

ACTS AND RESOLUTIONS

OF THE

GENERAL ASSEMBLY

OF THE

State of Georgia.

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 Authorizing Issue of Bonds for Water-Works for Macon, Etc.

 AUTHORIZING ISSUE OF BONDS FOR WATER-WORKS FOR
 MACON, ETC.

No. 522.

An Act to amend the charter of the city of Macon and the several Acts amendatory thereof, so as to authorize the Mayor and Council of the city of Macon to construct a system of water-works in said city at a cost not to exceed the sum of \$412,000.00; to issue bonds to the amount of \$350,000 for the purpose of constructing said system of water-works for said city and to provide for the construction of a portion of said system of water-works from the revenues derived from the sale of water therefrom, and to authorize the said Mayor and Council to make a contract with the Macon Gas-Light and Water Company for the furnishing of water to said city with the privilege of purchasing the water-works used by said Gas-Light and Water Company in supplying said city; to provide a commission for the negotiation and sale of said bonds and for the construction and management and control of said water-works; to grant certain powers and rights to said commission; to repeal that portion of the Act approved December 20th, 1886, which requires the Mayor and Council of the city of Macon to expend upon the streets and public property of said city the difference between \$50,000.00 paid to the bond commission and three-fifths of the *ad valorem* taxes collected by said Mayor and Council; to provide for an election for the purpose of procuring the assent of two-thirds of the qualified voters of the city of Macon to the issuing of said bonds; to prescribe a method of registration for said election and for other purposes.

SECTION I. Be it enacted by the General Assembly of the State of Georgia, and it is hereby enacted by authority of the same, That the mayor and council of the city of Macon are hereby authorized to construct a system of water-works in and for said city at a cost not to exceed the sum of \$412,000.00, and to issue bonds for purposes hereinafter specified to the amount of \$350,000.

SEC. II. Be it further enacted, That said bonds shall be of denomination not less than \$500, as the water commission hereinafter created may determine. They shall bear interest at the rate of five per cent. per annum, payable quarterly, with

Authority given to construct system of water works.
 Cost.

Amount of bonds to be issued.

Denomination, rate of interest and maturity of bonds.

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interest coupons or warrants, and shall fall due as follows: The sum of \$11,500 of said amount shall be due each year for twenty-nine years from the date of their issue, including the first year; and the sum of \$16,500 shall be due thirty years from the date of their issue. The said bonds shall be attested by the official signatures of the mayor and treasurer of the city of Macon. The coupons or interest warrants shall be signed by the treasurer of the city of Macon, and each coupon shall indicate the bond to which it belongs. The treasurer of the city of Macon shall keep a record of the number and denominations of all bonds issued, and shall file a copy of the same with the said commission.

Attestation of bonds.

Coupons.

Record.

SEC. III. Be it further enacted, That the name of said commission shall be, "The Water Commission of the City of Macon," and by that name it shall be authorized to contract and be contracted with, to sue and be sued, and all property of whatever kind purchased by the said commission shall be held for the use of the mayor and council of the city of Macon, and the title to all property acquired by said commission shall be made out for the use of the mayor and council of the city of Macon, and any judgment or decree rendered against said water commission shall be held and executed as a judgment against the mayor and council of the city of Macon.

Water Commission.

Powers of.

Property purchased by, etc.

Judgments against.

SEC. IV. Be it further enacted, That the bonds herein authorized to be issued shall be sold as hereinafter provided and the proceeds of the sales shall be used exclusively for the construction of a complete and adequate system of water-works for the city of Macon. After the expenditure of the proceeds of said bonds upon the construction of the said system of water-works, the net revenue arising from the bonds of said water-works shall be devoted exclusively to the construction of said system of water-works until the amount of \$62,000, in addition to the proceeds of the \$350,000 worth of bonds, shall have been expended for that purpose; *provided, however*, that nothing in this Act contained shall authorize said commission to charge the mayor and council for any water used by them for fire purposes and for use in the various buildings belonging to the said mayor and council, for the sprinkling of the streets of said city, flushing its sewers and for sundry purposes which may be directed by said mayor and council with the municipal authority thereof, and all said water shall be furnished by said water commission as directed so to do by the said mayor and council without any charge whatever.

