

CHAPTER 486. WATER AND POWER COMPANIES

WATER POWER COMPANIES

Act 232 of 1863

AN ACT to provide for the incorporation of water power companies.

History: 1863, Act 232, Eff. June 22, 1863.

The People of the State of Michigan enact:

486.1 Water power companies; incorporators; notice of formation; articles of association, contents.

Sec. 1. That any number of persons, not less than 5, may be formed into a corporation, for the purpose of maintaining, repairing and improving, any canal with water-power appurtenant thereto, constructed and used for the transmission of water, and the creation of water-power thereby, for manufacturing uses, by complying with the following requirements: Notice shall be given in at least 1 newspaper printed in the county in which the said canal may be situated, and if there be no newspaper printed in said county, then such notice shall be printed in some newspaper of an adjoining county, having circulation in said county, of the time and place where all persons desirous of forming such company may meet and subscribe articles of association, and elect directors of such company, in which articles of association shall be set forth, the name of the company, the number of years the same is to be continued, which shall not exceed 30 years from the date of said articles, the number and names of the directors who shall manage the concerns of the company for the first year, and shall hold their offices until others are elected, the canal on which the business of said company is intended to be done, and the place within the state where the office of said company shall be kept.

History: 1863, Act 232, Eff. June 22, 1863;—CL 1871, 2745;—How. 3874;—CL 1897, 6767;—CL 1915, 8867;—CL 1929, 11802;—CL 1948, 486.1.

Compiler's note: The word “desirious” near the middle of this section evidently should read “desirous.”

486.2 Articles of association; signing, filing, evidence; body corporate, powers.

Sec. 2. Each subscriber to such articles of association shall subscribe thereto his name and place of residence. The said articles of association shall be filed in the office of the secretary of state, and thereupon the persons who have so subscribed, and all persons who from time to time shall associate with them, shall be a body corporate, by the name specified in such articles, and as such shall be capable of suing and being sued, in all courts, and in all manner of actions, and may have a common seal. A copy of any articles of association, filed in pursuance of this section, with a copy of an affidavit, made by at least 2 of the directors named therein, setting forth that all prior proceedings of said association, had been in strict conformity with all the provisions of this act endorsed thereon, or annexed thereto, and certified by the secretary of state, to be a true copy of the whole of such articles of association, and of such affidavit, shall be in all courts and places presumptive evidence of the incorporation of such company, and the facts therein stated.

History: 1863, Act 232, Eff. June 22, 1863;—CL 1871, 2746;—How. 3875;—CL 1897, 6768;—CL 1915, 8868;—CL 1929, 11803;—CL 1948, 486.2.

486.3 Board of directors; annual election, notice; officers, treasurer's bond; vacancy.

Sec. 3. The business of said company shall be under the management and direction of a board of directors, composed of not less than 3 nor more than 7, who, after the first year, shall be elected annually, at such time and place, and after such notice of the election as the by-laws shall prescribe, not less than 30 days previous to said election, and who shall hold their offices until their successors are elected. The said board shall elect from their number a president, and appoint a treasurer, who shall give such bond as the board of directors may require, and a secretary; and in case any vacancy shall occur in said board, the remaining directors may elect any member of said company to fill such vacancy as director, for the remainder of the term, and until a successor is elected; and in case said annual election of directors, from any cause, shall not be held at the time appointed, it shall be proper to hold the same at any time thereafter, upon giving like notice.

History: 1863, Act 232, Eff. June 22, 1863;—CL 1871, 2747;—How. 3876;—CL 1897, 6769;—CL 1915, 8869;—CL 1929, 11804;—CL 1948, 486.3.

486.4 Membership in association; procedure, rights.

Sec. 4. Any person owning any interest in the canal and water-power under the control of such association, may become a member thereof at any time by subscribing his name to the articles of association. And any

person or persons who shall purchase an interest in said water-power of any member of this association shall become a member of said association without other act and shall succeed to all his grantor's rights and privileges in the same as a member thereof to the extent of the interest so purchased.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2748;—How. 3877;—CL 1897, 6770;—CL 1915, 8870;—CL 1929, 11805;—CL 1948, 486.4.

486.5 Repairs; permanent improvements, approval of members; expense.

Sec. 5. When the canal or any of its appurtenances under the control of such association may need to be repaired or rebuilt, the directors of said association may cause the same to be done at the expense of the owners thereof: Provided, That in all cases of permanent improvements of the water-power or appurtenances thereto, as distinguished from repairs, the said directors shall not be authorized to make such improvements, or incur any expense concerning the same, unless first authorized by a vote of the members of said association at a regular or annual meeting thereof, or at a meeting to be called for that purpose: And provided further, That the expense of permanent improvements which are not rendered necessary for the actual preservation or protection of said water-power or its appurtenances shall be assessed and collected in the manner hereinafter provided only upon the members of such association and such owners of water-power not members as shall have consented thereto previous to the making of such improvement.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2749;—How. 3878;—CL 1897, 6771;—CL 1915, 8871;—CL 1929, 11806;—CL 1948, 486.5.

486.6 Repairs; statement, filing, contents.

Sec. 6. Whenever the board of directors shall make any repairs not authorized at any meeting of said association, it shall be their duty to file with the clerk of the said association a statement containing:

First. A description of the work done;

Second. The expense thereof;

Third. The amount paid and to whom paid;

Fourth. The amount unpaid, if any, and to whom due.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2750;—How. 3879;—CL 1897, 6772;—CL 1915, 8872;—CL 1929, 11807;—CL 1948, 486.6.

486.7 Assessment for repairs or improvements.

Sec. 7. For the purpose of defraying the expenses of such repairing, rebuilding or permanent improvement, and such contingent expenses as may be incurred in the discharge of their duties as directors of such association, the said directors may make from time to time, as the work progresses, an assessment upon the owners of such water-power, assessing and apportioning to and upon each owner thereof, such portion of said expenses as the water-power used or owned by such persons bears to the whole water-power furnished by such canal and its appurtenances; and when a water-power afforded by such canal is owned by a firm or corporation, such firm or corporation shall be considered as an individual member, and such assessment may be made to and upon such firm or corporation.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2751;—How. 3880;—CL 1897, 6773;—CL 1915, 8873;—CL 1929, 11808;—CL 1948, 486.7.

486.8 Assessment; collection; non-payment, use of water prohibited.

Sec. 8. The said assessment shall then be delivered to the treasurer of the association for collection, who shall proceed forthwith and shall demand payment from each person named in said assessment of the amount apportioned to him, and if any such person shall neglect or refuse to pay the amount within 5 days after such demand to the treasurer, the same may be sued for and recovered, as provided for in section 18 of this act. Or the board of directors of such water-power company, may, by resolution direct that no member of said company or occupant of such power, whose assessment has been due and unpaid for 30 days after notice in writing of such assessment, shall be permitted to draw water from the race of said water-power company until such assessment is paid, and such board of directors may, after the expiration of 30 days, after notice in writing as aforesaid, board up, or close the gate of flume of such delinquent member, or person, or owner, and keep the same closed until the assessments due as aforesaid have been paid.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2752;—How. 3881;—Am. 1897, Act 32, Eff. Aug. 30, 1897;—CL 1897, 6774;—CL 1915, 8874;—CL 1929, 11809;—CL 1948, 486.8.

486.9 Assessment; notice to non-resident.

Sec. 9. In case any person upon whom an assessment shall have been made, as is herein provided, shall be

a non-resident of the county in which said water-power is located, or absent, so that personal demand cannot be made upon him by the treasurer for the payment of such assessment, then in such case the treasurer shall give notice of such assessment by inserting a notice in some daily paper published in the town or city where such canal is located, in each issue, for 4 successive weeks, if a daily paper be published therein, if not, then in a weekly paper published in the county where said canal is located, once in each week for 4 successive weeks, specifying the fact of such assessment, and the name or description of the interest so assessed, and the amount of the assessment: Provided, That in case the directors shall so direct, it shall be lawful to include 1 or more assessments upon the same person or interest in 1 notice, and by a notice by mail directed to the owners' reputed place of residence, and the publication aforesaid, and the giving of notice by mail as aforesaid, shall be deemed equivalent to a personal demand in the cases specified in this section after the publication and mailing said notices as aforesaid.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2753;—How. 3882;—CL 1897, 6775;—CL 1915, 8875;—CL 1929, 11810;—CL 1948, 486.9.

486.10 Assessment; mortgage lien; preference.

Sec. 10. All assessments made under the provisions of this act shall be and remain a mortgage-lien upon the interest so assessed, from and after the completion of the work for which such assessment was made, until paid, together with interest and the cost of publishing notice, if notice shall be published, and said mortgage-lien shall have preference over all incumbrances on said interest from and after the recording of a certificate, as is hereinafter provided, except incumbrances now existing thereon in good faith, and except taxes assessed or to be assessed thereon by any law of this state.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2754;—How. 3883;—CL 1897, 6776;—CL 1915, 8876;—CL 1929, 11811;—CL 1948, 486.10.

486.11 Mortgage lien; certificate, contents, recording.

Sec. 11. After such mortgage-lien shall have attached to such interest in such canal and water-power, the secretary of such association shall make a certificate in writing, to be signed by him, and countersigned by the president, which certificate shall state

First. The amount of such assessment or assessments;

Second. That the work for which such assessment was made has been done;

Third. The time when the same became a lien;

Fourth. A description of the property or interest upon which such assessment was made;

Fifth. The amount due thereon, together with the costs made thereon, which certificate shall be verified by the affidavit of such secretary, or some member of the board of directors, and shall be recorded and indexed by the register of deeds of the county in which such water-power is situated, in the books for mortgage, the same as if it were a mortgage given by the owner of the interest so assessed, and such record, or a certified copy thereof, shall be notice and evidence to the same intent, extent, and for the same purpose as a mortgage so recorded.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2755;—How. 3884;—CL 1897, 6777;—CL 1915, 8877;—CL 1929, 11812;—CL 1948, 486.11.

486.12 Mortgage lien; foreclosure.

Sec. 12. Such mortgage-lien created as aforesaid shall be in the nature of a mortgage on real estate, and may be foreclosed and collected the same as a mortgage is now enforced and collected in equity, and shall be subject to all laws of this state in relation to the foreclosure and satisfaction of mortgages in chancery, as near as may be. All suits commenced for the foreclosure, collection, and satisfaction of such mortgage-lien shall be in the corporate name of such association.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2756;—How. 3885;—CL 1897, 6778;—CL 1915, 8878;—CL 1929, 11813;—CL 1948, 486.12.

486.13 Mortgage lien; commencement of suit after 60 days.

Sec. 13. Suits may be commenced for the foreclosure of such mortgage-lien at the expiration of 60 days from the time the certificate shall be recorded as mentioned in section 11 of this act.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2757;—How. 3886;—CL 1897, 6779;—CL 1915, 8879;—CL 1929, 11814;—CL 1948, 486.13.

486.14 Meetings of members of associations; notice, proof of service, filing.

Sec. 14. Meetings of the members of the association may be called by any director, and it shall be the duty

of any director to call a meeting of the members of said association on the written application of 3 members thereof. In all cases other than the annual or regular meetings, notice of such meeting, and of the time and place thereof, shall be given by personal service thereof if practicable, otherwise by posting a notice of such meeting on the premises of each member not personally served, in a conspicuous place, at least 24 hours before the time of meeting, and proof of the time and manner of such service by affidavit of the person serving the same shall be made and filed with the secretary of the association.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2758;—How. 3887;—CL 1897, 6780;—CL 1915, 8880;—CL 1929, 11815;—CL 1948, 486.14.

