

ARTICLE 65. - LIGHT, GAS AND WATER DIVISION^[40]

Footnotes:

--- (40) ---

Cross reference— City-County water control board not to regulate or prohibit drilling of wells by light, gas and water division, § 413.4; authority to erect and equip building for use of light, gas and water division, § 493.

Sec. 665.1. - Sale of MLG & W.

Any proposed sale of MLG & W or any of its electric, gas and/or water divisions shall not be final until first approved by a majority of duly qualified voters in the City of Memphis.

(2008 Referendum No. 3, 8-21-2008, election of 11-4-2008)

Sec. 666. - Control and management of municipal electric, gas and water utilities.

Any municipal utility system or systems heretofore or hereafter acquired by the City of Memphis for the manufacture, production, distribution or sale of electricity, natural or artificial gas, or water, and the properties, agencies and facilities used for any such purpose or purposes, shall be under the jurisdiction, control and management of [the] Memphis light, gas and water division, to be constituted and conducted as hereinafter set forth.

(Priv. Acts 1939, ch. 381, § 1)

Sec. 667. - Composition of division and board of Light, Gas and Water Commissioners; bond and oath of commissioners.

The Memphis light, gas and water division shall consist of a board of Light, Gas and Water Commissioners composed of five members, and such subordinate officers and employees as may be selected by said board of light, gas and water commissioner as hereinafter provided.

Each member of said board shall give bond in the sum of ten thousand dollars (\$10,000.00), with good securities, conditioned to faithfully perform the duties of his office, and shall take and subscribe an oath to uphold the Constitution of the United States and of the State of Tennessee, and faithfully to discharge the duties of his office. Said bonds shall be acceptable to and approved by the Board of Commissioners of the City of Memphis, and said oath and bond shall be filed with the Comptroller of the City of Memphis.

(Priv. Acts 1939, ch. 381, § 2; Priv. Acts 1945, ch. 422, § 1; Priv. Acts 1951, ch. 388, § 1)

Cross reference— Bonds of officers and employees, § 178.

Sec. 668. - Appointment and terms of commissioners.

(a) The first board of Light, Gas and Water Commissioners shall be the members of the present board of light and water commissioners, as now constituted, who shall serve until the expiration of their present respective terms of office, and until their respective successors are duly elected and

qualified, and upon the expiration of their respective terms of office their successors shall be elected by the Board of Commissioners of the City of Memphis and shall serve for a term of three years, unless sooner removed; and in the event of a vacancy occurring by death, resignation or removal of any of said Light, Gas and Water Commissioners, their successors shall be elected only to fill the unexpired term of such commissioner.

(Priv. Acts 1939, ch. 381, § 10; Priv. Acts 1941, ch. 327, § 1; Priv. Acts 1951, ch. 388, § 2)

- (b) The board of five members provided in section 1 above [section 667] shall be the present members of the board of Light, Gas and Water Commissioners as now constituted, and two additional members to be elected by the Board of Commissioners of the City of Memphis, all of whom shall serve until the expiration of the terms of the present board of Light, Gas and Water Commissioners, June 1, 1951, and until their successors are elected and qualified; and thereafter the Board of Commissioners of the City of Memphis shall elect two members of said board to serve for a term of three years, two members to serve for a term of two years and one member, who shall serve for a term of one year, and upon the expiration of their respective terms of office, the successors of the board hereby created shall be elected for a term of three years by the Board of Commissioners of the City of Memphis.

(Priv. Acts 1951, ch. 388, § 3)

Sec. 669. - Designation and terms of president and vice-president.

Immediately upon the qualification of the board of Light, Gas and Water Commissioners, the Board of Commissioners of the City of Memphis shall designate one of the members of said board of Light, Gas and Water Commissioners as president, and the board of Light, Gas and Water Commissioners shall select one of its members as vice-president; and the president and vice-president shall hold office as such during the terms for which they are elected as members of the board of Light, Gas and Water Commissioners.

(Priv. Acts 1939, ch. 381, § 11)

Sec. 670. - Meetings of commissioners; quorum.

The board of Light, Gas and Water Commissioners shall hold regular meetings at least once each week, at a definite time to be fixed by resolution of the board of Light, Gas and Water Commissioners, and such special meetings as may be necessary for the transaction of the business of the light, gas and water division. A majority of the board shall constitute a quorum for the transaction of business at any regular or special meeting. Notice of any special meeting may be waived, either before or after the holding thereof; and personal attendance at any special meeting shall constitute a waiver of notice by the members present; and absence of any member from the City of Memphis shall dispense with the necessity of giving such member any notice of any special meeting.