Sale of bonds and use of proceeds.

Certain amount of net revenue from "bonds" of the water works to be also used for construction of the system.

Water used by city for fire, street and sewer purposes, etc., not to be charged for.

SEC. V. Be it further enacted, That the said mayor and council of the city of Macon shall each year levy and collect

Tax to pay bonds.

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Not above rate of one and one-fourth per cent. per annum, as now prescribed.

Violation by city treasurer cause for removal.

Bonds and coupons receivable for indebtedness to city.

Bonds not taxable.

Sale of bonds to be by the commission and for not less than par.
To be sold as the work progresses.

Regulation as to sale and paying out of proceeds.

upon the taxable property of the city of Macon a sufficient amount to pay the interest of said bonds and the amount of principal which shall fall due each year as specified above, but nothing in this Act contained shall authorize the levy or collection of any tax over and above the rate of one and one-fourth per cent. per annum upon taxable value of the property in said city as now prescribed by law, but after \$50,000.00 of the amount so collected has been paid to the bond commission of the city of Macon, as now required by law, the amount of the principal and the interest of the bonds herein authorized to be issued shall be paid by the treasurer of the city out of the taxes so collected as hereinbefore specified. Any violation, on the part of the treasurer, of this law shall constitute ground for his removal from office by the mayor and council, and render him and the sureties upon his bond liable in damages to the holder of any bond or bonds in double the amount thereof.

SEC. VI. Be it further enacted, That the principal of said bonds and the coupons or interest warrants of the same shall be receivable by the mayor and council of the city of Macon for taxes or other obligations due to the city of Macon, and said bonds shall not be taxable directly or indirectly by the mayor and council of the city of Macon.

SEC. VII. Be it further enacted, That the bonds herein provided for shall be sold by the said commission in such amounts as they may deem proper; *provided*, that no bonds shall be sold for less than par. The bonds herein provided for shall be sold by said commission as the work of constructing said system of water-works progresses and shall only be sold in the following manner: When any bonds are to be sold, said commission shall first notify the present bond commission of the city of Macon, and shall sell to them such amount of the bonds as they desire to purchase at par. After this amount has been taken by the said bond commission the remainder of the bonds shall be disposed of in the following manner: Said commission shall advertise for bids stating the amount of bonds to be sold, and the time at which said bids shall be opened in the newspapers published in the city of Macon, and such other papers as they may deem proper for the space of thirty days. At the time of opening said bids, the bids shall be sold to the highest and best bidder therefor for par or more, and the proceeds of said bonds shall be immediately deposited with the treasurer of the city of Macon, and shall be paid out by him under the direction of the said commission. No amount of

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money thus deposited with the treasurer shall remain in his hand for a longer period than ninety days, and over ninety days he shall publish in the newspaper or papers of the city of Macon, in which the proceedings of the mayor and council are published, the amount of money in his hands unexpended to the credit of said water commission, and also the amount which during the ninety days he has paid out. For the better carrying out of this provision and for the performance of all the duties thereby resting upon the treasurer of the city of Macon, he shall give a bond in the sum of \$50,000.00, payable to the mayor and council of the city of Macon, for the faithful performance of said duties, and said bond shall be signed as surety by some good and solvent guarantee company or companies to be approved by said mayor and council, and the amount charged by said guarantee company or companies for becoming surety upon said bond shall be paid by the said mayor and council for the services by this company required to be performed by the treasurer of the mayor and council of the city of Macon. He shall, in addition to the salary paid him by said mayor and council, be paid the sum of \$25.00 per month by said water commission. No bond herein authorized to be issued shall be pledged as collateral by the said water commission of the said mayor and council for any loan whatever, nor shall any of said bonds be given in exchange for any property bought or work done by the said commission, but all bonds shall be disposed of in the manner hereinbefore set out and in no other manner.