486.15 Watchman; appointment, duties, compensation.

Sec. 15. The board of directors are also authorized, in case they deem it expedient for the safety and well-being of the property under their control, to employ a competent watchman to watch during the night to see that the canal or its appurtenances receive no injury from breaks in embankments or other causes; and they may prescribe his duties and fix his compensation, and raise means to pay the same in the manner hereinbefore provided.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1869, Act 51, Imd. Eff. Mar. 22, 1869;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2759;—How. 3888;—CL 1897, 6781;—CL 1915, 8881;—CL 1929, 11816;—CL 1948, 486.15.

486.16 Contracts made by board of directors.

Sec. 16. The said board of directors shall have power to make all necessary contracts in the name of the corporation to carry out the duties imposed upon them by this act, which contract shall be signed by the president of the board, if in writing, in the corporate name thereof.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2760;—How. 3889;—CL 1897, 6782;—CL 1915, 8882;—CL 1929, 11817;—CL 1948, 486.16.

486.17 Treasurer; duties.

Sec. 17. The treasurer of said board shall receive all moneys paid to him on assessment, and hold the same, to be paid out on the order of the said board, certified to the president thereof.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2761;—How. 3890;—CL 1897, 6783;—CL 1915, 8883;—CL 1929, 11818;—CL 1948, 486.17.

486.18 Assessment; recovery, interest.

Sec. 18. All sums due from any person upon any assessment authorized by this act may be recovered with interest in an action of assumpsit brought in the name of the corporation, in any court of competent jurisdiction, or as provided in section 12 of this act.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2762;—How. 3891;—CL 1897, 6784;—CL 1915, 8884;—CL 1929, 11819;—CL 1948, 486.18.

486.19 Disposition of funds at annual meeting.

Sec. 19. At the annual meeting of the members of said association, held for the election of officers, pursuant to the by-laws thereof, the members representing the majority of interest in such water-power may by vote make disposition of all the funds shown by the report of the treasurer of the board of directors, to be made to said meeting, to be in his hands, and such funds shall be paid out as so voted by said treasurer upon the certificate of the president of said board.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2763;—How. 3892;—CL 1897, 6785;—CL 1915, 8885;—CL 1929, 11820;—CL 1948, 486.19.

486.20 By-laws of association; regulations, promulgation, publishing, enforcement; meetings.

Sec. 20. Said association shall have power by its by-laws to regulate the use of the water transmitted through the canal under its control by the several owners thereof; to determine the absolute or average head of said water; for the measurement of the quantity to be used by the several owners thereof in proportion to their interest in the water-power furnished by said canal; and to provide for the construction and maintenance in good order of all flumes, gateways, and other structures built to draw water from said canal, and for the tightening, contracting, or enlarging of the same according to the various stages of water in said canal; and in said by-laws to provide for the manner in which the aforesaid regulations shall be made, published, and enforced; and to provide for regular meetings of the association and the time and place of holding the same.

History: 1863, Act 232, Eff. June 22, 1863;—Am. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2764;—How. 3893;—CL

1897, 6786;—CL 1915, 8886;—CL 1929, 11821;—CL 1948, 486.20.

486.21 Stockholder's liability.

Sec. 21. The stockholders of all corporations or associations formed under the provisions of this act, shall be individually liable for all labor performed for such corporation or association.

History: 1863, Act 232, Eff. June 22, 1863;—CL 1871, 2765;—How. 3894;—CL 1897, 6787;—CL 1915, 8887;—CL 1929, 11822;—CL 1948, 486.21.

486.22 Tenants in common; consent for improvements and repairs, liability.

Sec. 22. All owners of water-power afforded by any canal or its appurtenances which is under the control of any association formed under this act, who are tenants in common of the water, water-power, or easements or canal and appurtenances with the members of said association formed under this act, or the act to which this act is amendatory, shall be deemed to have consented to the making of such repairs, and improvements as are proper or necessary for the protection and preservation of such canal and its appurtenances and such as render the same generally available to the owners thereof; and it shall not be necessary in any such case in any proceedings under this act, to allege or show a previous request made to them to join in making such repairs and improvements, but they shall be respectively liable to pay their just proportion at the time and in the manner in this act provided for.

History: Add. 1871, Act 90, Imd. Eff. Apr. 12, 1871;—CL 1871, 2766;—How. 3895;—CL 1897, 6788;—CL 1915, 8888;—CL 1929, 11823;—CL 1948, 486.22.

WATER POWER COMPANIES

Act 39 of 1883

AN ACT to authorize the formation of corporations for the purpose of excavating, constructing and maintaining water courses with water power appurtenant thereto, for accumulating, storing, conducting, selling, furnishing and supplying, upon an agreed rental, water and water power for mining, milling, manufacturing, domestic, municipal and agricultural purposes.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883.

Popular name: Water Company Act

The People of the State of Michigan enact:

486.51 Water power and supply corporations; incorporators; powers.

Sec. 1. That any number of persons not less than 5, may form themselves into a corporation for the purpose of excavating and constructing, maintaining, repairing and improving any canal already existing, or which they may wish to excavate and construct, with water power appurtenant thereto, and may own, use and control the same for the purpose of accumulating, storing, conducting, selling, furnishing and supplying, upon an agreed rental, water and water-power for mining, manufacturing, domestic, municipal and agricultural purposes, and may acquire, take, hold, lease and convey lands or water power, as may be necessary or convenient, for the purposes above specified, by complying with the following requirements:

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895a;—CL 1897, 6789;—CL 1915, 8889;—CL 1929, 11824;—CL 1948, 486.51.

Popular name: Water Company Act

486.52 Certificate; contents; recording and filing.

Sec. 2. Such persons under their hands and seals shall make a certificate which shall specify:

First, The name of the corporation;

Second, A statement of the amount of capital stock of such company, and the number of shares into which the capital stock shall be divided;

Third, The county and townships within this state in which such canal is to be excavated and constructed, and the operations of said company carried on;

Fourth, The business and object of said company in general terms;

Fifth, The names and places of residences of the stockholders, and the number of shares held by each of them respectively;

Sixth, The names of the first directors, being not more than 7, and not less than 5;

Seventh, The place in this state where their office for the transaction of business is located;

Eighth, The term of existence of such corporation, which certificate shall be acknowledged as deeds are required to be acknowledged and recorded, in the office of the clerk of the county in which the office of said company for the transaction of business is located, and a copy thereof filed in the office of the secretary of state.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895b;—CL 1897, 6790;—CL 1915, 8890;—CL 1929, 11825;—CL 1948, 486.52.

Popular name: Water Company Act

486.53 Body corporate; governing laws.

Sec. 3. Upon complying with the provisions of the last preceding section such company shall be a body corporate by the name designated in said certificate, and shall be subject to and governed by all the general provisions relating to corporations embraced in chapter 130 of the Compiled Laws of the state of Michigan, now in force, so far as the same shall be applicable thereto.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895c;—CL 1897, 6791;—CL 1915, 8891;—CL 1929, 11826;—CL 1948, 486.53.

Compiler's note: For provisions of chapter 130, referred to in this section, see MCL 450.504 et seq.

Popular name: Water Company Act

486.54 Board of directors; members, election, qualification.

Sec. 4. The business and property of such company shall be managed and directed by a board of not less than 5 nor more than 7 directors, who shall be elected annually and at such time and place as said by-laws may direct. No person shall be a director unless he is a stockholder in the corporation.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895d;—CL 1897, 6792;—CL 1915, 8892;—CL 1929, 11827;—CL 1948, 486.54.

Popular name: Water Company Act

486.55 Board of directors; election, notice.

Sec. 5. In case it shall happen that an election for directors shall not be held as provided, the said corporation shall not be for that reason dissolved, but such election shall be held on some future day to be fixed by the directors holding over, upon giving the notice therefor as in this act provided.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895e;—CL 1897, 6793;—CL 1915, 8893;—CL 1929, 11828;—CL 1948, 486.55.

Popular name: Water Company Act

486.56 Board of directors; majority control.

Sec. 6. A majority of the directors shall be a board for the transaction of business, and the acts of a majority of the board shall bind the corporation.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895f;—CL 1897, 6794;—CL 1915, 8894;—CL 1929, 11829;—CL 1948, 486.56.

Popular name: Water Company Act

486.57 Capital stock; subscriptions; increase, procedure.

Sec. 7. The directors of any such company may at any time receive subscriptions to stock in said company until the whole amount mentioned in their articles of association shall be subscribed, and whenever, in the judgment of the directors, it shall be necessary to increase the capital stock of any such company for the extension or more perfect completion of such proposed work, or to provide lands and buildings needful for its use, it shall be competent for such directors, with the approval or ratification of the holders of a majority of the capital stock, at any lawful meeting of the stockholders, to provide for such increase, and in all cases where such capital stock is increased, a certificate thereof shall be signed, certified and filed as hereinbefore required in the case of original articles of association.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895g;—CL 1897, 6795;—CL 1915, 8895;—CL 1929, 11830;—CL 1948, 486.57.

Popular name: Water Company Act

486.58 Capital stock; subscriptions, calling in; sale, procedure, proceeds; purchaser's rights.

Sec. 8. The directors may call in subscriptions to the capital stock of such corporation by installments, in such portions, and at such times and places as they shall think proper, by giving notice thereof as the by-laws shall prescribe; and in case any stockholder shall neglect or refuse payment of any such installment for the space of 60 days after the same shall become due and payable, and after he shall have been notified thereof, the stock of such delinquent stockholder may be sold by the directors, at public auction, at the office of the secretary of the corporation, giving at least 30 days' notice in some newspaper published in the county: Provided, That if said stockholder shall reside in this state the stock shall be sold at the business office of said corporation, in the county in which they are doing business, giving at least 30 days' notice thereof in some newspaper published in the county. If no newspaper be published in the county in which such corporation transacts their business, then it shall be published in the newspaper in the city of Detroit, which shall have at the time the largest circulation; and the proceeds of such sale shall be at first applied in payment of the installment called for, and the expenses on the same, and the residue shall be refunded to the owner thereof; and such sale shall entitle the purchaser to all the rights of a stockholder, to the extent of the shares so bought.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895h;—CL 1897, 6796;—CL 1915, 8896;—CL 1929, 11831;—CL 1948, 486.58.

Popular name: Water Company Act

486.59 Corporate powers; liabilities and restrictions.

Sec. 9. Every such corporation organized as hereinbefore prescribed, shall have the following powers and be subject to the liabilities and restrictions following, that is to say:

First, To cause such examination and surveys for the proposed improvements whether of dams, canals or digging or deepening of channels to be made, as may be necessary to prepare for the work to be done;

Second, To purchase and by voluntary grants and donations to receive, enter upon, take, hold and use, all such lands and real estate and other property as may be necessary for the construction, maintenance and operation of dry docks, canals and all other works proposed in the approved plans of such company, and to lease, mortgage or otherwise dispose of real or personal property;

Third, To divert into any canal excavated or constructed under the provisions of this act, water from Lake Superior or St. Mary's river to flood lands belonging to said company, subject to the consent of the board of supervisors of the proper county in which waters so diverted are situated, and to erect such docks in Lake Superior or St. Mary's river as may be necessary or convenient for the purpose of such company.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895i;—CL 1897, 6797;—Am. 1899, Act 231, Eff. Sept. 23, 1899;—CL 1915, 8897;—CL 1929, 11832;—CL 1948, 486.59.

