide for all expenses of operation and maintenance and such charges as interest, sinking fund and amortization, so as to prevent any deficit to be paid

Joint obligation.

Proportional liability.

Power to enlarge system.

May contract.

Water rates.

by taxation from accruing; and said commission and any succeeding commission shall have power to prescribe and alter and enforce all reasonable rules and regulations for the maintenance and operation of such water works and the collection of rates. Regulations.

6. At any time after water works shall have been acquired in pursuance of this act, it shall be lawful for the governing bodies of the municipalities owning the same to enter into an agreement prescribing a method of electing or appointing a commission to succeed the commission appointed as provided in the first section of this act; the agreement so made shall specify the number of persons to constitute the commission, their term or terms of office, method of organization, and powers and duties and compensation; *provided*, that the members of the commission may agree to serve without, or at a nominal, compensation; it shall also provide for the appointment or election of a secretary, treasurer, and such other officers as may be necessary, and prescribe their duties and compensation, and shall contain such other provisions as may be necessary for the maintenance and efficient operation of such water works, the extension and enlargement thereof, and the proper management of its financial affairs; and may be amended from time to time. Any such agreement or amendment thereof shall be valid when assented to by the governing bodies of the municipalities containing at least two-thirds of the population of all municipalities owning such water works according to the last preceding national or State census; *provided*, that the governing bodies of all municipalities owning the water works shall have had an opportunity to approve or disapprove any proposed agreement or amendment thereof. The commission elected or appointed in pursuance of such agreement shall organize as soon as practicable, adopt a seal, and a name by which it may sue and be sued, and enter upon the discharge of its duties, whereupon the terms of office of the members of the commission appointed in pursuance of the first section of this act shall cease and determine. Any commission appointed in pursuance of the first section of this act, or by virtue of such agree- Municipal water commission.

Proviso.

Agreements.

Proviso.

Organization of commission.

Sale of property.

ment, may sell any part of the property in its charge not needed for public use, and may also sell to any municipality the distributing system of mains therein and enter into a contract to supply water in quantity to the municipality purchasing such distributing system; *provided*, that no distributing system shall be sold to any municipality without the consent of the governing bodies of the municipalities owning the same having by the last national or State census at least two-thirds of the population of all such municipalities.

Proviso

As to State's consent

7. In all cases in which the owner of water works purchased or condemned in pursuance of this act has at the time of such purchase or condemnation the consent of the State to take and divert water from any source for domestic and public use, the rights obtained by such consent shall pass to and vest in the municipalities acquiring the water works as herein provided, and no further or other consent of any State board or commission shall be necessary. *Provided, however*, said municipalities shall be bound by all the terms and conditions attached to such consent and accepted by the owner of the water works purchased or condemned; *and provided, further*, that nothing in this act shall be interpreted to affect the power and authority of the Board of Conservation and Development over the sources of water supply in this State.

Proviso

Proviso

Joining after commission named

8. At any time after the appointment of such commission by a justice of the Supreme Court, any municipality in which water is supplied by the water works which it is proposed to acquire, or which may have been acquired as provided in this act, may be permitted to join with the municipalities making or joining in the application for the appointment of the commission, or owning the water works, on such terms and conditions as may be agreed on; provided that municipalities containing at least two-thirds of the population according to the last State or national census of all the municipalities seeking to acquire or owning such water works shall agree to permit such other municipality to join.

Proviso

Repealer

9. All acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

Passed March 23, 1923.