City treasurer to give bond.

Additional salary of treasurer.

Bonds only to be disposed of as hereinbefore set out.

SEC. VIII. Be it further enacted, That the said water commission of the city of Macon shall be composed as follows: For the first five years there shall be three and after that four citizens, tax-payers of said city, who hold no municipal office other than that of being a member of the present bond commission of the city of Macon; the member of the Board of Aldermen of the city of Macon, who shall be chairman of the finance committee of the mayor and council, and the mayor of said city of Macon. The aldermen and the mayor shall be *ex officio* members of said commission, and shall continue on the same only while holding the respective positions of chairman of the finance committee of the mayor and council and mayor of said city. The mayor shall be *ex officio* chairman of said water committee. The citizen commissioners thereof shall be elected by the mayor and council of the city of Macon, in accordance with the laws governing the election of the treasurer of the city of Macon. Their term of office shall be for the

How water commission shall be composed.

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space of five years, and they shall be ineligible to a re-election for the term succeeding that in which they have served; *provided, nevertheless*, that the citizen commissioners who shall first serve upon said commission shall be as follows: S. R. Jaques is hereby declared a commissioner, who shall serve for the space of three years from the date of the ratification of this Act, by the voters of the city of Macon as hereinafter provided for, and at the expiration of that time his successor shall be elected for a term of five years, and shall be a resident of the first ward. J. F. Hanson is hereby declared a commissioner, who shall serve for the space of four years from the date of the ratification of this Act as aforesaid, and at the expiration of four years from that time his successor shall be elected for the space of five years, and shall be a resident of the second ward. J. W. Cabiness is elected commissioner, who shall serve for the space of five years from the time of the ratification of this Act, and at the expiration of that time his successor shall be elected for the space of five years, and shall be a resident of the third ward. And at that time there shall be elected another citizen commissioner who shall be a resident of the fourth ward. So that after that time there shall be four citizen commissioners, one from each ward of said city. In case of a vacancy among the three citizen commissioners, or a refusal of any of the three herein named to serve, his successor shall be elected by the mayor and council for the remaining portion of the term to which he was either elected by said mayor and council, or appointed by this Act. No business shall be transacted by said commission while a vacancy exists therein; but four members of said commission shall constitute a quorum for the transaction of all business when there are no vacancies upon said board.

Vacancies.

Quorum.

Commission may not purchase or rent from a commissioner. Nor make contract in which commissioner is interested. Contracts for material, etc.

Reports.

SEC. IX. Be it further enacted, That said commissioner shall not directly or indirectly purchase or rent from any member thereof any property, real or personal, to be used in the construction of said system of water-works, nor shall it make any contract in which any member of said commission has any interest directly or indirectly. All material furnished and all work done must be done by contract, and each contract shall be given to the lowest and best bidder, after the advertisement for thirty days in the paper in which the proceedings of the mayor and council are published, and such other papers as said commission may direct. Regular quarterly reports must be made by the water commission to the mayor and council showing all their actions and doings, and the same be published for

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the information of the tax-payers of the city. All bills and accounts made and contracted for by the commission shall be approved in open council by the mayor and council, and no bills shall be paid by the treasurer until it has been approved by both the water commission and the mayor and council, and another set of books shall be kept by said water commission showing the transaction, which set of books shall be separate and distinct from any set of books kept by the mayor and council or the officers thereof.

Approval
and pay-
ment of
bills and
accounts.

Books to be
kept by
commis-
sion.