Popular name: Water Company Act

486.60 Power to construct railroads, telegraph and telephone lines; holding of realty.

Sec. 10. Said corporation may, in the exercise of its discretion erect along the line of its canal, or over different portions of its property, such railroads as may be necessary for connecting manufacturing establishments situated upon or connected with their premises or enjoying water privileges from them with any line of railroad or any harbor near them, and such telegraph lines or telephonic lines as may be reasonably necessary or convenient in connection therewith. Said corporation may purchase and hold such tracts of land along the line of its canal and water courses, as may reasonably be necessary or convenient for the conveying of water, storing it, and dispensing and dividing it among those who wish to purchase or lease it for any of the purposes mentioned in this act, or for the purpose of erecting manufactories or mills upon.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895j;—CL 1897, 6798;—CL 1915, 8898;—CL 1929, 11833;—CL 1948, 486.60.

Popular name: Water Company Act

486.61 Furnishing and use of water; rent, collection.

Sec. 11. Such company may furnish water to other persons or companies for mining, manufacturing, milling, domestic, municipal, or agricultural purposes, on such rent as shall be agreed upon by and between it and those desiring to obtain it, or it may use the same for such purposes itself in any class of manufacturing purposes. It is authorized to bring suit to enforce the payment of such rent in any proper court of the county where its principal office is located.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895k;—CL 1897, 6799;—CL 1915, 8899;—CL 1929, 11834;—CL 1948, 486.61.

Popular name: Water Company Act

486.62 Injury to stream or property; misdemeanor, penalty.

Sec. 12. If any person shall willfully obstruct any stream or waters improved under the provisions of this act or any part thereof, or shall willfully destroy or injure any buildings, piers, dams, fixtures, banks, or other constructions in use upon the same, belonging to said company, such person or persons so offending, shall for every offense, be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding 500 dollars, or by imprisonment in the county jail not more than 1 year, in the discretion of the court.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895l;—CL 1897, 6800;—CL 1915, 8900;—CL 1929, 11835;—CL 1948, 486.62.

Popular name: Water Company Act

486.63 Board of directors; annual report, contents.

Sec. 13. On or before the first Monday in July in each year it shall be the duty of the directors of every company formed under this act to report to the secretary of state, under the oath of the secretary and at least 2 of the directors, the length of the stream or waters so constructed or improved, the cost of such improvements, the amount of money expended, the amount of their capital, how much of the same is paid in, and how much is expended, the whole amount of tolls or earnings expended on such improvements, the amount of money received during the previous year for tolls, and from all other sources, stating each separately, the amount set apart for repairs, the amount of dividends made, and the amount of indebtedness of such company, specifying the object for which such indebtedness accrued.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895m;—CL 1897, 6801;—CL 1915, 8901;—CL 1929, 11836;—CL 1948, 486.63.

Popular name: Water Company Act

486.65 Stockholder's liability; recovery prerequisites.

Sec. 15. The stockholders of every company organized in pursuance of this act shall be jointly and severally personally liable for the payment of all debts and demands against such association, which shall be contracted or which shall be or shall become due during the time of their holding such stocks for any labor or

services done or performed for such company, but no stockholder shall be proceeded against for the collection of any debt or demand against such company until execution on judgment for such labor and services shall have been returned unsatisfied, or unless such association shall be dissolved.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895o;—CL 1897, 6803;—CL 1915, 8902;—CL 1929, 11837;—CL 1948, 486.65.

Popular name: Water Company Act

486.66 Shares deemed personal property; transfer.

Sec. 16. The shares of any company formed under this act shall be deemed personal property and may be transferred as shall be prescribed by the by-laws of such company.

History: 1883, Act 39, Imd. Eff. Apr. 21, 1883;—How. 3895p;—CL 1897, 6804;—CL 1915, 8903;—CL 1929, 11838;—CL 1948, 486.66.

Popular name: Water Company Act

WATER POWER COMPANIES

Act 202 of 1887

AN ACT to authorize the formation of corporations for the purpose of damming, excavating, constructing and maintaining water courses with water power appurtenant thereto, for accumulating, storing, conducting, selling, furnishing and supplying upon an agreed rental, water and water power for mining, milling, manufacturing, domestic, municipal and agricultural purposes and for purposes of navigation.

History: 1887, Act 202, Imd. Eff. June 18, 1887.

The People of the State of Michigan enact:

486.101 Water power and supply corporations; incorporators; powers.

Sec. 1. That any number of persons not less than 5 may form themselves into a corporation for the purpose of damming any stream and of excavating and constructing, maintaining, repairing and improving any canal already existing or which they may wish to excavate and construct with water power appurtenant thereto and may own, lease, use and control the same for the purpose of accumulating, storing, conducting, selling, furnishing and supplying upon an agreed rental water and water power, for mining, milling, manufacturing, domestic, municipal and agricultural purposes and for purposes of navigation, and may acquire, hold, lease and convey lands or water power as may be necessary or convenient for the purposes above specified by complying with the following requirements.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895r;—CL 1897, 6806;—CL 1915, 8904;—CL 1929, 11839;—CL 1948, 486.101.

486.102 Certificate; contents; recording and filing.

Sec. 2. Such persons under their hands and seals, shall make a certificate which shall specify:

First, The name of the corporation;

Second, A statement of the amount of capital stock of such company, and the number of shares into which the capital stock shall be divided;

Third, The county and townships within this state in which such canal is to be excavated and constructed, and the operations of said company carried on;

Fourth, The business and object of said company in general terms;

Fifth, The names and places of residence of the stockholders, and the number of shares held by each of them respectively;

Sixth, The names of the first directors, being not more than 7, and not less than 5;

Seventh, The place in this state where their office for the transaction of business is located;

Eighth, The term of existence of such corporation, which certificate shall be acknowledged as deeds are required to be acknowledged, and recorded in the office of the clerk of the county in which the office of said company for the transaction of business is located, and a copy thereof filed in the office of the secretary of state.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895s;—CL 1897, 6807;—CL 1915, 8905;—CL 1929, 11840;—CL 1948, 486.102.

486.103 Body corporate; governing laws.

Sec. 3. Upon complying with the provisions of the last preceding section such company shall be a body corporate by the name designated in said certificate, and shall be subject to and governed by all the general provisions relating to corporations embraced in chapter 130 of the Compiled Laws of the state of Michigan, now in force, so far as the same shall be applicable thereto.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 2895t;—CL 1897, 6808;—CL 1915, 8906;—CL 1929, 11841;—CL 1948, 486.103.

Compiler's note: For provisions of chapter 130, referred to in this section, see MCL 450.504 et seq.

486.104 Board of directors; members, election, qualification.

Sec. 4. The business and property of such company shall be managed and directed by a board of not less than 5 nor more than 7 directors, who shall be elected annually, and at such time and place as said by-laws may direct. No person shall be a director unless he is a stockholder in the corporation.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895u;—CL 1897, 6809;—CL 1915, 8907;—CL 1929, 11842;—CL 1948, 486.104.

486.105 Board of directors; election, notice.

Sec. 5. In case it shall happen that an election for directors shall not be held as provided, the said corporation shall not be for that reason dissolved, but such election shall be held on some future day to be fixed by the directors holding over, upon giving the notice therefor as in this act provided.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895v;—CL 1897, 6810;—CL 1915, 8908;—CL 1929, 11843;—CL 1948, 486.105.

486.106 Board of directors; majority control.

Sec. 6. A majority of the directors shall be a board for the transaction of business, and the acts of a majority of the board shall bind the corporation.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895w;—CL 1897, 6811;—CL 1915, 8909;—CL 1929, 11844;—CL 1948, 486.106.

486.107 Capital stock; subscriptions; increase; procedure.

Sec. 7. The directors of any such company may at any time receive subscriptions to stock in said company until the whole amount mentioned in their articles of association shall be subscribed, and whenever, in the judgment of the directors, it shall be necessary to increase the capital stock of any such company for the extension or more perfect completion of such proposed work, or to provide lands and buildings needful for its use, it shall be competent for such directors, with the approval or ratification of the holders of a majority of the capital stock, at any lawful meeting of the stockholders, to provide for such increase, and in all cases where such capital stock is increased, a certificate thereof shall be signed, certified, and filed as hereinbefore required in the case of original articles of association.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895x;—CL 1897, 6812;—CL 1915, 8910;—CL 1929, 11845;—CL 1948, 486.107.

486.108 Capital stock; subscriptions, calling in; sale, procedure, proceeds; purchaser's rights.

Sec. 8. The directors may call in subscriptions to the capital stock of such corporation by installments, in such portions, and at such times and places as they shall think proper, by giving notice thereof as the by-laws shall prescribe; and in case any stockholder shall neglect or refuse payment of any such installment for the space of 60 days after the same shall become due and payable, and after he shall have been notified thereof, the stock of such delinquent stockholder may be sold by the directors, at public auction, at the office of the secretary of the corporation, giving at least 30 days' notice in some newspaper published in the county: Provided, That if said stockholder shall reside in this state, the stock shall be sold at the business office of said corporation, in the county in which they are doing business, giving at least 30 days' notice thereof in some newspaper published in the county. If no newspaper be published in the county in which such corporation transacts their business, then it shall be published in the newspaper in the city of Detroit, which shall have at the time the largest circulation; and the proceeds of such sale shall be at first applied in payment of the installment called for, and the expenses on the same, and the residue shall be refunded to the owner thereof; and such sale shall entitle the purchaser to all the rights of a stockholder to the extent of the shares so bought.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895y;—CL 1897, 6813;—CL 1915, 8911;—CL 1929, 11846;—CL 1948, 486.108.

486.109 Corporate powers, liabilities and restrictions.

Sec. 9. Every such corporation, organized as hereinbefore prescribed, shall have the following powers and be subject to the liabilities and restrictions following, that is to say:

First, To cause such examinations and surveys for the proposed improvements whether dam-locks, canals or digging or deepening of channels to be made as may be necessary to prepare for the work to be done;

Second, To purchase and by voluntary grants and donations to receive, enter upon, take hold and use all such lands and real estate and other property as may be necessary for the construction and maintenance of the work proposed in the approved plans of such company;

Third, To divert into any canal excavated or constructed under the provisions of this act, waters from Lake Paw Paw or Paw Paw river or any tributary stream in Berrien county, state of Michigan, to flood lands belonging to said company or subject to condemnation proceedings as provided by law, by constructing the necessary dams in said canal or in creeks or other water courses subject to the consent of the board of supervisors of the proper county in which said waters so diverted or dammed are situated;

Fourth, The acquisition of lands shall be under the same rules and forms as near as practicable as are provided in cases for the acquisition of lands for right of way of railway lines, when the railway company is unable to agree with the owners or legal representatives for the purchase of any real estate;

Fifth, To issue its construction bonds to an amount not exceeding 50 per centum of its capital stock bearing

a rate of interest not above 7 per cent and payable at any such time as the board of directors may determine, on approval of a majority in interest of the stockholders voting at any regular or called meeting of their body;

Sixth, That in any case where the company is unable to agree with the owners of land needed for or in the work of constructing a navigable waterway, as herein provided, or cannot agree with any highway commissioner, or other authority, as to the crossing or changing of roads, streets, or streams, then and in all such cases the same laws providing for the incorporation of railroad companies, and providing for the condemnation of lands to the public use in certain cases, shall govern and be the rule of action or procedure so far as practicable; and any company undertaking to construct a navigable waterway, with or without water power appurtenant thereto, and intending to do a transportation business upon such waterway, shall have the same rights and privileges for procuring right of way, needed lands, or real estate of any kind, or of crossing streams and highways, as the laws of Michigan allow railroad companies.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895z;—CL 1897, 6814;—CL 1915, 8912;—CL 1929, 11847;—CL 1948, 486.109.

