

CHAPTER 486

(HB 645)

AN ACT relating to city utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.740 is amended to read as follows:

- (1) Any municipality desiring to acquire and operate an electric plant under the provisions of KRS 96.550 to 96.900 or any municipality now owning and operating an electric plant may elect to operate under the provisions of KRS 96.550 to 96.900 by enacting an ordinance declaring therein the desire and intention of the municipality to accept and operate under the provisions of KRS 96.550 to 96.900 and by providing in ~~the~~~~[said]~~ ordinance that the municipality accepts and agrees to all of the provisions of KRS 96.550 to 96.900, and to all of ~~the~~~~[said]~~ provisions as they may be from time to time amended by the acts of the General Assembly of Kentucky. The ordinance shall further authorize the mayor or chief executive to appoint a board, subject to the approval of the appointments by the governing body of the municipality as hereinafter in KRS 96.750 to 96.900 provided. Upon the passage of ~~the~~~~[such]~~ ordinance the mayor or chief executive of any~~[such]~~ municipality may, with the approval of the governing body of the municipality, appoint a board of public utilities, consisting of four (4) residents of the municipality who have resided therein for not less than one (1) year next preceding the date of the appointment. ~~The~~~~[said]~~ board must be appointed and qualified before the municipality shall have any authority to proceed further under the provisions of KRS 96.550 to 96.900. ~~The~~~~[said]~~ board, when so appointed and qualified, shall be and hereby is declared to be a body politic and corporate, with perpetual succession; and~~[said body]~~ may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The name of ~~the~~~~[said]~~ board shall be "Electric Plant Board of the City of" (The name of the municipality to be inserted.)
- (2) No person shall be appointed a member of the board who has, within the last two (2) years next before his *or her* appointment, held any public office, or who is related within the third degree to the mayor or any member of the governing body of the municipality.
- (3) Neither the board nor the superintendent appointed by the board shall appoint to any subordinate office which it may create nor employ in any capacity any person who is related within the third degree to any member of the board or to the mayor of ~~the~~~~[said]~~ municipality or to any member of the governing body of ~~that~~~~[said]~~ municipality. No officer or employee of a municipality shall be eligible for such appointment until at least one (1) year after the expiration of the term of his *or her* public office, or employment, ***except that the one (1) year waiting period after the expiration of the term of public office or employment shall not apply to an employee of a municipality that is not related within the third degree to the mayor or any member of the governing body of the municipality, at the time of appointment or employment by the board***~~;~~ and any payment made in violation of this clause of this section shall be illegal and the superintendent and the board members voting for or approving or consenting to same shall be personally liable for the amount so paid and this liability may be enforced by suit by any citizen of the municipality~~].~~
- (4) The members of the board shall be citizens, taxpayers, and legal voters of ~~the~~~~[such]~~ municipality and shall not at the time of the appointment be indebted to the municipality either directly or indirectly or be surety on the official bond of any officer of ~~the~~~~[said]~~ municipality.

- (5) If at any time during his *or her* term of office a member of the board becomes a candidate for or is elected or appointed to any public office, he *or she* shall automatically vacate his *or her* membership from the board, and another person shall be appointed to his *or her* place.
- (6) The municipality shall pay the cost of securing bonds for board members from a surety company qualified to do business in Kentucky, and ~~the~~ members shall execute bond in an amount required by resolution of the governing body, and conditioned upon the faithful performance of their official duties.
- (7) Each member of the board shall qualify by taking the oath required by Section 228 of the Constitution.

Section 2. KRS 96.520 is amended to read as follows:

- (1) Any city of the second, third, fourth, fifth, or sixth class may purchase, establish, erect, maintain, and operate electric light, heat, and power plants, with extensions and necessary appurtenances, within or without the corporate limits of the city, for the purpose of supplying the city and its inhabitants with electric light, heat, power, and telecommunications. ***Any city-owned utility created under this section that provides municipal telephone service shall be regulated as to that service by KRS Chapter 278. For the*** ~~and, for this~~ ***purpose, of providing electric light, heat, power, and telephone services, a city of the second, third, fourth, fifth, or sixth class*** may enter into and fulfill the terms of an interconnection agreement with any electric or combination electric or gas utility whose rates and service are regulated by the Public Service Commission of Kentucky (or, if not so regulated, operating and having customers only outside of Kentucky), or an affiliate entirely owned by or under complete common ownership with an electric or combination electric and gas utility whose rates and service are regulated by the Public Service Commission of Kentucky. ***Any city of the second, third, fourth, fifth, or sixth class*** ~~and~~ may establish, erect, maintain, and operate plants, individually or jointly with any of these utilities or utility affiliate. In the case of any joint action, a city and utility or utility affiliate may provide by contract for their respective responsibilities, for operation and maintenance and for the allocation of expenses, revenues, and power. If in the accomplishment of this purpose a city at any time has capacity or energy surplus to the immediate needs of the city and its inhabitants, the surplus, if not disposed of for consumption outside this state, may be disposed of only to an electric or combination electric and gas utility whose rates and service are regulated by the Public Service Commission of Kentucky, or to an affiliate entirely owned by or under complete common ownership with such a utility.
- (2) The city shall proceed in the same manner and be governed by the same conditions as are set forth in KRS 96.360 to 96.510 for the acquisition and operation of a water system, with the following exceptions:
 - (a) A petition calling for an election on the proposition of purchasing an existing plant shall be signed by at least two hundred (200) qualified voters of the city, rather than by twenty-five percent (25%) of the qualified voters of the city who voted at the last preceding regular election.
 - (b) Notwithstanding any other laws, bonds may be issued bearing interest at a rate or rates and may be sold on a basis to yield interest at a rate or rates as may be determined upon the sale of the bonds.

- (c) Bonds of an issue, or bonds of two (2) or more issues consolidated for the purposes of sale, which equal or exceed \$10,000,000 in the aggregate principal amount may be sold at public or private sale without compliance with KRS 424.360.
- (3) This section constitutes a method for the acquisition of an electric light, heat, and power plant by any city of the second, third, fourth, fifth, or sixth class in addition or as an alternate to any other method authorized by statute, provided that the city was operating an electric plant on June 1, 1942, and has not elected to operate under KRS 96.550 to 96.900. No proceedings shall be required for the acquisition of any electric light, heat, or power plant or the issuance of bonds under this section except the proceedings required by KRS 96.360 to 96.510.

Approved April 21, 2000