

LAWS
OF THE
STATE OF NEW YORK,

PASSED AT THE
ONE HUNDRED AND TWENTY-SIXTH SESSION

OF THE
LEGISLATURE,
BEGUN JANUARY FIRST, 1903, AND ENDED APRIL
TWENTY-THIRD, 1903, IN THE CITY OF ALBANY.

VOL. I.



ALBANY:
J. B. LYON COMPANY, PRINTERS,
1903.

§ 2. Said hospital when established, shall be subject to the supervision, inspection and visitation of the state board of charities in the same manner as are hospital corporations organized under the laws of this state; and all the provisions of the membership corporations law and other statutes of this state relating to hospital corporations, unless inconsistent with the provisions of the charter of such hospital, shall apply to such hospital.

§ 3. This act shall take effect immediately.

Chap. 181.

AN ACT to establish and maintain a water department in and for the city of Ithaca.

Accepted by the city.

Became a law, April 15, 1903, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Within ten days after this act shall become a law, the mayor of the city of Ithaca shall appoint, subject to confirmation by the common council of said city, a board of water commissioners to be known as the Ithaca water board, which, exclusive of the mayor, shall at all times consist of six members, residents and taxpayers of said city, and no more than three persons belonging to the same political party, exclusive of the mayor, shall at any one time be members of said water board. Two of the first commissioners appointed shall hold office until January first, nineteen hundred and four, two of them until January first, nineteen hundred and six, and two of them until January first, nineteen hundred and eight; and when appointed their respective terms of office shall be designated by the mayor. All other water commissioners shall be appointed by the mayor, subject to confirmation by the common council, and their terms of office, except when appointed to fill vacancies, shall be for six years. The mayor of said city shall, ex officio, be a member, and the president, of said water board, but shall have no vote therein upon any question of appointment, employment or removal of any appointee or employe of said water board. In case of a vacancy from any cause the mayor shall appoint a commissioner for the unexpired term. Each commissioner shall hold office until the appointment and qualification of his successor. The

Water
commis-
sioners,
appoint-
ment of.

Term of
office.

Vacancy.
mayor
shall ap-
point.

office of a water commissioner, holding office under this act, shall become vacant by his death, resignation, removal from said city, or his refusal or neglect for six months to perform the duties of his office without being excused by vote of the board, or by his becoming of unsound mind. Resignation may be made in writing to the mayor of said city. No other city office shall be held by any water commissioner while he remains in office as such water commissioner.

May be removed.

Any water commissioner may at any time be removed from office in the manner provided in the charter of the city of Ithaca for the removal of its officers. The majority of all the commissioners in office (exclusive of the mayor) shall constitute a quorum for the transaction of business, provided a formal notice shall have been given to each commissioner a reasonable time before the meeting, or a notice mailed to his address at least twenty-four hours prior to said meeting.

Quorum.

Oath to be taken and filed.

§ 2. Within fifteen days after the appointment of the first six commissioners, at a time designated by the mayor, they shall meet at the office of the city clerk and take and file the oath of office prescribed by the constitution of this state, and shall, as soon as the same can be conveniently done thereafter, select a secretary and a treasurer, neither of whom shall be a member of said board; and shall prescribe the form and the amount of the bond required to be given by the said treasurer. The term of office of the said secretary and treasurer shall be two years, and until their successors have been appointed and shall have duly qualified. The said secretary shall at all times act as secretary of said board of water commissioners and shall keep a record of the appointment and qualification of the commissioners and of the organization of the board, and shall also keep the records of said board. Said secretary shall also give notice in writing to the said treasurer of the appointment, qualification and organization of the said board.

Secretary and treasurer to be selected.

Term of office.

Duties of the secretary.

Water board authorized.

§ 3. The said Ithaca water board is hereby authorized and directed, for and in the name of the city of Ithaca, to acquire, construct, maintain, control and operate a system of water works to furnish the city of Ithaca and its inhabitants with water, and may employ engineers, surveyors, superintendents, officers, agents and such other persons as may be necessary for that purpose, and fix their compensation and terms of employment, and discharge them at will. The board may also contract for, purchase and acquire by deed or otherwise in the name of the city of Ithaca, all lands, water easements, property, tenements, hereditaments, rights, privileges and franchises to any ponds, fountains, dams, mains, pipes, conduits, hydrants, machinery, and all other real and personal property what-