486.110 Power to construct railroads, telegraph and telephone lines; holding of realty.

Sec. 10. Said corporation may, in the exercise of its discretion, erect along the line of its canal or over different portions of its property, such railroads as may be necessary for connecting manufacturing establishments situated upon or connected with their premises or enjoying water privileges from them with any line of railroad or any harbor near them, and such telegraph lines or telephonic lines as may be reasonably necessary or convenient in connection therewith. Said corporation may purchase and hold such tracts of land along the line of its canal and water courses, as may reasonably be necessary or convenient for the conveying of water, storing it and dispensing and dividing it among those who wish to purchase or lease it for any of the purposes mentioned in this act, or for the purpose of erecting manufactories or mills upon.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895z-1;—CL 1897, 6815;—CL 1915, 8913;—CL 1929, 11848;—CL 1948, 486.110.

486.111 Furnishing and use of water; rent, collection.

Sec. 11. Such company may furnish water to other persons or companies for mining, manufacturing, milling, domestic, municipal or agricultural purposes, on such rent as shall be agreed upon by and between it and those desiring to obtain it, or it may use the same for such purposes itself in any class of manufacturing purposes. It is authorized to bring suit to enforce the payment of such rent in any proper court of the county where its principal office is located.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895z-2;—CL 1897, 6816;—CL 1915, 8914;—CL 1929, 11849;—CL 1948, 486.111.

486.112 Injury to stream or property; misdemeanor, penalty.

Sec. 12. If any person shall willfully obstruct any stream or waters improved under the provisions of this act or any part thereof, or shall willfully destroy or injure any buildings, piers, dams, fixtures, banks, or other constructions in use upon the same, belonging to said company, such person or persons so offending, shall, for every offense, be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding 500 dollars, or by imprisonment in the county jail not more than 1 year, in the discretion of the court.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895z-3;—CL 1897, 6817;—CL 1915, 8915;—CL 1929, 11850;—CL 1948, 486.112.

486.113 Board of directors; annual report, contents.

Sec. 13. On or before the first Monday in July in each year it shall be the duty of the directors of every company formed under this act to report to the secretary of state, under the oath of the secretary and at least 2 of the directors, the length of the stream or waters so constructed or improved, the cost of such improvements, the amount of money expended, the amount of their capital, how much of the same is paid in, and how much is expended, the whole amount of tolls or earnings expended on such improvements, the amount of money received during the previous year for tolls, and from all other sources, stating each separately, the amount set apart for repairs, the amount of dividends made, and the amount of indebtedness of such company, specifying the object for which such indebtedness accrued.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895z-4;—CL 1897, 6818;—CL 1915, 8916;—CL 1929, 11851;—CL 1948, 486.113.

486.114 Realty; purchase, holding, disposal; limitations.

Sec. 14. Each and every company formed under this act shall have authority to purchase and hold land adjacent to or within convenient distance of any canal constructed under the provisions of this act, for the

purpose of platting and selling to manufacturers, their operatives or to other persons, and shall have authority to lease, mortgage or otherwise dispose of real or personal property: Provided, That no land shall be held by said company for the purposes stated in this section for a longer period than 10 years from the time when the same shall have been acquired, nor exceeding in amount 2,000 acres.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895z-5;—CL 1897, 6819;—CL 1915, 8917;—CL 1929, 11852;—CL 1948, 486.114.

486.115 Stockholder's liability; recovery prerequisites.

Sec. 15. The stockholders of every company organized in pursuance of this act shall be jointly and severally personally liable for the payment of all debts and demands against such association, which shall be contracted, or which shall be or shall become due during the time of their holding such stocks, for any labor or services done or performed for such company, but no stockholder shall be proceeded against for the collection of any debt or demand against such company until execution or [on] judgment for such labor and services shall have been returned unsatisfied, or unless such association shall be dissolved.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895z-6;—CL 1897, 6820;—CL 1915, 8918;—CL 1929, 11853;—CL 1948, 486.115.

486.116 Shares deemed personal property; transfer.

Sec. 16. The shares of any company formed under this act shall be deemed personal property, and may be transferred as shall be prescribed by the by-laws of such company.

History: 1887, Act 202, Imd. Eff. June 18, 1887;—How. 3895z-7;—CL 1897, 6821;—CL 1915, 8919;—CL 1929, 11854;—CL 1948, 486.116.

WATER POWER COMPANIES

Act 283 of 1905

AN ACT to authorize the formation of corporations for the purpose of damming, excavating, constructing and maintaining water courses with water power appurtenant thereto, for accumulating, storing, manufacturing, conducting, using, selling, furnishing and supplying water and water power, electricity and electric power, and all and every kind of power for mining, milling, manufacturing, domestic, municipal and agricultural purposes, and for the purpose of transportation and for all other purposes in the upper peninsula of Michigan.

History: 1905, Act 283, Eff. Sept. 16, 1905.

The People of the State of Michigan enact:

486.201 Water power and supply corporations in upper peninsula; incorporators; powers.

Sec. 1. That any number of persons may form themselves into a corporation for the purpose of damming any stream or streams, and of excavating and constructing, maintaining, repairing and improving any stream or canal already existing, or which they may wish to excavate and construct, with water power appurtenant thereto, and may own, lease, use and control the same for the purpose of accumulating, storing, manufacturing, conducting, using or selling, furnishing and supplying water and water power, electricity and electric power, and all and every kind of power for any and all purposes, and may acquire, hold, lease and convey lands or water power as may be necessary or convenient for the purposes above specified in the upper peninsula of Michigan, by complying with the following requirements.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8920;—CL 1929, 11855;—CL 1948, 486.201.

486.202 Certificate; contents; recording and filing.

Sec. 2. Such persons, under their hands and seals, shall make a certificate which shall specify:

First, The name of the corporation;

Second, A statement of the amount of capital stock of such company, and the number of shares into which the capital stock shall be divided;

Third, The county or counties within this state in the upper peninsula thereof, in which such canal is to be excavated and constructed, and the operations of said company carried on;

Fourth, The business and object of said company in general terms;

Fifth, The names and places of residence of the stockholders, and the number of shares held by each of them respectively;

Sixth, The names of the first directors, being not more than 7 and not less than 3;

Seventh, The place in this state where their office for the transaction of business is located;

Eighth, The term of existence of such corporation, which certificate shall be acknowledged as deeds are required to be acknowledged, and recorded in the office of the clerk of the county in which the office of said company for the transaction of business is located, and a copy thereof filed in the office of the secretary of state.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8921;—CL 1929, 11856;—CL 1948, 486.202.

486.203 Body corporate; governing laws.

Sec. 3. Upon complying with the provisions of the last preceding section such company shall be a body corporate by the name designated in said certificate, and shall be subject to and governed by all the general provisions relating to corporations embraced in chapter 230 of the Compiled Laws of the state of Michigan, now in force, so far as the same shall be applicable thereto.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8922;—CL 1929, 11857;—CL 1948, 486.203.

Compiler's note: For provisions of chapter 230, referred to in this section, which have not been repealed or reenacted, see MCL 450.504 to 450.525 and MCL 450.631 et seq.

486.204 Board of directors; members, election, qualifications.

Sec. 4. The business and property of such company shall be managed and directed by a board of not less than 3 nor more than 7 directors, who shall be elected annually, and at such time and place as the by-laws of said company may direct. No person shall be a director unless he is a stockholder in the corporation.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8923;—CL 1929, 11858;—CL 1948, 486.204.

486.205 Board of directors; election, notice.

Sec. 5. In case it shall happen that an election for directors shall not be held as provided, the said corporation shall not be for that reason dissolved, but such election shall be held on some future day to be fixed by the directors holding over, upon giving the notice therefor as in this act provided.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8924;—CL 1929, 11859;—CL 1948, 486.205.

486.206 Board of directors; majority control.

Sec. 6. A majority of the directors shall be a board for the transaction of business, and the acts of a majority of the board shall bind the corporation.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8925;—CL 1929, 11860;—CL 1948, 486.206.

486.207 Capital stock; subscriptions; increase, procedure.

Sec. 7. The directors of any such company may at any time receive subscriptions to stock in said company until the whole amount mentioned in their articles of association shall be subscribed, and whenever in the judgment of the directors, it shall be necessary to increase the capital stock of any such company for the extension or more perfect completion of such proposed work, or to provide lands and buildings needful for its use, it shall be competent for such directors, with the approval or ratification of the holders of a majority of the capital stock, at any lawful meeting of the stockholders to provide for such increase, and in all cases where such capital stock is increased, a certificate thereof shall be signed, certified and filed as hereinbefore required in the case of original articles of association.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8926;—CL 1929, 11861;—CL 1948, 486.207.

486.208 Capital stock; subscriptions, calling in; sale, procedure, proceeds; purchaser's rights.

Sec. 8. The directors may call in subscriptions to the capital stock of such corporation by installments, in such portions, and at such times and places as they shall deem proper, by giving notice thereof as the by-laws shall prescribe; and in case any stockholder shall neglect or refuse payment of any such installment for the space of 60 days after the same shall become due and payable, and after he shall have been notified thereof, the stock of such delinquent stockholder may be sold by the directors, at public auction, at the office of the secretary of the corporation, giving at least 30 days' notice in some newspaper published in the county: Provided, That if said stockholder shall reside in this state, the stock shall be sold at the business office of said corporation, in the county in which they are doing business, giving at least 30 days' notice thereof in some newspaper published in the county. If no newspaper be published in the county in which such corporation transacts their business, then it shall be published in the newspaper in the city of Detroit which shall have at the time the largest circulation; and the proceeds of such sale shall be at first applied in payment of the installment called for, and the expenses on the same, and the residue shall be refunded to the owner thereof; and such sale shall entitle the purchaser to all the rights of a stockholder to the extent of the shares so bought.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8927;—CL 1929, 11862;—CL 1948, 486.208.

486.209 Corporate powers; liabilities and restrictions.

Sec. 9. Every such corporation, organized as hereinbefore prescribed, shall have the following powers and be subject to the liabilities and restrictions following, that is to say:

First, To cause such examinations and surveys for all proposed improvements, to be made as may be necessary to prepare for the work to be done;

Second, To acquire and by grants and donations to receive, enter upon, take, hold and use all such lands and real estate and other property as may be necessary in the business of such company;

Third, To flood lands belonging to said company by constructing the necessary dams in any canal, or in creeks, streams or other water courses;

Fourth, To issue its construction bonds to an amount not exceeding 50 per cent of its capital stock, bearing a rate of interest not above 6 per cent, and payable at any such time or times as the board of directors may determine on approval of a majority in interest of the stockholders voting at any regular or called meeting of their body.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8928;—CL 1929, 11863;—CL 1948, 486.209.

