

### **Part 3**

## **Water, Lighting, and Sewers**

#### **10-7-4 Water supply -- Acquisition -- Condemnation -- Protest -- Special election -- Determination of just compensation.**

- (1) The board of commissioners, city council or board of trustees of any city or town may acquire, purchase or lease all or any part of any water, waterworks system, water supply or property connected therewith, and whenever the governing body of a city or town shall deem it necessary for the public good such city or town may bring condemnation proceedings to acquire the same; provided, that if within 30 days after the passage and publication of a resolution or ordinance for the purchase or lease or condemnation herein provided for one-third of the resident taxpayers of the city or town, as shown by the assessment roll, shall protest against the purchase, lease or condemnation proceedings contemplated, such proposed purchase, lease or condemnation shall be referred to a special election, and if confirmed by a majority vote thereat, shall take effect; otherwise it shall be void.
- (2) In all condemnation proceedings the value of land affected by the taking shall be considered in connection with the water or water rights taken for the purpose of supplying the city or town or the inhabitants thereof with water.
- (3) In determining just compensation in a condemnation proceeding under this section in a municipality located in a county of the first class where a determination of market value of what is proposed to be taken is impractical because there is no meaningful market for what is proposed to be taken, the value shall be:
  - (a) presumed to be the amount the owner paid to acquire ownership of what is proposed to be taken, as adjusted by a change in value due to post-acquisition deterioration and any other factor reasonably and equitably bearing on the value of what is proposed to be taken; and
  - (b) determined by applying equitable considerations including:
    - (i) whether the owner will be unjustly enriched;
    - (ii) whether the owner acquired the property by exaction or similar method; and
    - (iii) the extent to which the consideration the owner provided in acquiring the property consists of an obligation to maintain the property and whether that obligation will be assumed by the municipality because of the condemnation.
- (4) This section may not be construed to provide the basis for a municipality's condemnation of a political subdivision of the state or of the political subdivision's property or holdings.

Amended by Chapter 378, 2010 General Session

#### **10-7-5 Limitations on lease or purchase.**

It is not lawful for any city or town to lease or purchase any part of such waterworks less than the whole, or to lease the same, unless the contract therefor shall provide that the city or town shall have control thereof and that the net revenues therefrom shall be divided proportionately to the interests of the parties thereto; said contract shall also provide a list of water rates to be enforced during the term of such contract.

Amended by Chapter 378, 2010 General Session

#### **10-7-6 Contracts for lighting public buildings, streets, and alleys.**

The board of commissioners, city council, or the board of trustees may enter into a contract on behalf of the city or town for the lighting of its public buildings, streets, alleys, and other public places for a period of time that the board of commissioners, city council, or board of trustees may consider advisable.

Amended by Chapter 105, 2012 General Session

**10-7-7 Bond issues for water, light, and sewers.**

- (1) A city of the first or second class may incur an indebtedness, not exceeding in the aggregate with all other indebtedness 8% of the value of the taxable property in the city, for the purpose of supplying the city with water, artificial light, or sewers, when the works for supplying the water, light, and sewers are owned and controlled by the city.
- (2) A city of the third, fourth, or fifth class or a town may become indebted to an amount not exceeding in the aggregate with all other indebtedness 12% of the value of the taxable property in the city or town for the purpose of supplying the city or town with water, artificial light, or sewers, when the works for supplying the water, light, and sewers are owned and controlled by the city or town.

Amended by Chapter 292, 2003 General Session

**10-7-8 Resolution on bond issue -- Election as provided by Local Government Bonding Act.**

When the board of commissioners, city council or the town board of trustees of any city or town shall have decided that incurring such bonded indebtedness is advisable, it shall by resolution specify the purpose for which the indebtedness is to be created and the amount of bonds which it is proposed to issue, and shall provide for submitting the question of the issue of such bonds to the qualified electors of the city or town at the next general election, or at a special election to be called for that purpose by the board of commissioners, city council or board of trustees in such manner and subject to such conditions as is provided in Title 11, Chapter 14, Local Government Bonding Act. This section does not require an election for the issuance of refunding bonds or other bonds not required by the Constitution to be voted at an election.

Amended by Chapter 105, 2005 General Session

**10-7-9 Sale of bonds -- Amount -- Tax levy to pay interest -- Utility rates -- Sinking fund -- Serial or term bonds.**

The board of commissioners, city council or board of trustees as the case may be shall provide by ordinance for the issuance and disposal of such bonds; provided, that no such bonds shall be sold for less than their face value. The board of commissioners, city council or board of trustees shall annually levy on all taxable property within the boundaries of the issuer a sufficient tax to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within the time for which such bonds are issued which levy shall be made without regard to any statutory limitation on the taxing power of such issuer which may now exist or, unless an express contrary provision appears in the statute, which may hereafter be enacted by the legislature; provided, that whenever bonds shall have been issued for the purpose of supplying any city or town with artificial light, water or other public utility the rates or charges for the service of the system or plant so constructed may be made sufficient to meet such payments, in addition to operating and maintenance expenses, and taxes shall be levied to meet any deficiencies. Water or sewer bonds may be issued for a period not exceeding 40 years; other

bonds may be issued for a period not exceeding 20 years. Such bonds may be either serial or term bonds.