SEC. X. Be it further enacted, That the water commission shall have full power and authority to negotiate and sell the said bonds as aforesaid; to make all purchases necessary for the construction of said system of water-works, including the whole or any part of the system of water-works already constructed, and to manage and control the said water-works after they are constructed; to fix the rates which are to be paid by the water consumers; to elect and provide compensation for and to pay such officers and employees as they may see proper, and to collect all water rents and sell water and to collect therefor, and to prescribe the rules and regulations for their own government not inconsistent with the terms of this Act and for the management of said water-works, and governing the sale and rent of water therefrom. Out of the sales and water rents to be collected by said commission the employees thereof shall be paid; and such repairs and improvements upon the system of water-works as may be necessary shall be paid for, and the remainder of the funds so received shall be paid to the treasurer of the city of Macon monthly; *provided, however,* that nothing herein contained shall authorize the said commissioners to pay themselves, directly or indirectly, any compensation further than the sum of \$250.00 per annum each to the three citizen commissioners who are bound by this Act or by the mayor and council. Any revenues herein contracted to be paid to the treasurer shall be held by him subject to the order of said water commission until the sum of \$62,000.00 shall have been expended by said water commission in the completion of said system of water-works. After that all said net revenues are to remain in the hands of the said treasurer subject to the order of the said mayor and council as other funds in his hands.

Further
powers
of
commis-
sioner, etc.

Compensa-
tion of
commis-
sioners.

Disposition
of revenues

SEC. XI. Be it further enacted, That the said water commission shall have full power and authority to purchase and hold, as hereinbefore provided, all real estate necessary for the construction and operation of the said system of water-works,

Purchase,
etc., of real
estate.

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both in and out of the city of Macon. And they shall have authority to condemn property for this purpose, both in and out of the city of Macon; *provided, however,* that no private property shall be thus taken without compensation being first paid, the methods and procedure for the condemnation of property being the same as provided for in section 1689(1) of the Code of Georgia; *provided,* that the said water commission or the said mayor and council of the city of Macon shall not in any way take or condemn any of the property of the Macon Gas-Light and Water Company, except as hereinafter provided in section 14 of this Act.

Condemnation of.

Portion of Act of Dec. 20, 1886, repealed.

SEC. XII. Be it further enacted, That that portion of the Act of the General Assembly, approved December 20th, 1886, which required the difference between the fifty thousand dollars (\$50,000.00) paid to the bond commission and three-fifths of the *ad valorem* tax collected by the mayor and council to be expended upon the streets and public property of said city, be, and is, hereby repealed, as being in conflict with the terms and provisions of this Act.

Election as to issuing the bonds.

SEC. XIII. Be it further enacted, That there shall be an election in the city of Macon at such time as may be fixed by the mayor and council thereof, for the purpose of obtaining the consent of two-thirds of the qualified voters of said city to the issuance of these bonds, and the incurring of the debt herein provided for by the said city. The said election shall be held at the same place and in the same manner as the election for mayor is held in said city. There shall be a registration to be opened by the clerk of the mayor and council thirty-five days before the date of said election, and said registration docket shall close five days before the date of said election. All persons authorized to vote for mayor at the time of such registration shall be entitled to register. Those voting to give their assent to this Act shall vote ballots with "for the bonds" thereon, and those voting against giving their assent to this Act shall vote ballots having the words "against the bonds" thereon. Should two-thirds of those who have registered vote for the bonds, then the bonds herein provided for shall be issued, but should less than two-thirds vote for the bonds, then the bonds shall not be issued; but should the result of said election be against the issuing of said bonds, that portion of this Act which authorizes the making of a contract between the mayor and council of the city of Macon and the Macon Gas-Light and Water Company shall be valid and operative; *provided,* that the city of Macon or its authorities shall not put in

Place and manner of.

Registration for

Ballots.

Majority necessary.

Effect if result against bonds.

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operation water-works until the present contract with the Macon Gas-Light and Water-works Company shall have expired, but this amendment shall not be construed by any court as prohibiting the city of Macon under this Act from laying, constructing and completing a perfect system of gas and water-works for said city.

Water-works not to be put in operation until present contract expires.

This Act not to prohibit city from constructing system of gas and water-works.

Contract may be made with Macon Gas-Light and Water Co. for twenty years.

Water supplied to be paid for as received, etc.

Contract to be with privilege to purchase.