486.210 Power to construct railroad, telegraph and telephone lines; holding of realty.

Sec. 10. Said corporation may, in the exercise of its discretion, erect, maintain and operate such railroads as may be necessary for connecting manufacturing establishments situated upon or connected with its premises, or enjoying power privileges from it with any line of railroad or any harbor, and such power lines, telegraph lines or telephonic lines as may be reasonably necessary or convenient in the business of said

corporation. Said corporation may acquire and hold such tracts of land along the line of its canal and water courses as may be reasonably necessary or convenient for the conveying of water or electricity or other power and storing it and dispensing and dividing it among those who wish to purchase or lease it for any of the purposes mentioned in this act, or for the purpose of erecting manufactories or mills or other commercial establishments.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8929;—CL 1929, 11864;—CL 1948, 486.210.

486.211 Furnishing and use of water or power; compensation; right to sue and be sued.

Sec. 11. Such company may furnish and sell water, water power, electricity or electric power, and any and all other forms of power to other persons or companies for any and all purposes on such terms as shall be agreed upon, or it may use the same for such purposes itself. Any person or corporation receiving, using or enjoying any benefit from the operations or improvements of any company organized under this act shall pay to said company a reasonable compensation for all such benefits used or enjoyed. It is authorized to sue and be sued in any proper court in this state, the same as a natural person.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8930;—CL 1929, 11865;—CL 1948, 486.211.

486.212 Injury to stream or property; misdemeanor, penalty.

Sec. 12. If any person shall wilfully obstruct any stream or waters improved, or in use under the provisions of this act, or any part thereof, or shall wilfully destroy or injure any buildings, piers, dams, fixtures, banks, power lines or other constructions in use by and belonging to said company, such person or persons so offending shall, for every offense, be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding 500 dollars, or by imprisonment in the county jail not more than 1 year, in the discretion of the court.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8931;—CL 1929, 11866;—CL 1948, 486.212.

486.213 Board of directors; annual report, contents.

Sec. 13. On or before the first Monday in July in each year it shall be the duty of the directors of every company formed under this act to report to the secretary of state, under the oath of the secretary and at least 2 of the directors, the improvements made by such company, the cost of such improvements, the amount of money expended, the amount of the capital of the company, how much of the same is paid in, and how much has been expended, the whole amount of tolls or earnings expended on such improvements, the amount of money received the previous year for tolls, and from all other sources, stating each separately, the amount set apart for repairs, the amount of dividends paid and the amount of indebtedness of such company, specifying the object for which such indebtedness accrued.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8932;—CL 1929, 11867;—CL 1948, 486.213.

486.214 Realty; purchase, holding, disposal; personal property, disposal.

Sec. 14. Each and every corporation formed under this act shall have authority to purchase and hold land in amount not to exceed 3,000 acres adjacent to or within convenient distance of any canal, stream or dam, constructed under the provisions of this act, for the purpose of platting and selling the same to manufacturers, their operatives or to other persons, and shall have the authority to lease, mortgage, sell, or otherwise dispose of real or personal property.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8933;—CL 1929, 11868;—CL 1948, 486.214.

486.215 Stockholder's liability; recovery prerequisites.

Sec. 15. The stockholders of every company organized in pursuance of this act shall be jointly and severally personally liable for the payment of all debts and demands against such association which shall be contracted, or which shall be or shall become due during the time of their owning such stocks, for any labor or services done or performed for such company, but no stockholder shall be proceeded against for the collection of any debt or demand against such company until execution on judgment for such labor and services shall have been returned unsatisfied, unless such association shall be dissolved.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8934;—CL 1929, 11869;—CL 1948, 486.215.

486.216 Shares deemed personal property; transfer.

Sec. 16. The shares of any company formed under this act shall be deemed personal property, and may be transferred as shall be prescribed by the by-laws of such company.

History: 1905, Act 283, Eff. Sept. 16, 1905;—CL 1915, 8935;—CL 1929, 11870;—CL 1948, 486.216.

ELECTRIC AND GAS CORPORATIONS

Act 238 of 1923

AN ACT authorizing the formation of corporations for the purpose of generating, manufacturing, producing, gathering, storing, transmitting, distributing, transforming, selling and supplying electric energy or gas, either artificial or natural, or both electric energy and gas, to the public generally, or to public utilities or natural gas companies, and providing for and giving to such corporations and also to corporations heretofore lawfully organized, among other things, for such purposes; to corporations heretofore lawfully organized, or that may hereafter be lawfully organized and duly authorized to carry on the electric or gas business as a public utility in the state of Michigan; and to foreign corporations heretofore lawfully organized or that may hereafter be lawfully organized, among other things, for such purposes, and duly authorized to carry on business in the state of Michigan, the right to condemn private property for the uses provided for herein.

History: 1923, Act 238, Eff. Aug. 30, 1923;—Am. 1929, Act 253, Eff. Aug. 28, 1929;—Am. 1931, Act 98, Eff. Sept. 18, 1931;—Am. 1947, Act 356, Eff. Oct. 11, 1947.

The People of the State of Michigan enact:

486.251 Electric and gas corporations; incorporators; powers.

Sec. 1. That any number of persons not less than 3 may form a corporation, for generating, manufacturing, producing, gathering, storing, transmitting, distributing, transforming, selling and supplying electric energy or gas, either artificial or natural, or both electric energy and gas, to the public generally, or to public utilities or natural gas companies, by executing under their hands and seals, articles of incorporation in manner and form as required as to certain other profit corporations by the provisions of sections 1 to 97, inclusive, of Act No. 327 of the Public Acts of 1931, of Michigan and amendments thereto, and thereupon such corporations shall have and enjoy all the powers and privileges of corporations for pecuniary profit organized under said sections 1 to 97, inclusive, of Act No. 327 of the Public Acts of 1931 of Michigan, and amendments thereto.

History: 1923, Act 238, Eff. Aug. 30, 1923;—CL 1929, 11871;—Am. 1947, Act 356, Eff. Oct. 11, 1947;—CL 1948, 486.251.

Compiler's note: For provisions of Act 327 of 1931, referred to in this section, see MCL 450.1 et seq.

486.252 Corporate powers.

Sec. 2. Every corporation organized as provided in section 1 of this act shall have the following powers:

First, To cause such examinations and surveys for all proposed improvements to be made as may be necessary to prepare for the work to be done.

Second, To acquire by lease, purchase, grant, and donation all such lands, easements, royalties, leaseholds, flowage rights, water power and other property, and any interest therein, as may be necessary to carry out its corporate purposes.

Third, To dam any stream or streams, and to excavate, construct, maintain, repair, and improve any existing stream or canal, or which it may excavate and construct, with water power appurtenant thereto.

Fourth, To flood, flow, and submerge its land and property by constructing the necessary dams in any canal, or in creeks, streams, or other water courses, natural or artificial.

Fifth, To condemn all lands and any and all interests therein, easements, rights of way, and other property other than lands lying within a known mineral zone of iron ore, copper, or coal, which may be necessary to generate, transmit, and transform electric energy for public use in, upon, or across private property.

Sixth, To condemn all lands, easements, rights of way, gas royalties, natural gas leaseholds and other property and any and all interests therein, other than lands lying within a known mineral zone of iron ore, copper, or coal, which may be necessary for pipe line rights of way or for an underground natural gas storage field or fields. However, the right to condemnation hereby granted shall not extend to or include the right to condemn lands, easements, rights of way, gas royalties, natural gas leaseholds, or other property or any interest therein, which are owned, leased, or used by any public utility or natural gas company carrying on the business of producing, gathering, transmitting, storing, selling, or supplying gas within the state. The term "natural gas company", as used in this act, is hereby defined as a corporation engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale. However, the condemnation of lands, natural gas leaseholds, or other property or any interest therein for an underground natural gas storage field in any formation shall be without prejudice to the right of the owner or owners of such lands, natural gas leaseholds, or other property or interest therein to drill through the formation or formations used or to be used for underground storage of natural gas provided adequate precautions are taken by such owner or owners to prevent the escape of gas stored in such formation or formations. Such condemnation proceedings in all cases shall be brought by petition addressed to the probate court for the

county in which the land or any part thereof or interest therein to be condemned is located, and shall conform, as nearly as practicable, to the rules of pleading and practice governing probate court procedure. The petition shall set forth with reasonable certainty the description of each parcel of land and interest therein sought to be acquired, and the name or names of the persons owning or having interest in the land or parcels sought to be condemned insofar as disclosed by the records in the office of the register of deeds in the county in which the lands are situated, and shall specify generally the purpose and necessity of acquiring such lands and interests. Where a project involves more than 1 parcel of land located within a single county, all or any number of such parcels, irrespective of the number of persons owning or having interests therein, may be joined in 1 proceeding. The petition shall request that all persons interested in the respective premises described, or any part thereof, be required to appear and answer the petition, and show cause, if any they have, against the same, and shall pray for the appointment of 3 disinterested freeholders and residents of the county in which the land is situated as commissioners to perform the duties assigned them as hereinafter provided. Where the petitioner seeks to exercise the rights conferred by the provisions of paragraph fifth of this section, for the purpose of acquiring any property or interest therein for use as a water power project, the petitioner shall first have acquired and its petition shall contain the additional allegation that the petitioner has acquired, prior to the filing of such petition, by any means other than by condemnation, at least 90% of the property rights and interests including lands to be overflowed, required for such purpose, within the area proposed for such water power project. Where the petitioner seeks to exercise the rights conferred by the provisions of paragraph sixth of this section, for the purpose of acquiring any property or interest therein for use as a natural gas storage field, the petition shall contain the allegation that more than 75% of the recoverable gas reserves originally in that natural gas storage field were produced before the filing of the petition. Where less than 75% of the recoverable gas reserves originally in the natural gas storage field were produced before the filing of the petition, the petitioner shall first have acquired and its petition shall contain the allegation that the petitioner has acquired, prior to the filing of such petition, by any means other than by condemnation, at least 75%, computed in respect to surface area, of the property rights and interests in the underground field required for storage purposes, and its petition shall also contain an accurate description of the surface area underlaid by the formation or formations to be used for natural gas storage.

The petition shall also contain the allegation that a certificate has been obtained from the public service commission that the present or future public convenience and necessity require or will require the acquiring of any property or interest therein for use as a natural gas storage field. Upon application being filed with the public service commission for a certificate required by this section, the commission shall set the matter for hearing and shall give reasonable notice of the hearing thereon to all interested parties as in the commission's judgment may be necessary under rules prescribed by the commission. The commission may issue a temporary certificate in case of emergency to assure maintenance of adequate service without notice of hearing pending the determination of an application for a permanent certificate. The commission by rule may exempt from the requirements of this section temporary acts or operations for which the issuance of a certificate is not required in the public interest. Before any certificate is granted, the commission shall examine and inquire into the necessity of the natural gas storage field and determine that the natural gas storage field will serve the present or future public convenience and necessity, and that the field is safe for development and operation of gas storage. The granting of a permanent or temporary certificate by the commission pursuant to this section constitutes a prima facie case in any court of this state that the natural gas storage field so certified is required by the public convenience and necessity.

