

CHAPTER 74
SENATE BILL No. 80

AN ACT concerning cities; dealing with certain elections; relating to cities' power to relinquish authority to regulate natural gas and water utilities to the state corporation commission; amending K.S.A. 15-809 and 66-104e and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 15-809 is hereby amended to read as follows: 15-809. Any city of the third class ~~in the state of Kansas~~ which owns an electric light or waterworks plant, electric transmission line, or water, gas or electric distribution system may sell the same except that the sale shall not be made until the proposition of whether to sell has been submitted to a vote of the qualified electors of the city. If a majority of the qualified electors ~~who vote in of the city~~ *the election* vote in favor of the sale, the governing body may dispose of the plant, transmission line or distribution system, according to the proposition voted on at the election. The proposition submitted to the electors shall contain a statement of the proposed sale price and the name of the purchaser.

When the governing body decides to put the proposition to a vote, it shall pass an ordinance calling an election to be held within 40 days after the passage of the ordinance. The mayor shall cause a notice of the election to be published once a week for two consecutive weeks, the first publication to be not less than 21 days preceding the election. The notice shall state the purpose of the election, giving the sale price and the name of the purchaser, the date of the election, and the places of voting. The proposed purchaser shall bear all the expenses of the election.

All sales shall be for cash, and the proceeds of the sale shall be applied upon the payment of any outstanding bonds or obligations incurred in the purchase, erection or improvement of the property sold. The excess, if any, shall be paid into the general fund of ~~such~~ *the city*. If the city is unable to purchase the unmaturing bonds issued for the purchase, erection or improvement of the property sold, the governing body may invest the money necessary to take up such bonds at maturity in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein or in any municipal bonds of this state, which shall become due prior to the due date of the bonds issued for the purchase, erection or improvement of the property sold, or in government bonds or federal landbank bonds. The purchase price and proceeding of the sale shall be filed with the state corporation commission.

Sec. 2. From and after July 1, 2009, K.S.A. 66-104e is hereby amended to read as follows: 66-104e. (a) Any city by ordinance may relinquish to the state corporation commission the city's power and authority under K.S.A. 66-104, and amendments thereto, to control and regulate any privately owned and operated *natural gas or water public utility* situated and operated wholly or principally within the city or principally operated for the benefit of the city or its people. Subsequently the city by ordinance may reassert the city's power and authority under K.S.A. 66-104, and amendments thereto, to control and regulate such utility.

(b) Within five business days after adoption of any ordinance described in subsection (a):

(1) The city clerk shall forward a certified copy of the ordinance to the state corporation commission; and

(2) if the ordinance relinquishes jurisdiction of a privately owned and operated *natural gas or water public utility*, such utility shall file with the commission an application for a certificate of convenience and necessity.

(c) Upon receipt of an ordinance relinquishing jurisdiction of a *natural gas or water public utility* pursuant to this section, the commission shall assume jurisdiction and control of the privately owned and operated *natural gas or water public utility* as provided by law for other *natural gas or water public utilities* under the jurisdiction of the commission. The commission shall maintain such jurisdiction and control until the city subsequently adopts and files with the commission an ordinance reasserting the city's power and authority pursuant to K.S.A. 66-104, and amendments thereto.

(d) A city shall not adopt any ordinance described in subsection (a) more often than once every two years.

Sec. 3. K.S.A. 15-809 is hereby repealed.

Sec. 4. On July 1, 2009, K.S.A. 66-104e is hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 10, 2009.

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