(Priv. Acts 1939, ch. 381, § 11)

Sec. 671. - Salary of president; vice-president and other commissioners.

The salary of the president of said board of Light, Gas and Water Commissioners shall be fixed by the Board of Commissioners of the City of Memphis, to be payable in monthly installments. The salary of the vice-president and other members of said board of Light, Gas and Water Commissioners shall be fixed by the Board of Commissioners of the City of Memphis, payable in monthly installments.

(Priv. Acts 1939, ch. 381, § 11)

Sec. 672. - President to devote entire time to office; general powers and duties of president.

The president of said board of Light, Gas and Water Commissioners shall give his entire time and attention to the duties of his office and shall not actively engage in any business or profession not directly connected therewith; and, subject to the regulations of the board of Light, Gas and Water Commissioners, shall have general supervision over the operation of said light, gas and water division and of all officers and employees of said light, gas and water division. The president shall keep the board of Light, Gas and Water Commissioners advised as to the general operating and financial condition of said light, gas and water division and he shall furnish a monthly report to the Board of Commissioners of the City of Memphis with regard to the operation, maintenance and financial condition of the light, gas and water division, and from time to time shall furnish such other information to the Board of Commissioners of the City of Memphis as they may request.

(Priv. Acts 1939, ch. 381, § 11)

Sec. 673. - Duties of vice-president; right of vice-president to serve as chief engineer.

In the event of the death, resignation, removal, disability or absence of the president, the vice-president shall perform all of the duties of president, and may perform such other duties as may be prescribed by the board of Light, Gas and Water Commissioners. If the board of Light, Gas and Water Commissioners shall by resolution so provide, the vice-president may, subject to the approval of the Board of Commissioners of the City of Memphis, serve as chief engineer, in which event the vice-president and chief engineer shall receive such salary as shall be fixed by the Board of Commissioners of the City of Memphis, payable in monthly installments; provided, the vice-president first selected under the provisions of this Act shall also serve as chief engineer and his term as vice-president and chief engineer shall expire on June 1, 1943, unless a vacancy in said office shall occur before the expiration of said term.

(Priv. Acts 1939, ch. 381, § 11)

Sec. 674. - Selection, duties, etc., of chief engineer, secretary and attorneys.

The board of Light, Gas and Water Commissioners shall, as soon as practicable after their qualification and organization, certify the nomination of the following subordinate officers to the Board of Commissioners of the City of Memphis for approval, and said subordinate officers, after having been approved by the Board of Commissioners, shall serve at the will and pleasure of the board of Light, Gas and Water Commissioners, the salaries of said subordinate officers to be fixed by the board of Light, Gas and Water Commissioners subject to approval by the Board of Commissioners of the City of Memphis, or the duly authorized agent or representative of said Board of Commissioners of the City of Memphis, to-wit:

- (a) *Chief engineer.* The chief engineer, who shall devote his entire time and attention to the duties of the office and shall not engage in any business or profession not directly connected therewith, and shall be subject to the supervision and direction of the board of Light, Gas and Water Commissioners. The chief engineer shall be a competent and qualified engineer and shall perform such duties and render such services as may be required of him by the board of Light, Gas and Water Commissioners; provided, the chief engineer may also be the vice-president of the board of Light, Gas and Water Commissioners, as hereinabove provided in section 11 [section 673].
- (b) *Secretary.* A secretary, who shall have charge and custody of all books, papers, documents and accounts of the light, gas and water division, and under whose supervision all necessary

accounting records shall be kept, and all checks and vouchers prepared. The board of Light, Gas and Water Commissioners shall by resolution designate the persons who shall sign checks, and all checks shall be signed and countersigned in such manner as the board of Light, Gas and Water Commissioners may provide by resolution. Said secretary shall be required to attend in person or by one of his clerks, all of the meetings of the Light, Gas and Water Commissioners, and keep a correct record of all the proceedings of that body, and perform such other duties as may be imposed upon him by the board of Light, Gas and Water Commissioners. He shall have such clerical assistance in his work as the said board of Light, Gas and Water Commissioners shall deem necessary for the work to be properly performed. He shall make and file a bond in such sum as may be fixed by the board of Light, Gas and Water Commissioners and shall take the same oath required of members of the board of Light, Gas and Water Commissioners.