History: 1923, Act 238, Eff. Aug. 30, 1923;—Am. 1929, Act 253, Eff. Aug. 28, 1929;—CL 1929, 11872;—Am. 1947, Act 356, Eff. Oct. 11, 1947;—CL 1948, 486.252;—Am. 1957, Act 67, Imd. Eff. May 21, 1957;—Am. 1961, Act 69, Eff. Sept. 8, 1961;—Am. 1973, Act 26, Imd. Eff. June 14, 1973.

486.252a-486.252j Repealed. 1980, Act 87, Eff. Apr. 1, 1985.

Compiler's note: The repealed sections pertained to condemnation proceedings for electric and gas corporations.

486.253 Electricity or gas sold to public; rates, terms, and conditions; examination of books and records; order of commission; review; certificate of necessity.

Sec. 3. (1) A corporation formed under this act shall sell to the public the electric energy it generates or transmits and the gas it manufactures, produces, stores, or transmits, upon such reasonable terms, rates, and conditions as determined by the Michigan public service commission. The Michigan public service commission may examine all books and records of the corporation and audit the corporation. Any order of the commission may be reviewed, set aside, modified, or affirmed in the manner provided by law.

(2) If 1929 PA 9, MCL 483.101 to 483.120, 1929 PA 69, MCL 460.501 to 460.506, or the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575, requires a certificate of necessity to

be obtained from the Michigan public service commission, then the corporation shall, before commencing any condemnation proceedings, first make application to, and obtain from the commission a certificate as required under those acts.

History: 1923, Act 238, Eff. Aug. 30, 1923;—CL 1929, 11873;—Am. 1947, Act 356, Eff. Oct. 11, 1947;—CL 1948, 486.253;—Am. 2004, Act 197, Imd. Eff. July 12, 2004.

Compiler's note: For provisions of Act 9 of 1929 and Act 69 of 1929, referred to in this section, see MCL 483.101 et seq. and MCL 460.501 et seq., respectively.

486.254 Existing corporations; right of condemnation.

Sec. 4. Corporations heretofore lawfully organized, among other things, for any of the purposes specified in section 1 hereof; corporations heretofore lawfully organized, or that may hereafter be lawfully organized and duly authorized to carry on the electric or gas business as a public utility in the state of Michigan; and foreign corporations heretofore lawfully organized or that may hereafter be lawfully organized, among other things, for any of the purposes specified in section 1 hereof, and duly authorized to carry on business in the state of Michigan shall have and are hereby given the right to condemn private property in accordance with the provisions of this act and subject to the same conditions and requirements as herein specified.

History: 1923, Act 238, Eff. Aug. 30, 1923;—CL 1929, 11874;—Am. 1931, Act 98, Eff. Sept. 18, 1931;—Am. 1947, Act 356, Eff. Oct. 11, 1947;—CL 1948, 486.254.

486.255 Independent transmission company or affiliated company; power to condemn property; limitation; procedures and requirements; definitions.

Sec. 5. (1) Subject to the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575, and the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, an independent transmission company or an affiliated transmission company shall have the power to condemn property that is necessary to transmit electric energy for public use except for both of the following:

(a) An independent transmission company or affiliated transmission company shall not circumvent a private agreement that existed on the effective date of the amendatory act that added this subsection under which the independent transmission company or affiliated transmission company leases rights-of-way for its electric transmission facilities from the utility.

(b) An independent transmission company or affiliated transmission company shall not condemn property owned by an electric or gas utility or municipally owned utility in a manner which unreasonably disrupts the ability of the electric or gas utility or municipally owned utility to continue to provide service to its customers. If a dispute exists under this subdivision, the condemnation shall not proceed until the Michigan public service commission determines that no unreasonable disruption is involved. The commission shall make its determination under this subdivision pursuant to a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, within 180 days of the date an application or petition requesting a determination is filed with the commission. If the principal parties of record agree that the complexity of dispute involved requires additional time, the commission may have up to 210 days from the date the application or petition was filed.

(2) Except as otherwise provided under this section, in condemning property under subsection (1), an independent transmission company or affiliated transmission company is subject to the same procedures and requirements under this act as a corporation formed under this act.

(3) Section 3(1) and any procedure or requirement under this act that is inconsistent with the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575, or the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, do not apply to an independent transmission company or affiliated transmission company.

(4) As used in this act:

(a) "Affiliated transmission company" means a person, partnership, corporation, association, or other legal entity, or its successors or assigns, which has fully satisfied the requirements to join a regional transmission organization as determined by the federal energy regulatory commission, is engaged in this state in the transmission of electricity using facilities it owns that were transferred to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is not independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.

(b) "Independent transmission company" means a person, partnership, corporation, association, or other legal entity, or its successors or assigns, engaged in this state in the transmission of electricity using facilities it owns that have been divested to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is independent of an

electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.

History: Add. 2004, Act 197, Imd. Eff. July 12, 2004.

WATERWORKS

Act 113 of 1869

AN ACT to authorize the formation of companies for the introduction of water into towns, cities and villages, in the state of Michigan.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869.

The People of the State of Michigan enact:

486.301 Waterworks in municipalities; incorporators; powers.

Sec. 1. That whenever the common council of any city or incorporated village, or the municipal authority of any town in this state shall, by resolution, declare that it is expedient to have constructed works for the purpose of supplying such city, village or town, and the inhabitants thereof with water, but that it is inexpedient for such city, town or village, under the power granted in its charter, to build such works, it shall be lawful for any number of persons, not less than 5, to organize a company for the construction of such water-works, or for any company previously organized to construct such water-works under the provisions of this act, and such corporation shall have all the powers and privileges prescribed in the act in regard to corporations, being Chapter 55, of Revised Statutes of 1846, and Chapter 73, of the Compiled Laws. They shall be capable of suing and being sued in any court of this state; may have a common seal, and alter and amend the same, at pleasure; may elect, in such a manner as they may determine, all necessary officers; may fix their compensation and determine their duties, and make, from time to time, such by-laws, not inconsistent with the constitution and laws of this state, as a majority of the stockholders shall choose.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3355;—How. 3110;—CL 1897, 8500;—CL 1915, 11282;—CL 1929, 11875;—CL 1948, 486.301.

Compiler's note: For provisions of chapter 55 of the Revised Statutes of 1846, referred to in this section, see MCL 450.504 et seq.

486.302 Certificate; contents, filing and recording; body corporate, name.

Sec. 2. Any number of persons not less than 5, who shall associate according to the provisions of this act, under any name assumed by them, to form a company for the purpose of supplying any city, town or village, or the inhabitants thereof, with water for any and all, purposes, shall under their hands and seals, make and acknowledge before some person authorized by the laws of this state to take acknowledgments of deeds, a certificate which shall specify:

First. The name by which such company shall be known;

Second. The object for which such company shall be formed;

Third. The amount of capital stock of such company, and the number of shares into which the same is divided;

Fourth. The amount of capital stock actually paid in;

Fifth. The names of the stockholders, their respective residences, and the number of shares held by each;

Sixth. The name of the city, town or village, and county in which the operations of the company are to be carried on, and the place in this state where the office for the transaction of business is located;

Seventh. The term of years the corporation is to exist, not exceeding 30;

And shall cause the same to be filed with the secretary of state of this state, and recorded in the county clerk's office of the county or counties in which such company shall conduct its business. They shall become incorporated under the name and style provided in such certificate, and are hereby authorized to carry on the operations named in such certificate of incorporation, and shall with their successors and assigns be deemed a body politic and corporate in fact and in name, under any name assumed by them in their articles of association.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3356;—How. 3111;—CL 1897, 8501;—CL 1915, 11283;—CL 1929, 11876;—CL 1948, 486.302.

486.303 Corporate power to hold property.

Sec. 3. Every such corporation shall, by their name, have power to acquire and hold all such real and personal estate as shall be necessary for carrying on the business of said corporation.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3357;—How. 3112;—CL 1897, 8502;—CL 1915, 11284;—CL 1929, 11877;—CL 1948, 486.303.

486.304 Capital stock; fixed amount, increase.

Sec. 4. The amount of capital stock in every such corporation shall be fixed by the stockholders in their

articles of association, but shall in no case be less than 10,000 dollars; said stock may be increased from time to time as may be directed by the stockholders; and when the same is so increased, the same record shall be made of the fact, with the name of the stockholders, as required by section 2 of this act; and all the stock of said company shall be divided into shares of 50 dollars each.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3358;—How. 3113;—CL 1897, 8503;—CL 1915, 11285;—CL 1929, 11878;—CL 1948, 486.304.

486.305 Officers; election, term, powers; quorum of stockholders; right to vote.

Sec. 5. The officers shall be elected by the stockholders when 50 per cent of the stock shall be subscribed, and 10 per cent of the amount subscribed paid in, and after a notice of at least 2 weeks has been given in some newspaper printed in the place where the said business is to be located, said notice to be signed by at least 3 stockholders; and the officers elected shall hold their office 1 year, and until their successors are elected; said officers shall have the general superintendence of the affairs of the company, and the management of the business and may call special meetings of the stockholders; and a majority of the stockholders shall constitute a quorum at all meetings and at all meetings each share shall be entitled to 1 vote either in person or by proxy.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3359;—How. 3114;—CL 1897, 8504;—CL 1915, 11286;—CL 1929, 11879;—CL 1948, 486.305.

486.306 Corporate powers.

Sec. 6. Any corporation formed under this act shall have power to introduce water into any town, city or village in the state named in their articles of incorporation, and where the said corporation is located, for public or private buildings or for other purposes; and for that purpose they are authorized and empowered to acquire and hold real estate in such town, city or village, or contiguous thereto, if necessary, and to erect and maintain all necessary and convenient buildings, fixtures, machinery, and other appurtenances, incident or necessary, and to lay water pipes in and through the streets, avenues, lanes, alleys or squares of said city, town or village, with the consent of the municipal authorities of the city, town or village, under such reasonable regulations as they may prescribe; and to make all ordinances and by-laws necessary and proper to carry into effect the foregoing powers; said corporation by their directors, agents, servants, or other persons employed, may enter upon the lands of any person or persons which may be necessary for said purposes, and may take the water from any springs, ponds, rivers, fountains or streams and divert and conduct the same to said city, and may lay and construct any pipes, conduits, aqueducts, wells, reservoirs or other works or machinery necessary or proper, and authorized for said purposes, upon any lands or property entered upon, purchased, taken or held. Said corporation may, as aforesaid, enter upon any lands, streets, highways, lanes, alleys, public squares through which they deem it proper to carry water from said springs, ponds, rivers, fountains, streams, and reservoirs, and lay and construct any pipes, conduits, aqueducts and other works for said purposes, leaving said lands, streets, highways, lanes or public squares in the same condition, as nearly as may be, as they were before said entry; but the said company shall not, within the bounds of such city, town or village, lay and construct said pipes, conduits, aqueducts and other works through any private garden, courtyard or building-lot, without the written consent of the owner thereof.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3360;—How. 3115;—CL 1897, 8505;—CL 1915, 11287;—CL 1929, 11880;—CL 1948, 486.306.

486.307 Acquisition and use of lands for purposes of act; survey and map, signing, filing; right of entry.

Sec. 7. Before entering, taking or using any lands for the purposes of this act, the directors of the company shall cause a survey and map to be made of the lands intended to be taken, or entered upon for any of said purposes, and by which the lands of said owners or occupants intended to be taken or used shall be designated, and which map shall be signed, by the surveyor or engineer making the same, and by the president of said company, and be filed in the office of the clerk of the county. The company, by any 2 of its officers, agents or servants, may enter upon any lands for the purpose of making any examination and for the purpose of making said survey and map.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3361;—How. 3116;—CL 1897, 8506;—CL 1915, 11288;—CL 1929, 11881;—CL 1948, 486.307.

