

Chapter 225

Municipal Utilities

Chapter 225

LAW REVIEW CITATIONS: 22 OLR 268; 25 OLR 159.

225.020

NOTES OF DECISIONS

1. In general

This provision is valid. *Yamhill Elec. Co. v. City of McMinnville*, (1929) 130 Or 309, 274 P 118, 280 P 504; *Salem v. Ore.-Wash. Water Serv. Co.*, (1933) 144 Or 93, 23 P2d 539.

The state may lawfully delegate to a municipal corporation the power to build and own railroads. *Churchill v. City of Grants Pass*, (1914) 70 Or 283, 141 P 164.

A contract by a city with an individual for the sale or lease to him of a railroad to be built by the city is valid. *Churchill v. City of Grants Pass*, (1914) 70 Or 283, 141 P 164.

This section and ORS 225.030 are not in conflict. *Yamhill Elec. Co. v. City of McMinnville*, (1929) 130 Or 309, 274 P 118, 280 P 504.

The state can delegate power to maintain an electric lighting system to municipal corporations. *Id.*

This section and ORS 225.030 do not amend municipal charters; the municipality avails itself of the powers provided by amending its charter. *Salem v. Ore.-Wash. Water Serv. Co.*, (1933) 144 Or 93, 23 P2d 539.

The city has the authority to fix rates and may fix them so as to return a profit similar to a private corporation. *Kliks v. Dalles City*, (1959) 216 Or 160, 335 P2d 366.

2. Extramural authority

Portland was not authorized to supply water as public utility outside boundaries, in view of charter provisions and the statute, though it could sell surplus water to persons outside, subject to superior rights of inhabitants. *Richards v. Portland*, (1927) 121 Or 340, 255 P 326.

The system or plant may be erected or operated within or without the city. *Yamhill Elec. Co. v. City of McMinnville*, (1929) 130 Or 309, 274 P 118, 280 P 504.

A city which purchases a water company's plant has authority to continue service to persons outside its boundaries. *Salem v. Ore.-Wash. Water Serv. Co.*, (1933) 144 Or 93, 23 P2d 539.

3. Condemnation

The introduction of a certified copy of a resolution of a city council stating that the defendant's entire tract of land was necessary for water works and electrical purposes established a prima facie case of the necessity of taking the entire tract. *Eugene v. Johnson*, (1948) 183 Or 421, 192 P2d 251.

The necessity, propriety, or expediency of appropriating property for public use, the amount, location and suitability for the proposed use are all political questions. *Id.*

ATTY. GEN. OPINIONS: Municipally owned railway as exempt from taxation, 1920-22, p 480; discontinuance of city

water service to districts outside of the city limits due to sewage conditions, 1948-50, p 276; auditing accounts of a city having a municipal utility, 1960-62, p 349; authority to legislate regarding city water rates to outside users, 1960-62, p 197; authority for municipal utility transmission line over a river, 1962-64, p 24; necessity for additional authority for cities to acquire property for water systems, 1966-68, p 167; specifying extraterritorial authority, (1970) Vol 35, p 383.

LAW REVIEW CITATIONS: 46 OLR 133, 159; 47 OLR 35, 48.

225.030

NOTES OF DECISIONS

This provision is valid. *Yamhill Elec. Co. v. City of McMinnville*, (1929) 130 Or 309, 274 P 118, 280 P 504; *Salem v. Ore.-Wash. Water Serv. Co.*, (1933) 144 Or 93, 23 P2d 539.

This section and ORS 225.040 contemplate an established system actually supplying water to the inhabitants of a city and before an actual use of appropriated waters, the city is in the same position as a private owner, without right to lease it to others. *Sherrerd v. Baker*, (1912) 63 Or 28, 125 P 826.

It is not within the purview of the statute to confer authority upon a municipality to engage in a water business as a public utility beyond its boundaries. *Richards v. Portland*, (1927) 121 Or 340, 255 P 326.

This section and ORS 225.020 are not in conflict. *Yamhill Elec. Co. v. City of McMinnville*, (1929) 130 Or 309, 274 P 118, 280 P 504.

This section and ORS 225.020 do not amend municipal charters; the municipality avails itself of the powers provided by amending its charter. *Salem v. Ore.-Wash. Water Serv. Co.*, (1933) 144 Or 93, 23 P2d 539.

City was authorized to sell electric current to golf links located out of city. *Yamhill Elec. Co. v. City of McMinnville*, (1929) 130 Or 309, 274 P 118, 280 P 504.

FURTHER CITATIONS: *Central Lincoln P.U.D. v. Smith*, (1943) 170 Or 356, 133 P2d 702.

ATTY. GEN. OPINIONS: Extension by municipality of electric lines and service to residents outside the municipality and exemption from provisions of public utility Act, 1920-22, p 682; discontinuance of city water service to districts outside of the city limits due to sewage conditions, 1948-1950, p 276; authority to legislate regarding city water rates to outside users, 1960-62, p 197; authority for municipal utility transmission line over a river, 1962-64, p 24; specifying extraterritorial authority, (1970) Vol 35, p 383.

225.040

NOTES OF DECISIONS

This section does not sanction a contract which attempts to bargain away the rate regulating power. *Salem v. Salem*

Water, Light and Power Co., (1919) 166 CCA 465, 255 Fed 295.

225.050

CASE CITATIONS: State v. Chandler, (1946) 180 Or 28, 175 P2d 448.

LAW REVIEW CITATIONS: 3 WLJ 279.

225.110

ATTY. GEN. OPINIONS: Specifying extraterritorial authority, (1970) Vol 35, p 383.

225.290 to 225.300

LAW REVIEW CITATIONS: 3 WLJ 303, 311.

225.290

ATTY. GEN. OPINIONS: Applications filed prior to effective date of section, 1930-32, p 326.

225.300

ATTY. GEN. OPINIONS: Applications filed prior to effective date of section, 1930-32, p 326.

225.320

ATTY. GEN. OPINIONS: Specifying extraterritorial authority, (1970) Vol 35, p 383.

225.330

ATTY. GEN. OPINIONS: Specifying extraterritorial authority, (1970) Vol 35, p 383.

LAW REVIEW CITATIONS: 46 OLR 160.

225.340

LAW REVIEW CITATIONS: 3 WLJ 296.

225.350

LAW REVIEW CITATIONS: 3 WLJ 296.

225.450 to 225.490

Legislation authorizing a city to enter an agreement with a private utility was not invalid under Ore. Const. Art. XI, §7 or §9. Miles v. Eugene, (1969) 252 Or 528, 451 P2d 59.