- (c) *Attorneys.* One or more attorneys, who shall be practicing attorneys at law, and who shall make and file bonds in such sum as may be fixed by the board of Light, Gas and Water Commissioners and take the same oaths required of members of the board of Light, Gas and Water Commissioners, and who shall act as general counsel for the light, gas and water division and advise the board of Light, Gas and Water Commissioners and other officers of the light, gas and water division in all matters of law which may arise, and who shall prosecute and defend, as the case may be, all suits brought by or against the said light, gas and water division and all suits to which the said board of light, gas and water commissioner shall be parties.

(Priv. Acts 1939, ch. 381, § 12; Priv. Acts 1947, ch. 723, § 1)

Sec. 675. - Employment, salaries, etc., of other subordinate officers and employees.

The board of Light, Gas and Water Commissioners shall be authorized to employ such other engineers, superintendents, assistants, consultants and other subordinate officers and employees as may be necessary for the efficient operation of said light, gas and water division, who shall hold office at the will and pleasure of the board of Light, Gas and Water Commissioners and shall receive such salaries as may be fixed by the board of Light, Gas and Water Commissioners; provided that no salary shall be fixed in excess of the sum of four thousand dollars (\$4,000.00) per annum without the consent and approval of the Board of Commissioners of the City of Memphis; and provided further that the board of Light, Gas and Water Commissioners shall certify to the Board of Commissioners of the City of Memphis for approval the nomination of all subordinate officers and employees whose salaries shall be fixed in excess of four thousand dollars (\$4,000.00) per annum, but the consent and approval of the Board of Commissioners to any salary or nomination shall not be necessary where the salary of any subordinate officer or employee shall be less than four thousand dollars (\$4,000.00) per year.

Provided, further, that no salaries, fees or other compensation in excess of four thousand dollars (\$4,000.00) shall be paid by the board of Light, Gas and Water Commissioners, to engineers, auditors, attorneys, consultants, or any others employed to render extraordinary services to the light, gas and water division, unless such salaries, fees or compensation are approved by the Board of Commissioners of the City of Memphis or the duly authorized agent or representative of said Board of Commissioners of the City of Memphis.

(Priv. Acts 1939, ch. 381, § 13; Priv. Acts 1947, ch. 723, § 2)

Sec. 676. - Bonds of officers, agents and employees.

The Memphis light, gas and water division, if the board of light, gas and water division commissioners so elect, may insure the fidelity of any or all of its officers, agents, attorneys or employees, or may require them, or any of them, to execute bond; and the premium on any bond required by this Act, or on any of the aforesaid bonds that may be required by the board of Light, Gas and Water Commissioners, or the premium on any fidelity insurance, shall be paid out of the funds of Memphis light,

gas and water division and be charged to operating expenses, unless the board of Light, Gas and Water Commissioners shall otherwise expressly provide by resolution.

(Priv. Acts 1939, ch. 381, § 24)

Cross reference— .Bonds of officers and employees generally, § 178.

Sec. 677. - Authority to construct, operate, etc., electric system; purchase of electricity.

The said board of Light, Gas and Water Commissioners shall have the power and authority to construct, purchase, improve, operate and maintain, within the corporate limits of the City of Memphis or elsewhere within the limits of Shelby County, an electric plant or system, including without limitation, power plants, transmission lines, substations, feeders, primary and secondary distribution lines, including turbines, engines, pumps, boilers, generators, converters, switchboards, transformers, poles, conduits, wires, cables, lamps, fixtures, accessory apparatus, buildings and lands, right-of-way and easements, and all other appurtenances usual to such plants for the purpose of furnishing electric power and energy for lighting, heating, power or any other purpose for which electric power or energy can be used; provided no such electric plant or system shall be operated within the limits of any incorporated municipality, outside the corporate limits of the City of Memphis, without the consent of the governing body of such incorporated municipality.

Said board of Light, Gas and Water Commissioners shall have the power and authority to purchase electric current from the Tennessee Valley Authority or from any other person, firm or corporation as in the judgment of said board of Light, Gas and Water Commissioners shall be proper or expedient, and to make any and all contracts necessary and incident to carry out this purpose and to change, alter, renew or discontinue any contracts entered into by them at any time, provided, that the said board of Light, Gas and Water Commissioners shall not enter into any contract for the purchase of electricity for a period longer than five years, unless said contract shall have first been approved by the Board of Commissioners of said City of Memphis.