486.308 Condemnation proceedings.

Sec. 8. In case said company cannot agree with the owners or occupants of any lands or water, intended to be taken or used as aforesaid, for the purchase thereof, said company may, for the purpose of acquiring the necessary title and right to said lands or water, present a petition to the circuit court of the county where the

company is located, at any term thereof, or during the vacation of the term, to any judge of a court or record, praying for the appointment of 3 commissioners; and such proceedings shall be had upon said petition as are prescribed in the act to provide for the incorporation of railroad companies, being chapter 67 of the Compiled Laws, for the purpose of acquiring such title or right, except that the said circuit court or judge shall appoint disinterested and competent freeholders residing in the township or municipality where the said premises are situated.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3362;—How. 3117;—CL 1897, 8507;—CL 1915, 11289;—CL 1929, 11882;—CL 1948, 486.308.

Compiler's note: Chapter 67, referred to in this section, was repealed by Act 198 of 1873. See now MCL 463.1 et seq.

486.309 Stock deemed personal property; certificates of stock, transfer; report to assessing officer.

Sec. 9. The stock of every such corporation shall be deemed personal property, and certificates of stock shall be issued to each stockholder on the full amount of his subscription being paid in; the said certificates of stock may be transferable, but the transfer shall not be valid unless a record shall be made of the same in the books of the company, in such form as the directors shall prescribe; and it shall be the duty of the directors to make out a written statement of all the stockholders, and the amount of stock held by each, when legally called upon by the proper assessing officer.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3363;—How. 3118;—CL 1897, 8508;—CL 1915, 11290;—CL 1929, 11883;—CL 1948, 486.309.

486.310 Capital stock; subscriptions, calling in; sale, procedure, proceeds; rights of purchaser.

Sec. 10. The directors may call in subscriptions to the capital stock of such corporation, by installment, in such portions as they deem best, by giving notice thereof as provided by the by-laws; and in case any stockholder refuses or neglects to pay any such installment for the space of 60 days after the same shall have become due and payable, and after he shall have been notified thereof, the stock of any such delinquent stockholder may be sold, by order of the directors, at public auction at the office of said company, after 30 days' notice, published in some newspaper in the county where the corporation is located; and the proceeds of said sale shall be first applied in the payment of the installment called for, and the expense on the same, and the residue shall be refunded to the former owner thereof, and such sale shall entitle the purchaser to all the privileges of a stockholder to the extent of the share so bought.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3364;—How. 3119;—CL 1897, 8509;—CL 1915, 11291;—CL 1929, 11884;—CL 1948, 486.310.

486.311 Stockholder's liability; recovery prerequisites; contribution to creditor.

Sec. 11. The stockholders of all corporations organized under this act shall be individually liable for any labor or services done or performed for said company, and they shall also be liable, as aforesaid, for the payment of all other debts or obligations contracted or incurred by said corporation during the time that they were stockholders, to the amount of all unpaid installments of stock held by them respectively, which liability may be enforced against any stockholder founded on this statute at any time after an execution shall be returned not satisfied against said company: Provided, always, That if any stockholder shall be compelled by any such action to pay the debts of any creditor or any part thereof, he shall have the right to call upon all the stockholders to contribute their part of the sum so paid by him as aforesaid, and may sue them jointly or severally, or any number of them, and recover in such action the ratable amount due from the person or persons so sued.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3365;—How. 3120;—Am. 1883, Act 8, Eff. Mar. 13, 1883;—Am. 1887, Act 54, Eff. Sept. 28, 1887;—CL 1897, 8510;—CL 1915, 11292;—CL 1929, 11885;—CL 1948, 486.311.

486.312 Contract between municipality and company; obligations.

Sec. 12. It shall and may be lawful for the municipal authorities of any city, village or town in which any company is or shall be formed for the purpose of supplying such city, village or town and the inhabitants thereof with water, to contract and agree with such company for the supply of water for public, municipal or other purposes, and for the time and mode of payment, and may issue their obligations therefor.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3366;—Am. 1873, Act 2, Imd. Eff. Jan. 22, 1873;—How. 3121;—CL 1897, 8511;—CL 1915, 11293;—CL 1929, 11886;—CL 1948, 486.312.

486.313 Stockholders; annual and special meetings.

Sec. 13. There shall be an annual meeting of the stockholders at such time and place as the by-laws of the corporation shall designate, for the election of directors and the transaction of business of the corporation; special meetings of the stockholders may be called by the directors.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3367;—How. 3122;—CL 1897, 8512;—CL 1915, 11294;—CL 1929, 11887;—CL 1948, 486.313.

486.314 Officers of company; designation, election, bonding.

Sec. 14. The officers of such company shall be a president, who also shall be a director, a secretary, a treasurer, and such other officers, agents and servants, as the board of directors shall deem necessary for the transaction of the business of the company; such officers shall be elected annually, by the directors, and may be required to give bonds, with penalty and sureties, to the approval of the board of directors.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3368;—How. 3123;—CL 1897, 8513;—CL 1915, 11295;—CL 1929, 11888;—CL 1948, 486.314.

486.315 Ordinances of common council; granting use of public property; rates of compensation.

Sec. 15. Whenever any such company shall have been duly organized, it shall be the duty of the common council of any such city or village or the proper authorities of any such town, by ordinance, to grant to such company such right to the use of the streets, alleys, wharves (if any) and public grounds of said city, village or town as shall be necessary to enable such company to construct the proper works for the supply of water for the use of such city, village or town and its inhabitants; and the said common council may, in such ordinance, prescribe such just and reasonable terms, restrictions and limitations upon such company, in reference to the manner of using streets, alleys, wharves and public grounds; to the charging and collecting of tolls, water rents or other compensation for the supply of water, to be furnished by such company, to such city, town or village and its inhabitants, as it may deem proper; to guard against the improper use of such streets, alleys, wharves and public grounds, and to protect said city, town or village, and its inhabitants from the imposition of undue or excessive rates or charges for the supply of water; but no such restriction shall be imposed which will prevent such company realizing upon its capital stock and annual income or dividend of 10 per cent, after paying the cost of all necessary repairs and expenses, interest on all moneys borrowed and 5 per cent. per annum into sinking funds, for the extinguishment of funded debts.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3369;—How. 3124;—CL 1897, 8514;—CL 1915, 11296;—CL 1929, 11889;—CL 1948, 486.315.

486.316 Purchase of corporate rights and property by municipality; arbitration.

Sec. 16. From and after the expiration of 25 years from the time of the organization of such company, the common council of the city, town or village, for which the said company may have erected its works, shall have the right and privilege of purchasing, from such company, all its buildings, reservoirs, fixtures, apparatus and property of such company, with all its corporate rights and privileges, at such price as may be agreed upon; and in case of disagreement between the parties, the price to be ascertained and determined by 5 disinterested persons, not residents of said city or village, 2 of whom shall be chosen by said common council, 2 by the board of directors of such company, and the fifth by the 4 so chosen, who, when thus chosen and assembled, shall have power to determine, finally and conclusively, the amount which such town, city or village shall pay for the rights, property and franchises of such company, as aforesaid.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3370;—How. 3125;—CL 1897, 8515;—CL 1915, 11297;—CL 1929, 11890;—CL 1948, 486.316.

486.317 Municipality as stockholder; issuance of bonds, interest rate limit, tax levy; certain corporations as stockholders.

Sec. 17. Any such city, town or village may become a stockholder in any such company whenever the common council shall so direct, by resolution duly entered upon its minutes, after the question of so doing shall have been first submitted to the electors of said city, town or village, in such manner as the common council may have prescribed, and the said electors shall have voted in favor thereof. Such resolution shall specify the number of shares to be taken, and shall require the mayor, president or other municipal officer to carry out the directions by subscribing for the number of shares indicated upon the books of the company. Any railroad, gas, manufacturing or other corporation organized under any law of this state, and any insurance company organized under the laws of any state or country doing business in this state, may subscribe for and own stock in such company, and be entitled to all the rights and privileges, and shall be subject to all the liabilities of stockholders. It shall be lawful for any such city, town or village to issue bonds, payable at such

time as the common council shall direct, and bearing interest at a rate not exceeding 8 per cent. per annum, and to negotiate the same upon the best terms they can obtain. Such cities, towns and villages shall have power in addition to that given by their charters, to levy taxes not exceeding 2 per cent. on the assessed valuation per annum, sufficient to meet the principal and interest falling due on such bonds.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3371;—How. 3126;—CL 1897, 8516;—CL 1915, 11298;—CL 1929, 11891;—CL 1948, 486.317.

486.318 Company fully organized; qualification, powers, financial arrangements.

Sec. 18. Any such company shall be deemed to be fully organized whenever half the capital stock named in its articles of association shall have been in good faith subscribed and 10 per cent. thereof paid in and may thereupon enter on the work of construction; and in order to raise moneys for that purpose, it shall have power to borrow money, to issue bonds or other evidences of indebtedness, to execute mortgages or trust deeds, as may be deemed necessary for that purpose, and it may also issue a preferred stock, if a majority of the stockholders of the company shall vote that it is advisable so to do; but in the case that such city, town or village is a stockholder, no such mortgage, trust deed, or issue of preferred stock shall be valid without the assent thereto of the common council of said city or village or the municipal authorities of such town and in such case it shall be deemed a misdemeanor for the directors of said company to contract debts to any amount in excess of the means provided for, by subscriptions to stock, and the estimated net receipts of the company from its rates for 1 year, in advance, except they shall have first obtained the assent thereto of the said common council.

History: 1869, Act 113, Imd. Eff. Apr. 3, 1869;—CL 1871, 3372;—How. 3127;—CL 1897, 8517;—CL 1915, 11299;—CL 1929, 11892;—CL 1948, 486.318.

OPERATION OF ELECTRICAL PLANTS BY WATER SUPPLY COMPANIES
Act 86 of 1893

AN ACT to authorize certain water supply companies, now or hereafter organized, to also operate electrical plants in connection with their waterworks systems.

History: 1893, Act 86, Eff. Aug. 28, 1893.

The People of the State of Michigan enact:

486.351 Water supply companies; right to purchase and operate electrical plants.

Sec. 1. That any company or corporation hereafter organized for the purpose of supplying water to any city, town or village in this state, the population whereof does not exceed 25,000 inhabitants according to the last official census thereof preceding the organization of such company or corporation, shall, by specifying the same in its articles of association, have the right to also produce and supply any such city, town or village, and the inhabitants thereof, with electricity for lighting, heating and motive purposes and any other purpose for which the same is, or may become, of practical use. And to that end shall also have the right to purchase from any individual, copartnership or corporation owning or operating any electricity producing plant, its said plant, together with any or all of the property franchises and rights connected therewith, to be operated in the city, town or village in which such company is to be located and operating.

History: 1893, Act 86, Eff. Aug. 28, 1893;—CL 1897, 8518;—CL 1915, 11302;—CL 1929, 11893;—CL 1948, 486.351.