soever, necessary for the acquisition or construction, and for the maintenance, control and operation of said water works, and to contract for the construction of said water works or any part thereof, and for supplying any and all necessary materials therefor. Said water board is hereby authorized and directed to acquire for and in the name of the city of Ithaca all the plant, franchises, water rights, land, pipes, mains, reservoirs, hydrants and other property essential and appurtenant to a water supply which belonged to the Ithaca Water Works company before the organization of the Ithaca Light and Water company, and also such as has been added for the purpose of a better water supply by either of said companies since their organization; together with such improvements as shall be added prior to September first, nineteen hundred and three, but such improvements hereafter to be added before said date, shall consist only of the filtration plant now in process of construction by said water company, the dam not to exceed thirty feet in height for the use of the said filtration plant, the necessary and proper pumps, pipes and connections and other appurtenances to said filtration plant. The said water board shall acquire such property by purchase, provided that the price thereof shall be agreed upon between the owners of the property sought to be acquired, and the said water board, but upon failure so to agree the said water board is authorized and required to condemn such property under the law of eminent domain and in that manner vest the title of such property in the said city of Ithaca. Provided, however, that on the first day of September, nineteen hundred and three, if condemnation proceedings have been instituted more than twenty days prior thereto, otherwise within twenty days after the instituting of such proceedings, the said Ithaca Light and Water company and said Ithaca Water Works company shall each turn over to the Ithaca water board their entire plant used for or appurtenant to a water supply, to be operated by said board for and in behalf of the city of Ithaca; the said companies to be paid for the use thereof, from the time it is so turned over until the plant is finally paid for, an amount equal to the interest at the legal rate on the value of the plant as finally fixed and determined; and until such final determination is made, to advance such approximate rental value thereof as the Ithaca water board may establish, not less than the interest upon the outstanding bonds, such advancements to be made on or before the dates of such interest. The amount of such rental so advanced, if found to be in excess of or less than the interest on the value of the plant as so finally determined, shall be adjusted upon the final settlement. And in event the plant is so turned over, whatever interest or property

Condemnation proceedings.

the said companies or either of them may have which would otherwise be taken into account on the condemnation of such property, shall not be forfeited or impaired by reason of such turning over of such property or by any breach in the fulfillment of any of the contracts of either of the said companies with said city, while the plant is operated by the said water board. In case the said companies or either of them shall decline to turn over the plant to the Ithaca water board at the time and upon the conditions hereinabove set forth, then and in that event, the said water board shall be under no further obligation to acquire said plant, either by purchase or by condemnation, and may at its option discontinue and withdraw any condemnation proceedings instituted therefor. The said water board is further authorized to acquire by purchase or condemnation proceedings any other or further lands or water rights or rights of way or other property, wheresoever situated, which it shall deem necessary in order to supply water for the use of the city of Ithaca, and to contract for such property and construct such works as may be requisite for that purpose.

Water board further authorized.

§ 4. Title one of chapter twenty-three of the code of civil procedure, shall govern and be applicable in all proceedings taken under this act for the condemnation of property, where the same is not inconsistent with the provisions of this act.

Water board power of.

§ 5. The Ithaca water board shall have power to make all contracts necessary or incidental to the execution of the powers conferred by this act, but no contract or agreement for labor and materials, or either of them, requiring an expenditure of more than five hundred dollars shall be entered into, except in case of absolute necessity, or except for the employment of officers, agents, engineers, counsel and other employes of the board, without first advertising at least twice a week for two successive weeks in at least one of the daily newspapers published in the city of Ithaca, and such other papers and periodicals as said board may direct, for proposals to enter into contract for the work or materials required; and all such contracts shall be let to the lowest bidder, who shall furnish such security for faithful performance as shall be approved by the board; but the board may reject such bids in its discretion and re-advertise for proposals. A copy of each proposal received and every contract entered into by the board shall be filed with the secretary. All such proposals shall be under seal and opened in the presence of the board.

Shall not be interested in any contract.

§ 6. No member of the board, or any of its officers, or any officer of the city of Ithaca, shall be directly or indirectly interested in any contract relating to work done or materials furnished under the

authority or provisions of this act; and any violation of this provision shall be a misdemeanor. No member of the board shall receive compensation for his services as such.

§ 7. The Ithaca water board and all persons acting under its authority and direction shall have the right to enter, appropriate, occupy and use any public street, highway, square, avenue, road, park or other public ground for the purpose of constructing, maintaining and operating water works for supplying the city of Ithaca with water, and for all other purposes of this act; but the board shall in all cases restore such public street, highway, square, avenue, road, park and other public ground to its former state of usefulness.

Authority
of water
board.