(Priv. Acts 1939, ch. 381, § 3)

Sec. 678. - Authority to construct, operate, etc., gas system; purchase of gas.

The said board of Light, Gas and Water Commissioners shall have the power and authority to construct, purchase, improve, operate and maintain, within the corporate limits of the City of Memphis or elsewhere within the limits of Shelby County, a gas plant or system, including without limitation, all accessory apparatus, buildings and lands, rights-of-way and easements, and shall have the power and authority to construct, purchase, improve, operate, maintain, abandon, sell, convey or remove within the corporate limits of the City of Memphis or elsewhere, all other appurtenances to or accessories for such plants, it being the intention of this Act that the distribution or selling of such natural or artificial gas shall be limited to the City of Memphis or elsewhere in Shelby County.

The board of Light, Gas and Water Commissioners shall have power and authority to purchase natural gas from the Memphis Natural Gas Company, or from any other person, firm, or corporation as in the judgment of said board of Light, Gas and Water Commissioners shall be proper or expedient, and to make any and all contracts necessary and incident to carry out this purpose and to change, alter, renew or discontinue any contracts entered into by them at any time, provided, that the said board of Light, Gas and Water Commissioners shall not enter into any contract for the purchase of natural gas for a period longer than five years, unless said contract shall have first been approved by the Board of Commissioners of said City of Memphis.

(Priv. Acts 1939, ch. 381, § 4; Priv. Acts 1963, ch. 151, § 1)

Sec. 679. - Authority to construct, operate, etc., water system.

The said board of Light, Gas and Water Commissioners shall have the power and authority to construct, purchase, improve, operate and maintain, within the corporate limits of the City of Memphis or elsewhere within the limits of Shelby County, a water plant or system, including, without limitation, wells, pumping plants, reservoirs, pipes, and all accessory apparatus, buildings and lands, rights-of-way and easements, and all other appurtenances usual to such plants or systems, for the purpose of producing, distributing, supplying or selling water to the City of Memphis, or to any person, firm, public or private corporation, or to any other user or consumer, in the City of Memphis or elsewhere in Shelby County.

(Priv. Acts 1939, ch. 381, § 5)

Sec. 680. - Service rates.

Said board of Light, Gas and Water Commissioners shall have authority to make a schedule of rates for the several services and for different classes of consumers; and shall make such rates for the service rendered as will enable them at all times to pay operating expenses, interest, sinking funds, reserves for working capital, renewals and replacements, casualties and other fixed charges; but the rates charged users or consumers outside of the City of Memphis shall not necessarily be as low as the rates within the City. The said Light, Gas and Water Commissioners shall have the right to change the schedule of rates for both light, gas and/or water in the City and outside the City, from time to time, as in their judgment may be necessary or proper; provided, that before any change shall be made in rates, the board of Light, Gas and Water Commissioners shall be required to present an application to the Board of Commissioners of the City of Memphis, setting forth the reason for said proposed changes in rates, and said changes in rates shall not become effective until they shall have been approved by said Board of Commissioners, and provided further, that the board of Light, Gas and Water Commissioners and the Board of Commissioners of the City of Memphis, shall prescribe rates that will be sufficient to pay all bonds or other indebtedness and interest thereon, including reserves therefor, and to provide for all expenses of operation and maintenance of said plants or systems, including reserves therefor.

(Priv. Acts 1939, ch. 381, § 7)

Sec. 681. - Authority of commissioners as to contracts generally.

The Light, Gas and Water Commissioners shall have the right to make any and all contracts necessary or convenient for the full exercise of the powers herein granted, including, but not limited to, (a) contracts with any person, federal agency, municipality, or public or private corporation, for the purchase or sale of electric energy, gas, or water, and (b) contracts with any person, federal agency, municipality, or public or private corporation for the acquisition of all or any part of any electric, gas, or water plants or systems; (c) contracts for loans, grants or other financial assistance from any federal agency; and, notwithstanding any provision of this or any other Act, in contracting with any federal agency the Light, Gas and Water Commissioners shall have power to stipulate and agree to such covenants, terms and conditions as the board may deem appropriate, including, but without limitation, covenants, terms and conditions with respect to the resale rates, financial and accounting methods, services, operation and maintenance practices, and the manner of disposing of the revenues of the system or systems conducted and operated by the commission. Except as may be otherwise expressly provided herein, all contracts made by the light, gas and water division shall be entered into and executed in such manner as may be prescribed by the board of Light, Gas and Water Commissioners, but no contract for equipment, apparatus, materials, or supplies involving more than \$1,000.00* shall be made except after said contract has been advertised in the manner now or hereafter provided by law for the advertisement of contracts made by the Board of Commissioners of the City of Memphis in the making of City contracts.