486.352 Water supply companies; amendment of articles to show right to purchase and operate electrical plants.

Sec. 2. Any company or corporation heretofore organized and doing business under and by virtue of the general laws of this state, and operating a waterworks system in any city, town or village in this state, the population whereof shall not exceed 25,000 inhabitants, according to the last official census preceding the filing of its amended articles of association so as to show the added purpose, have the right to erect, purchase, own and operate a plant or plants, in addition to its waterworks system and plant, to produce and supply electricity as mentioned in section 1 hereof.

History: 1893, Act 86, Eff. Aug. 28, 1893;—CL 1897, 8519;—CL 1915, 11303;—CL 1929, 11894;—CL 1948, 486.352.

486.353 Company or corporate powers.

Sec. 3. Every such company or corporation shall have the right to acquire and hold all such real and personal property as shall be necessary, in addition to that provided for by the general laws of this state under which it is organized, for the carrying on of the business so added by virtue of the provisions of this act, and shall have full power to produce, generate, furnish and sell electricity for lighting, heating, motive and such other purposes, as the same may be desired by any city, town or village within which such company carries on its business, or by the inhabitants thereof. And such company or corporation shall have the power to lay, construct and maintain conductors and poles, and stretch wires for the conducting of electricity through the streets, alleys, lands and squares of any such city, town or village, with the consent of the municipal authorities thereof, under such reasonable regulations as they may prescribe; and such company or corporation may make and enforce all such contracts, by-laws and rules as may be deemed necessary and proper to carry into effect the foregoing powers.

History: 1893, Act 86, Eff. Aug. 28, 1893;—CL 1897, 8520;—CL 1915, 11304;—CL 1929, 11895;—CL 1948, 486.353.

WATER SUPPLY COMPANIES; CONTINUANCE OF CORPORATE LIFE
Act 82 of 1901

AN ACT to provide for renewing the incorporation of companies organized for the purpose of the introduction of water into towns, cities and villages.

History: 1901, Act 82, Imd. Eff. Apr. 23, 1901.

The People of the State of Michigan enact:

486.401 Municipal water supply companies; continuance of corporate life, procedure; prima facie evidence.

Sec. 1. It shall be lawful for any corporation heretofore or hereafter organized under the laws of this state for the purpose of the introduction of water into towns, cities and villages, whose corporate existence is about to terminate by limitation of law, at its annual meeting next preceding, or at a special meeting called for that purpose, to be held within 1 year immediately preceding the date of such termination, by a vote of 2/3 of its capital stock, to direct the continuance of its corporate existence for such further term, not exceeding 30 years, as may be expressed in a resolution passed for that purpose. Upon the adoption of such resolution by the stockholders, at such meeting, it shall be the duty of the president and secretary of the corporation to make, sign and acknowledge duplicate articles of association, as in case of a new corporation, to which shall be appended a copy of the proceedings of such stockholders' meeting, certified by the secretary and verified by his oath, which articles of association shall be filed with the secretary of state and with the county clerk of the county where the corporation carries on its business, and be by them recorded in their respective offices at the expense of said corporation, and the copies so filed, the record thereof, or a certified copy of either of such records, shall be prima facie evidence of the facts therein recited.

History: 1901, Act 82, Imd. Eff. Apr. 23, 1901;—CL 1915, 11300;—CL 1929, 11896;—CL 1948, 486.401.

486.402 Renewed corporation; rights and duties.

Sec. 2. The renewed term of such corporation shall begin from the expiration of the former term thereof, and the corporation thus renewed shall hold and own all the property held and owned by the corporation before renewal, and shall be liable to all its debts, liabilities and obligations, and entitled to all its rights, privileges and franchises, as fully as if the former corporate term had not expired; and the directors and officers, who were such in fact at the time of the meeting, shall hold and continue in their offices until their successors shall be elected and shall qualify: Provided, nevertheless, That if the call for the meeting to extend the corporate term shall embrace a notice that a number of the directors will be elected at such meeting, such election may be then held accordingly, and the directors then elected shall, when they shall qualify, become and be the directors of such renewed corporation: Provided further, That nothing herein contained shall be construed as extending any franchise granted by any municipality for a period of years longer than the original grant.

History: 1901, Act 82, Imd. Eff. Apr. 23, 1901;—CL 1915, 11301;—CL 1929, 11897;—CL 1948, 486.402.

TOWNSHIP WATER SYSTEM ACT OF 1956
Act 6 of 1956 (Ex. Sess.)

AN ACT authorizing the formation of corporations for the purpose of supplying to, distributing and selling water to a township or townships and giving to such corporations rights to take water from the Great Lakes, Lake St. Clair, and the bays thereof; authorizing a township or townships to contract with such corporations for the purchase of water by said township or townships and authorizing any township to purchase waterworks, systems, installations and real and personal property of such corporations; authorizing such township or townships to pass ordinances with respect thereto; and to prescribe penalties and provide remedies.

History: 1956, Ex. Sess., Act 6, Imd. Eff. July 31, 1956;—Am. 1998, Act 185, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

486.501 Corporations to supply water to townships; incorporators.

Sec. 1. Whenever the township board of a township or the township boards of 2 or more townships shall, by resolution, declare that it is expedient to have constructed a works, plant or system for the supplying of water to such township or townships or the inhabitants thereof, but that it is inexpedient for such township or townships to build such works, plant and system, or either of the same, or some part or parts thereof, it shall be lawful for one or more persons to form a corporation to construct such waterworks, plant and system or some part or parts thereof under the provisions of this act, and any corporation so formed may incorporate under the provisions of, be subject to all of the provisions of, and carry on its business pursuant to the provisions of, the general corporation laws of this state pertaining to corporations for pecuniary profit.

History: 1956, Ex. Sess., Act 6, Imd. Eff. July 31, 1956.

486.502 Contracts; corporate powers; written consent for use of street, highway or alley to lay pipe or main.

Sec. 2. Any corporation so formed under this act shall have the power to contract with any township or townships for the sale of water to said township or townships; and for that purpose it is authorized and empowered to buy, hold and sell real and personal property and to erect and maintain all necessary and convenient buildings, fixtures, machinery and other appurtenances, and, subject to the provisions of this act, to lay water pipes or mains in, across and through the public streets, highways or alleys in said township or townships: Provided, however, That before laying any pipe or main in, across or through any public street, highway or alley such corporation shall first procure the written consent of the state highway commissioner if such street, highway or alley be under his control and jurisdiction, or of the board of county road commissioners if such street, alley or highway be under the control and jurisdiction of such board, or of the township board of the township if the street, highway or alley be under the control and jurisdiction of such township board.

History: 1956, Ex. Sess., Act 6, Imd. Eff. July 31, 1956.

486.503 Great Lakes waters; construction of works.

Sec. 3. Such corporation may take water from any of the Great Lakes and from Lake St. Clair, or any of the bays thereof and divert and conduct such water to any such township or townships. Such corporation shall have the right to construct and maintain such intakes, cribs and other machinery, and works on or in said waters as may be necessary to divert said water, and may lay and construct any pipes, conduits, aqueducts, wells or reservoirs or other works and machinery necessary for or incident to said purposes.

History: 1956, Ex. Sess., Act 6, Imd. Eff. July 31, 1956.

486.504 Townships contracting for purchase of water; resolution, hearing; ordinances, publication; petitions.

Sec. 4. It shall be lawful for the township board of any township for and on behalf of that township to contract with any such corporation for the purchase of water for public, municipal or other purposes and to provide in said contract for the time and manner of payment and any and all other matters incident thereto. Such contract may further provide for the acquisition of all or some of the physical properties of any such corporation at such time or times, upon such terms and in such manner as to the township board shall seem just and proper. The township board of any township, before entering into any such contract as hereinbefore provided, shall pass a resolution declaring its intent to proceed under the provisions of this act and to enter into 1 or more contracts as in this act contemplated. Such resolution shall set forth substantially the terms and

provisions of such contract and shall provide for a public hearing upon all matters pertaining thereto. Such contract shall be effective for a period of not to exceed 50 years. Such public hearing shall be held within 20 days after the passage of such resolution. Notice of the time and place of such public hearing shall be given at least 10 days prior thereto by publication of such notice in a newspaper of general circulation in such township and by posting such notice in 3 public places within such township. After such public hearing the township board by the affirmative vote of a 2/3 majority of its members-elect may pass an ordinance adopting the provisions of this act and may by such ordinance authorize 2 or more of its members on behalf of the township to enter into such contract with such corporation. Any ordinance adopted hereunder, together with a notice or certificate of its adoption, shall be published in a newspaper having general circulation within such township within 15 days following its passage and such ordinance shall become effective within 30 days next following the date of its publication: Provided, however, That if within 30 days from the publication of such ordinance, a petition signed by not less than 10% of the registered electors residing within the limits of such township shall have been filed with the township clerk requesting a referendum upon the effectiveness of such ordinance, then such ordinance shall not become effective until approved by vote of a majority of the electors of such township qualified to vote and voting thereon, at a general or special election. Signatures on any such petition shall be verified by some person or persons under oaths as the actual signatures of persons whose names are signed thereto, and the township clerk shall have the same power to reject signatures and petitions as city clerks possess by law. The number of registered electors in such township shall be determined by the township registration books.

History: 1956, Ex. Sess., Act 6, Imd. Eff. July 31, 1956.

486.504a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 4a. A petition under section 4, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 185, Eff. Mar. 23, 1999.

486.505 Townships contracting for purchase of water; ordinance effective; contract execution.

Sec. 5. As soon as any such ordinance becomes effective the township board may authorize the execution of any such contract as is herein contemplated on behalf of the township by any 2 or more of its officers, and when such contract has been properly executed by such corporation the same shall constitute a binding agreement and obligation on the part of the township and upon the part of the said corporation.

History: 1956, Ex. Sess., Act 6, Imd. Eff. July 31, 1956.

486.506 Townships contracting for purchase of water; renewal, extension or amendment of contract.

Sec. 6. After any such contract has once been entered into, the same may be renewed, extended or amended, but any renewal, extension or amendment must be done and made in full compliance with all of the provisions of this act the same as though a new contract was being entered into in the beginning.

History: 1956, Ex. Sess., Act 6, Imd. Eff. July 31, 1956.

486.507 Purchase of waterworks; procedure.

Sec. 7. At any time after the construction of a waterworks by a corporation in furtherance of its contract between the corporation and a township for the sale of water by the corporation to the township, any township so contracting with the corporation may, upon an affirmative vote of a majority of the electors of such township qualified to vote and voting thereon, at a general or special election, enter into a contract with the corporation for the purchase of all the waterworks, real and personal property and machinery of the corporation at such price and upon such terms as may be agreed upon. The purchase of the waterworks, goods and chattels and real and personal property of the corporation by any township shall be in accordance with the provisions of Act No. 116 of the Public Acts of 1923, as amended, being sections 41.411 to 41.414, inclusive, of the Compiled Laws of 1948, or any other act or acts which may be applicable and appropriate thereto.

History: 1956, Ex. Sess., Act 6, Imd. Eff. July 31, 1956.

486.508 Township water system act of 1956; short title.

Sec. 8. This act shall be known and may be cited as the "township water system act of 1956".

History: 1956, Ex. Sess., Act 6, Imd. Eff. July 31, 1956.

WATER COMPANIES
Act 19 of 1967

486.551-486.571 Repealed. 1995, Act 246, Imd. Eff. Dec. 27, 1995.