§ 8. Whenever the Ithaca water board shall consider it necessary that any bonds of the city of Ithaca shall be issued for the purposes of this act, it shall certify to the common council of the city, the estimated amount so needed, not exceeding the sum of two hundred and seventy-five thousand dollars and the purpose or purposes for which required; whereupon it shall be the duty of the common council, by resolution, to cause bonds for the amount so certified to be issued in the name and upon the credit of the city of Ithaca, which shall be executed by the mayor under the corporate seal of the city, and countersigned by the city clerk. The faith and credit of the city of Ithaca are hereby pledged for the payment of both principal and interest of any bonds issued under and in pursuance of this act. Said bonds shall be issued, with interest coupons, in such denominations or amounts as the common council may deem expedient, but not less than fifty dollars each, with interest at the rate of not to exceed four per centum per annum, payable semi-annually on the first days of January and July of each year, both principal and interest to be made payable in the city of New York at a bank or trust company to be specified in each bond and coupon, and shall be so classified and issued, in accordance with the constitution of the state of New York, that the whole of them shall mature within forty years from date of issue. Said bonds shall not be sold at less than par, and must be sold to the highest bidder and in such way or manner and under such conditions as said Ithaca water board may deem best to obtain the highest price therefor. The proceeds of said bonds or any of them, as soon as received, shall be paid over to the treasurer of said Ithaca water board and credited to a fund which shall be known as water fund account, and said treasurer shall immediately upon the receipt of the same, deposit such proceeds in such bank or banks or trust company as shall be designated by resolution of the Ithaca water board, and be paid out only on warrants, numbered consecutively as issued, signed by the president

Bonds,
issue of.

Interest,
rate of.

Bonds,
sale of.

and secretary of the Ithaca water board, and countersigned by the said treasurer; which warrants shall be issued as fast as necessary for the purpose aforesaid. No order or warrant for the payment of such moneys shall be issued except upon the resolution of the board entered upon its minutes, and certified copies thereof shall be filed with the said treasurer. The voucher or other paper on account of which such order is issued, shall be filed with the Ithaca water board and shall bear a number corresponding with the number of the order or warrant issued thereon. The board may, however, at any time, by resolution and order issued in the manner aforesaid, transfer any funds from any bank or banks or trust company to any other bank or trust company. The funds so transferred, and all interest accruing thereon, shall be held and paid out by such bank or banks or trust company only in the manner above provided. The amount of moneys on deposit at any time with any such bank or banks or trust company shall not exceed thirty per centum of the full paid capital stock and surplus of any such bank or trust company. Every such depository shall give security, approved by said water board, for the safety of said moneys. If after the issue of said bonds hereinbefore provided for it shall appear to said Ithaca water board that a larger amount than said sum of two hundred and seventy-five thousand dollars is needed in order to acquire an adequate and safe supply of water for the use of the city of Ithaca, then such water board shall, from time to time, certify to the common council of the city, the estimated additional amounts so needed, not exceeding in the aggregate four hundred and seventy-five thousand dollars, whereupon it shall be the duty of the common council to issue a second and further series of bonds, which shall mature in not exceeding twenty years, and a sinking fund shall be created on the issuing of said bonds, for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of such bonds at their maturity. Such second issue and the proceeds thereof shall be subject to all the provisions of this act relating to the first issue of bonds herein authorized, except as otherwise herein provided.

§ 9. The amount derived from receipts from all sources, as hereinafter provided, shall, so far as necessary, be applied to the payment of the cost of maintaining, operating and extending the said system of water works, and to the payment of the principal and interest falling due on said bonds; and in any year in which said amount shall be insufficient for that purpose, the common council of said city shall make due provision, by tax, for the payment of the deficiency, and such deficiency shall be assessed, levied and raised

Order or
warrant,
issue of.

Voucher to
be filed.

Common
council
authorized
to issue
further
series of
bonds.

Bonds,
maturity
of.

Tax for
deficiency.

in the same manner as any other general tax of said city, and in addition to, and in connection with, the general taxes of said city.

§ 10. The proceeds of all bonds issued under the provisions of this act shall be used and applied by the Ithaca water board solely for the acquisition and construction of the system of water works herein provided for, and for the purpose of acquiring property rights, privileges and franchises therefor or to be used in connection therewith.

§ 11. The Ithaca water board shall, from time to time, fix and determine the water rates to be paid by all consumers of water, including a just annual rate to be paid by the city at large on account of the use of water for municipal purposes. All moneys and income which shall be received by the board for water, or on account of said system of water works, shall be deposited to the credit of the water fund account in the bank or banks or trust company designated by said water board, and shall be paid out only as provided by this act.

§ 12. The said Ithaca water board shall make, publish and enforce all needful rules and regulations in relation to the said water works, and all of the property and appliances pertaining thereto, and in relation to the management thereof and the supply of water thereby, whether to individuals or corporations, and may alter and modify the same from time to time, and may fix a penalty not exceeding fifty dollars for the violation of any of said rules or regulations. The said common council may aid such enforcement by ordinance. The said board may prosecute in the name of the said city for all violations of said rules, regulations or ordinances.