The Light, Gas and Water Commissioners shall have no authority to make any contracts entailing an obligation of or involving an expenditure in excess of five thousand dollars, without the consent and

approval of the Board of Commissioners of the City of Memphis or the duly authorized agent or representative of said Board of Commissioners of the City of Memphis.

Provided, however, the Light, Gas and Water Commissioners shall have authority to submit bids to and make purchases from the United States Government, or any of its agencies, departments or divisions, of materials, supplies and equipment needed by the division without the necessity of advertising for or receiving bids for such purchases.

(Priv. Acts 1939, ch. 381, § 15; Priv. Acts 1945, ch. 18, § 2; Priv. Acts 1947, ch. 723, § 3)

***Editor's note**— Advertisement of City contracts is now required only if the contract exceeds \$2,000.00. See § 227.

Sec. 682. - Use of rights-of-way, easements, etc., held by State, County or other municipality.

The Memphis light, gas and water division may use any right-of-way, easement or other similar property right necessary or convenient in connection with the acquisition, improvement, operation or maintenance of its electric system, gas system or water system, held by the State of Tennessee, Shelby County, or any other municipalities, provided that the State of Tennessee, Shelby County, or any other municipality shall consent to such use.

(Priv. Acts 1939, ch. 381, § 25)

Sec. 683. - Rules and regulations of commissioners.

Said board of Light, Gas and Water Commissioners shall have the power and authority to promulgate and enforce such rules and regulations governing the distribution of light, power, gas and water, as they may deem proper in the operation of said light, gas and water division.

(Priv. Acts 1939, ch. 381, § 8)

Sec. 684. - Right of condemnation.

[The] Memphis light, gas and water division is hereby authorized and empowered to condemn any land, easements, or rights-of-way, either on, under or above the ground, for any and all purposes in connection with the construction, operation, improvement or maintenance of said electric system, gas system, or water system. Title to such property so condemned shall be taken in the name of the City of Memphis. Such condemnation proceedings shall be pursuant to and in accordance with sections 3109—3134, inclusive, of the 1932 Code of Tennessee;* provided, however, that where title to any property sought to be condemned is defective, it shall be divested out of all persons, firms or corporations who have, or may have, any right, title or interest thereto, and be vested by decree of court; provided, further, that the court in which any such proceedings are filed shall, upon application by [the] Memphis light, gas and water division, and upon the posting of a bond with the clerk of the court in such amount as the court may deem commensurate with the value of the property, order that the right of possession shall issue immediately or as soon and upon such terms as the court, in its discretion, may deem proper and just.

Whenever the board of Light, Gas and Water Commissioners shall deem it necessary and proper, the right of condemnation herein granted shall extend to and include the right to condemn any property devoted to another public use, whether such property was acquired by condemnation or purchase; provided, that no property devoted to another public use shall be condemned without the consent and approval of the Board of Commissioners of the City of Memphis.

(Priv. Acts 1939, ch. 381, § 9)

***Editor's note**— See now T.C.A. § 23-1401 et seq.

Cross reference— Condemnation generally, § 457 et seq.

Sec. 685. - Removal of commissioners.

The Light, Gas and Water Commissioners may be removed at the will and pleasure of the Board of Commissioners of the City of Memphis without the necessity of a hearing or notice, and their action in removing a commissioner shall be final.

(Priv. Acts 1939, ch. 381, § 14; Priv. Acts 1941, ch. 327, § 2)

Sec. 686. - Restriction as to issuance of bonds or notes, incurring indebtedness, etc.

Said board of Light, Gas and Water Commissioners shall have no authority to issue any bonds or notes, or any obligations constituting a lien upon the properties used in the production and distribution of electricity, gas and water in the City of Memphis and Shelby County, except by and with the consent of the Board of Commissioners of the City of Memphis.

The Board of Commissioners of the City of Memphis may, whenever requested by the board of Light, Gas and Water Commissioners, incur indebtedness and issue and sell bonds or notes on behalf of the light, gas and water division to such extent and in such manner as may now or hereafter be authorized by any applicable private or public act or general law of the State of Tennessee.