If notice given one year in advance.

Assent of people necessary.

Contract to fix character of water and rates to be charged.

Bond to be required.

If issuing of bonds authorized, contract becomes inoperative etc.

SEC. XIV. Be it further enacted, That at any time after the passage of this Act, and before the election herein provided for shall be held, the mayor and council of the city of Macon shall have authority to make and enter into a contract with the Macon Gas-Light and Water Company, for supplying the city with water for a period not to exceed twenty (20) years; *provided*, that the water so supplied shall be paid for as it is received, so as not to incur any indebtedness by the city of Macon, other than that which might arise from a failure on the part of the said mayor and council to comply with their contract. There shall be embodied in said contract the privilege to the mayor and council to purchase the system of water-works used in supplying the city, at any time during the period for which said contract is made, at a price to be agreed upon at the time of sale between the parties to said contract. On failure of said parties to agree, the price to be fixed by disinterested arbitrators, two to be selected by each party and three to be chosen by those so selected, and the decision of said arbitrators as to the price to be paid shall be final. The contract shall further provide, that before said purchase shall be made the said mayor and council shall give notice in writing to the said water company one year in advance of its intention to purchase said water-works; and before said purchase shall be made the assent of two-thirds of the qualified voters of the city of Macon shall be obtained in the manner now or which may hereafter be provided by law, to the incurring of the indebtedness for the purchase of said water-works. When such contract is made, the mayor and council are authorized to require and stipulate therein that the water to be supplied to the citizens of Macon shall be, in case it is taken from the Ocmulgee river, thoroughly filtered; and there shall be embodied in said contract a scale rate, showing the price to be paid by private consumers of water; and the mayor and council shall require bond with good security, in the sum of one hundred thousand dollars, for the faithful carrying out of said contract by the Macon Gas-Light and Water Company; *provided*, that while said contract shall be made by the said mayor and council of the city of Macon with said Gas-Light and Water Company, in the event that the provisions in this Act

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to issue bonds for the erection of a system of water-works by a commission, as herein provided for, shall receive the assent of two-thirds of the qualified voters of the city of Macon, as provided for in section 13 of this Act, then said contract shall no longer be of force and effect, but shall discontinue and be inoperative as though never made. If the provisions of said Act, as to the issue of bonds, shall not be ratified by the said votes as required, then said contract shall still remain and continue in full force and effect; *and provided further*, that if said contract is not made between said mayor and council of the city of Macon, and the Macon Gas-Light and Water Company, as herein provided, before said election is held, and if at such election the provisions in this Act to issue bonds for the erection of a system of water-works, as herein provided, shall fail to receive the assent of two-thirds of the qualified voters as herein provided, then said mayor and council of the city of Macon are hereby authorized to still make with the Macon Gas-Light and Water Company a contract for the period of twenty (20) years for supplying the city with water, and under the same terms, conditions and stipulations as hereinbefore in this section provided.

If contract not made and bonds not authorized by vote, contract may then be made,

Property of said company cannot be condemned.

Property of said company cannot be damaged without compensation.

How compensation shall be determined, etc.

SEC. XV. Be it further enacted, That nothing in this Act contained shall authorize or empower the water commission herein created to condemn the property belonging to the Macon Gas-Light and Water Company, or any part thereof. Nothing in this Act contained shall authorize or permit the said water commission to damage the property of the Macon Gas-Light and Water Company without just and adequate compensation therefor, being first paid to the Macon Gas-Light and Water Company, such compensation to be determined by agreement between the said parties; or, on their failure to agree, by five arbitrators, two to be chosen by each party and the fifth to be selected by those so chosen; and either party shall have the right to appeal to the Superior Court from the decision of said arbitrators, in the manner now provided by law for an appeal from the decision of arbitrators in section 4243 of the Code of Georgia.

SEC. XVI. Be it further enacted, That all laws and parts of laws in conflict with this Act be, and the same are, hereby repealed.

Approved September 29, 1891.