§ 13. The Ithaca water board shall fix and collect the annual, semi-annual, quarterly or monthly prices for water supply by means of said water works to the dwellings, establishments or uses of individuals, companies or corporations.

§ 14. The moneys derived from the penalties and water rates provided for in this act shall be paid over to the said treasurer, by him to be immediately deposited in the said bank or banks or trust company designated by the said board, to the credit of the water fund account, and shall be applied, as provided in section nine of this act.

§ 15. No obligation shall be incurred or money expended, or issue of bonds demanded under this act, by the Ithaca water board, except by resolution duly passed by a majority of the members of the board. In every case, the vote shall be taken by yeas and nays, and every such resolution and the vote thereon shall be recorded in full in the minutes of the board.

§ 16. Any and all actions or proceedings authorized by this act shall be brought, taken and instituted by the Ithaca water board in the name of the city of Ithaca; and all action, suits or other legal proceedings brought, instituted or commenced by any person or corporation, on account of any act or thing done or omitted by said board, shall be brought, instituted and commenced against the city of Ithaca in its name, and shall be defended by it under the direction of the board; and all actions, claims or demands may be compromised and paid by said board, and any final judgment recovered thereon shall be satisfied by it, out of the funds obtained by it in pursuance of the provisions of this act. Such payments shall be made only in the manner hereinbefore provided. No member of said board shall be personally liable for any act done in the performance of his official duty.

Books to
be kept.

Report to
be made to
common
council.

§ 17. The Ithaca water board shall keep books showing the cost of the acquisition, construction and maintenance of said water works and of extending the same, and all its collections, receipts, expenditures, proceedings and doings and shall make a report thereof to the said common council at the last regular meeting of said common council in the month of December in each year, and as much oftener as the common council may require, and shall furnish at all times such other or further information as to the business and affairs of the board as may be required by the common council. All the books, records, vouchers, contracts and all other papers kept by the Ithaca water board, or in its possession, or under its control, shall at all reasonable times, be subject to inspection by any officer or duly authorized agent of the city of Ithaca.

Clerk au-
thorized
and di-
rected to
deliver to
water
board cer-
tified
copies of
all resolu-
tions, etc.

Treasurer
authorized
and di-
rected to
prepare
and at all
times keep
book or
books of
record.

§ 18. The clerk of the city of Ithaca is hereby authorized and directed to deliver to the Ithaca water board certified copies of all resolutions, acts and ordinances passed by the common council pursuant to the provisions of this act, or in any way relating to the Ithaca water board or the system of water works herein provided for. The said treasurer is hereby authorized and directed to prepare, and at all times to keep, a book or books, in which shall be entered all moneys received and deposited in any bank or banks or trust company and all moneys paid out or orders or warrants countersigned by him, and also shall keep on file all resolutions, instruments and other papers received by him, and a record of all acts and things required to be done by said treasurer under the provisions of this act.

Compensa-
tion of the
secretary
and
treasurer.

§ 19. The Ithaca water board shall fix the compensation to be paid by it to the secretary and treasurer for the services to be performed by them under the provisions of this act, and may, from time to time,

change the compensation of such officers or either of them, but such compensation shall not be increased or diminished during the term of office for which such secretary or treasurer may be appointed.

§ 20. Said Ithaca water board shall have power in its discretion and upon the credit of the city of Ithaca, by issue of bonds as hereinabove provided, or otherwise, to take such action and make such expenditures as may be necessary for furnishing a temporary supply of water to the city and its inhabitants, until a permanent system and supply shall have been acquired, constructed and obtained. Water board authorized.

§ 21. Any willful act whereby the said water works or any property, apparatus or appliances pertaining thereto shall be injured or the supply of water obstructed, impaired or made less pure, shall be deemed a misdemeanor, and the person or persons convicted thereof shall be punished accordingly.

§ 22. This act shall take effect immediately.

Chap. 182.

AN ACT to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-eight, entitled "An act for the government of cities of the second class," in relation to the designation of official newspapers.

Became a law, April 15, 1903, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-nine of chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-eight, entitled "An act for the government of cities of the second class," as amended by chapter five hundred and eighty-one of the laws of eighteen hundred and ninety-nine, is hereby amended to read as follows: Act amended.

§ 29. At the first meeting of the common council after the election of its members, it shall, by a viva voce vote, designate two daily newspapers published in the city to be the official papers of the city. Each member shall be entitled to vote for one of the papers, and the two papers having the highest number of votes shall be the official papers for two years and until others are designated. Such papers shall publish the proceedings and ordinances of the common council and all other matters required by law or by ordinances of the city to be published. In case any of the official papers shall