(Priv. Acts 1939, ch. 381, § 16)

Sec. 687. - Separate books and accounts to be kept on electric, gas and water operations.

The board of Light, Gas and Water Commissioners shall require that separate books and accounts be kept on the electric, gas and water operations, so that said books and accounts will reflect the financial condition of each division separately, to the end that each division shall be self sustaining, and may require that the moneys and securities of each division be placed in separate accounts.

(Priv. Acts 1939, ch. 381, § 17)

Sec. 688. - Divisions to be operated independent of each other; exception.

Each of said divisions (electric, gas and water) shall be operated independent of each other, except insofar as the board of Light, Gas and Water Commissioners may be of the opinion that joint operation shall be advisable, and economical, in which event the expense incurred in such joint operation, including the salaries of said commissioners, shall be prorated between the several divisions in such manner as the Light, Gas and Water Commissioners shall find to be equitable.

(Priv. Acts 1939, ch. 381, § 17)

Sec. 689. - Moneys and funds of one division may be loaned to another; restriction.

Notwithstanding any other provisions of this Act, the moneys and funds of any division (electric, gas and water) from time to time may be loaned to another division in such amounts and upon such terms as the board of Light, Gas and Water Commissioners may authorize and approve; provided, that no such loan shall be made by any division in excess of the principal sum of \$100,000.00, nor which will increase the aggregate principal amount of any loan or loans then owing to the lending division by the borrowing

division to more than \$100,000.00, unless the Board of Commissioners of the City of Memphis shall first approve the same by resolution.

(Priv. Acts 1939, ch. 381, § 17)

Sec. 690. - Authority to create revolving fund; loans to property owners for purpose of making service connections.

The Light, Gas and Water Commissioners are authorized and empowered to set aside from any available funds of Memphis light, gas and water division a revolving fund in an amount not to exceed one hundred thousand dollars, and said commissioners are further authorized and empowered, at their discretion, to make loans not to exceed the sum of one hundred dollars per water service, or gas service, or electric service, to any one property owner who is a citizen and resident of the City of Memphis, or Shelby County, to enable said property owner to install water, gas or electric service connections and appliances.

(Priv. Acts 1939, ch. 381, § 18)

Sec. 691. - Disposition of revenue of light division.

The revenue received each year from the operation of the light division, before being used for any other purpose, shall be used for the following purposes, in the order named, to-wit:

- (1) The payment of all operating expenses of the light division for the year.
- (2) For interest accruals and sinking fund accruals on bonds and mortgages issued for the benefit of the light division.
- (3) For cash payments to a working capital reserve, a renewals and replacement reserve, and a casualties reserve, for the benefit of the light division, said cash payments to said reserves to be in such amounts as the Light, Gas and Water Commissioners think proper and by resolution elect to set up from time to time.
- (4) For payment to the general funds of the municipality a sum equal in amount to what would be the City taxes on the properties of the light division within the City limits of the City of Memphis if said properties were privately owned.
- (5) For payment to a reasonable surplus account which may be used by the board of Light, Gas and Water Commissioners for extensions and improvements to the light plant or system and/or for the purchase of outstanding bonds that may have been issued for the benefit of the light division, as the board of Light, Gas and Water Commissioners may deem advisable.
- (6) For payment to the general funds of the municipality a sum not to exceed a cumulative return of six percent (6%) per annum of the equity or investment, if any, of the municipality in the properties of the light division, the said percentage to be fixed by resolution of the Board of Commissioners of the City of Memphis. Should the said percentage as fixed by the Board of Commissioners of the City of Memphis exceed a reasonable figure in the opinion of the board of Light, Gas and Water Commissioners, the amount to be paid by the board of Light, Gas and Water Commissioners to the Board of Commissioners of the City of Memphis shall be determined by a board of arbitration, consisting of one member of the Board of City Commissioners and one member of the board of Light, Gas and Water Commissioners, who shall elect a third member, and the findings of this board of arbitration shall be final and binding on both the Board of City Commissioners and the board of Light, Gas and Water Commissioners.

Provided that in no event shall the aforesaid payment to the municipality for any year exceed one-half of the net profits realized by the light division during that year, unless the board of Light, Gas and Water Commissioners shall, by resolution, consent thereto.

- (7) Any surplus then remaining, over and above safe operating margins, shall be devoted solely to rate reduction.