Amended by Chapter 2, 1953 Special Session 1

Amended by Chapter 2, 1953 Special Session 1

**10-7-10.5 Authority to require written application for water or sewer service and to terminate service for failure to pay -- Limitations.**

(1) A municipality that owns or controls a system for furnishing water or for providing sewer service may:

- (a) before furnishing water or providing sewer service to a property, require the property owner or an authorized agent to submit a written application, signed by the owner or an authorized agent, agreeing to pay for all water furnished or sewer service provided to the property, respectively, whether occupied by the owner or by a tenant or other occupant, according to the ordinances, rules, and regulations adopted by the municipality; and
- (b) if an owner fails to pay for water furnished or sewer service provided to the owner's property, discontinue furnishing water or providing sewer service to the property, respectively, until all amounts for water furnished or sewer service provided, respectively, are paid, subject to Subsection (2).

(2)

- (a) A municipality may not use an owner's failure to pay for water furnished or sewer service provided to the owner's property as a basis for not furnishing water or providing sewer service to the property after ownership of the property is transferred to a subsequent owner.
- (b) A municipality may not require an owner to pay for water that was furnished or sewer service that was provided to the property before the owner's ownership.

Amended by Chapter 316, 2004 General Session

**10-7-12 Scarcity of water -- Limitation on use.**

In the event of scarcity of water the mayor of any city or the president of the board of trustees of any town may, by proclamation, limit the use of water for any purpose other than domestic purposes to such extent as may be required for the public good in the judgment of the board of commissioners or city council of any city or the board of trustees of any town.

No Change Since 1953

**10-7-13 Right of entry on premises of water user.**

All authorized persons connected with the waterworks of any city or town shall have the right to enter upon any premises furnished with water by such city or town to examine the apparatus, the amount of water used and the manner of use, and to make all necessary shutoffs for vacancy, delinquency or violation of the ordinances, rules or regulations enacted or adopted by such city or town.

No Change Since 1953

**10-7-14 Rules and regulations for use of water.**

Every city and town may enact ordinances, rules and regulations for the management and conduct of the waterworks system owned or controlled by it.

No Change Since 1953

**10-7-14.1 Declaration of public policy.**

Whereas, the purification of drinking water and the treatment of raw sewage are important to public health and welfare and create an unusual need for money with which to create proper facilities for the protection of the people of the state of Utah, it is hereby declared to be the public policy of this state to grant the privilege to municipalities to raise funds to improve the aforementioned health standards, to encourage the municipalities to provide that no waste shall be discharged into any waters of the state of Utah without first being given proper treatment, to provide for the treatment of water to be used for drinking purposes to protect the health of the citizens and to give municipalities the discretion to determine the priority of development of the facilities directed toward the elimination of health hazards and pollution of public waters. The construction of the facilities herein mentioned shall be given an early priority in those areas where the present welfare of the people is endangered by the lack of such facilities.

Amended by Chapter 3, 1953 Special Session 1

Amended by Chapter 3, 1953 Special Session 1

**10-7-14.2 Special tax -- Grant of power to levy.**

There is granted to the municipalities of the state not in an improvement district created for the purpose of establishing and maintaining a sewage collection, treatment, or disposal system or a system for the supply, treatment, or distribution of water pursuant to the provisions of Title 17B, Chapter 2a, Part 4, Improvement District Act, in addition to all other rights of assessment, the right to levy a tax annually not to exceed .0008 per dollar of taxable value of taxable property in the municipality. The money raised by the levy shall be placed in a special fund and used only for the purpose of financing the construction of facilities to purify the drinking water of the municipality and the construction of facilities for the treatment and disposal of the sewage of the municipality, or to pay principal and interest on bonds issued for the construction of facilities if construction has actually commenced subsequent to the enactment of this statute. The municipality may accumulate from year to year and reserve in the special fund the money raised for this purpose. The levy shall be made and collected in the same manner as other property taxes are levied and collected by municipalities.

Amended by Chapter 329, 2007 General Session

**10-7-14.3 Time limit for cities of first class.**

In cities of the first class the authority to levy an additional .0008 per dollar of taxable value of taxable property above the overall limitation provided by Section 10-6-133 shall be limited to a period of 10 years from the date of the first levy.

Amended by Chapter 22, 1989 General Session