It is further provided that said allotment of funds may be changed in such manner as may be deemed necessary by the board of Light, Gas and Water Commissioners in contracting with the Tennessee Valley Authority for the purchase of power, or as may be deemed necessary by the Board of Commissioners of the City of Memphis, with the approval of the board of Light, Gas and Water Commissioners, in the issuance and sale of any bonds or notes on behalf of the electric system, or on behalf of the electric system in conjunction with the gas or water systems.

(Priv. Acts 1939, ch. 381, § 19)

Sec. 692. - Disposition of revenue of water division.

The revenue received each year from the operation of the water division, before being used for any other purpose, shall be used for the following purposes, in the order named, to-wit:

- (1) For the payment of all operating expenses of the water division for the year.
- (2) For interest accruals and sinking fund accruals on bonds or mortgages issued for the benefit of the water division.
- (3) For cash payments to a working capital reserve, a renewals and replacements reserve, and a casualties reserve, for the benefit of the water division. Said cash payments to said reserves to be in such amounts as the Light, Gas and Water Commissioners think proper and by resolution elect to set up from time to time.
- (4) For the payment to the general funds of the municipality a sum not to exceed a cumulative return of three percent (3%) per annum of the equity or investment, if any, of the municipality in the properties of the water division, the said percentage to be fixed by resolution of the Board of Commissioners of the City of Memphis. Should the said percentage as fixed by the Board of Commissioners of the City of Memphis exceed a reasonable figure in the opinion of the board of Light, Gas and Water Commissioners, the amount to be paid by the board of Light, Gas and Water Commissioners to the Board of Commissioners of the City of Memphis shall be determined by a board of arbitration, consisting of one member of the Board of City Commissioners and one member of the board of Light, Gas and Water Commissioners, who shall select a third member, and the findings of this board of arbitration shall be final and binding on both the Board of City Commissioners and the board of Light, Gas and Water Commissioners.
- (5) Any surplus thereafter remaining shall be retained by the board of Light, Gas and Water Commissioners and may be used by them for expansion and enlargement of the water division and/or purchase of bonds that may have been issued and outstanding for the benefit of said division.
- (6) Any surplus thereafter remaining over and above safe operating margins, shall be devoted solely to rate reduction.

It is further provided that said allotment of funds may be changed in such manner as may be deemed necessary by the Board of Commissioners of the City of Memphis with the approval of the board of Light, Gas and Water Commissioners in the issuance and sale of any bonds or notes on behalf of the water system, or on behalf of the water system in conjunction with the gas or electric systems.

(Priv. Acts 1939, ch. 381, § 20)

Sec. 693. - Disposition of revenue of gas division.

The revenue received each year from the operation of the gas division, before being used for any other purpose, shall be used for the following purposes, in the order named, to-wit:

- (1) For the payment of all operating expenses of the gas division for the year.
- (2) For interest accruals and sinking fund accruals on bonds or mortgages issued for the benefit of the gas division.
- (3) For cash payments to a working capital reserve, a renewals and replacements reserve, and a casualties reserve, for the benefit of the gas division. Said cash payments to said reserves to be in such amounts as the Light, Gas and Water Commissioners think proper and by resolution elect to set up from time to time.
- (4) For payment to the general funds of the municipality a sum equal in amount to what would be the City taxes on the properties of the gas division within the City limits of the City of Memphis if said properties were privately owned.
- (5) For payment to a reasonable surplus account which may be used by the board of Light, Gas and Water Commissioners for extensions and improvements to the gas plant or system and/or for the purpose of outstanding bonds that may have been issued for the benefit of the gas division, as the board of Light, Gas and Water Commissioners may deem advisable.
- (6) For the payment to the general fund of the municipality a sum not to exceed a cumulative return of six percent (6%) per annum of the equity or investment, if any, of the municipality in the properties of the gas division, the said percentage to be fixed by resolution of the Board of Commissioners of the City of Memphis. Should the said percentage as fixed by the Board of Commissioners of the City of Memphis exceed a reasonable figure in the opinion of the board of Light, Gas and Water Commissioners, the amount to be paid by the board of Light, Gas and Water Commissioners to the Board of Commissioners of the City of Memphis shall be determined by a board of arbitration, consisting of one member of the Board of City Commissioners and one member of the board of Light, Gas and Water Commissioners who shall select a third member, and the findings of this board of arbitration shall be final and binding on both the Board of City Commissioners and the board of Light, Gas and Water Commissioners.

Provided that in no event shall the aforesaid payment to the municipality for any year exceed one-half of the net profits realized by the gas division during that year, unless the board of Light, Gas and Water Commissioners shall, by resolution, consent thereto.

- (7) Any surplus thereafter remaining over and above safe operating margins, shall be devoted solely to rate reduction.

It is further provided that said allotment of funds may be changed in such manner as may be deemed necessary by the Board of Commissioners of the City of Memphis, with the approval of the board of Light, Gas and Water Commissioners, in the issuance and sale of any bonds or notes on behalf of the gas system, or on behalf of the gas system in conjunction with the electric or water systems.

(Priv. Acts 1939, ch. 381, § 22; Priv. Acts 1945, ch. 18, § 1; Priv. Acts 1947, ch. 491, § 1; Priv. Acts 1959, ch. 224, § 1)

Sec. 694. - Investment and reinvestment of funds or reserves.

Subject to the provisions of any contracts that may be made with the purchasers of any bonds or notes, the board of Light, Gas and Water Commissioners may invest and reinvest any funds or reserves in bonds of the United States, State of Tennessee, Shelby County, City of Memphis or any bonds or notes issued by or on behalf of Memphis light, gas and water division, or any one or more of the several

divisions thereof; and the negotiability of any bonds or notes so acquired shall not be affected by the acquisition thereof and any bonds or notes so acquired may thereafter be negotiated, sold or used for debt retirement or otherwise disposed of at public or private sale and at such prices and upon such conditions as the board of Light, Gas and Water Commissioners may deem best. The funds of any division may be separately invested and reinvested, or may be invested and reinvested in conjunction with the funds of any other division or divisions, as the board of Light, Gas and Water Commissioners may deem best; and any profit or loss resulting from any such investment or reinvestment shall be credited or charged to the several divisions in proportion to the respective funds of the several divisions so invested or reinvested.

(Priv. Acts 1939, ch. 381, § 23)

Sec. 695. - Designation of member of City Commission to attend meetings.

One of the members of the Board of Commissioners of the City of Memphis may be designated by said board to attend the meetings of the board of Light, Gas and Water Commissioners so that the Board of Commissioners of the City of Memphis may be at all times fully advised as to the conduct and operations of said light, gas and water division. The member of the Board of Commissioners of the City of Memphis so designated shall have no power to make a quorum, nor shall he be entitled to vote upon any question arising before said board of Light, Gas and Water Commissioners.

(Priv. Acts 1939, ch. 381, § 11)

Editor's note— This section would appear to be repealed under Ord. No. 3054.

Sec. 696. - City, school board, hospital, crematory, police stations, etc., to be furnished water free of charge.

The Light, Gas and Water Commissioners shall furnish to the City of Memphis free, sufficient water for all fire hydrants of the City for fire protection and for sprinkling the streets of the City, and shall also furnish free, sufficient water for the school board, the general hospital,* the City crematory, and the police stations, and may also furnish free to said City such additional water as the light, gas and water commission may deem expedient for public purposes.

(Priv. Acts 1939, ch. 381, § 21)

Editor's note— Now John Gaston Hospital.

Sec. 697. - City and its governmental agencies to be furnished electric current and gas; payment to be based on prevailing rate scales.

The Light, Gas and Water Commissioners shall furnish to the City of Memphis electric current and gas for all of its governmental agencies, and the City of Memphis shall be required to pay for said current and gas under the prevailing rate scales adopted for the sale of electric current and gas.

(Priv. Acts 1939, ch. 381, § 26)

Sec. 698. - Act not to impair existing obligations; existing contracts binding upon division.

This Act shall not in any way impair any obligations of the City of Memphis, or the board of water commissioners or the board of light and water commissioners of Memphis light and water division, to any

person or persons, and shall not change or alter the obligations of any existing contracts, but all contracts outstanding, heretofore made under the existing law, shall be binding upon Memphis light, gas and water division as herein established.

(Priv. Acts 1939, ch. 381, § 6)

Sec. 699. - Construction of Act.

The powers, authority and rights conferred by this Act shall be in addition [addition] and supplemental to, and the limitations imposed by this Act shall not affect, the powers conferred by any other general, special, or local law; and this Act is hereby declared to be remedial in nature, and the powers hereby granted shall be liberally construed to effectuate the purposes hereof, and to this end the Memphis Light, Gas and Water Commissioners shall have power to do all things necessary or convenient to carry out the purposes hereof, in addition to the powers expressly conferred in this Act.

(Priv. Acts 1939, ch. 381, § 27)