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HEALTH AND SAFETY CODE - HSC

DIVISION 5. SANITATION [4600 - 6127] (*Division 5 enacted by Stats. 1939, Ch. 60.*)

PART 3. COMMUNITY FACILITIES [4600 - 6127] (*Heading of Part 3 amended by Stats. 1970, Ch. 420.*)

CHAPTER 5. Sewer Revenue Bonds [4950 - 5072] (*Chapter 5 enacted by Stats. 1939, Ch. 60.*)

ARTICLE 7. Rates and Collection [5040 - 5056] (*Article 7 enacted by Stats. 1939, Ch. 60.*)

5040. The governing body shall establish just and equitable rates for the use and maintenance of the works, to be paid by the person leasing or occupying the building or premises served thereby or that in any way uses or is served by the works, and may change and readjust the rates from time to time. The rates shall be sufficient in each year for the payment of the proper and reasonable expenses of operation, repair, replacement, and maintenance of the works, and for payment of the principal of and the interest on the bonds.

(*Amended by Stats. 1963, Ch. 1659.*)

5041. The governing body shall establish rates that, beyond all reasonable doubt, will bring in sufficient money to meet the interest and principal on all outstanding bonds as they fall due, in addition to the expense of operation.

(*Enacted by Stats. 1939, Ch. 60.*)

5042. Whenever it appears that the rates are insufficient to provide enough money to pay the principal and interest, in addition to the operating expenses, and the governing body neglects or refuses to fix adequate rates therefor, any bondholder may petition the superior court for a writ of mandate to compel the governing body to increase the rates to such an extent as will make them sufficient to provide enough money for those purposes.

(*Enacted by Stats. 1939, Ch. 60.*)

5043. The governing body may establish variable rates for different classes of users, or for different parts of the area, where all or any portion of the sewage works have been previously installed and financed under other laws or methods, so that the variable rates may be most equitable and just to all concerned.

(*Enacted by Stats. 1939, Ch. 60.*)

5044. However, the rates may only be imposed and collected from the users of all or any portion of such works as are constructed with money derived from the sale of the bonds.

(*Enacted by Stats. 1939, Ch. 60.*)

5045. If the users of all or any portion of any works previously acquired and financed by other methods receive any additional benefits from the construction or operation of all or any portion of the works subsequently constructed or acquired from the proceeds of the bonds, the governing body may impose reasonable rates on the works previously acquired, but only sufficient to cover the value of the additional benefits.

(*Enacted by Stats. 1939, Ch. 60.*)

5046. No rates shall be established until after a public hearing, at which all the users of the works and owners of property served or proposed to be served thereby and others interested have opportunity to be heard concerning the proposed rates.

(*Enacted by Stats. 1939, Ch. 60.*)

5047. After introduction of the ordinance, resolution, or order fixing the rate, and before it is finally enacted, notice of the hearing, setting forth the proposed schedule of rates shall be given by one publication in a newspaper published in the district, if there is such

a newspaper, but otherwise in a newspaper having general circulation in the district. The notice shall be published at least ten days before the date fixed in the notice for the hearing. The hearing may be adjourned from time to time.

(Enacted by Stats. 1939, Ch. 60.)

5048. After the hearing the ordinance, resolution, or order establishing rates, either as originally introduced or as modified and amended, shall be passed and put into effect.

(Enacted by Stats. 1939, Ch. 60.)

5049. A copy of the schedule of the rates shall be kept on file in the office of the clerk, and shall be open to inspection by any interested person.

(Enacted by Stats. 1939, Ch. 60.)

5050. The rates for any class of users or property served may be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of hearing or notice.

(Enacted by Stats. 1939, Ch. 60.)

5051. Any change or readjustment of the rates shall be made in the same manner as the rates were originally established.

(Enacted by Stats. 1939, Ch. 60.)

5052. If the rate is not paid when due, on the first day of each calendar month thereafter a penalty of ten per cent of the amount of the delinquent rate shall be added.

(Enacted by Stats. 1939, Ch. 60.)

5053. The rates and penalties may be collected in the following manner:

(a) An action may be brought in the name of the district against the person who occupied the property when the service was rendered for the collection of the amount of the delinquent rate and all penalties. A reasonable attorney's fee shall be awarded the plaintiff.

(b) The governing body may provide that the rates shall be collected with the rates for any other utility service rendered by the district and all the rates shall be itemized, billed upon the same bill, and collected as one item, together with and not separate from such other utility service charge.

(c) Such rates may be collected with the rates for any other utility service furnished by a department or agency of such district over which the legislative body thereof does not exercise control, or with a publicly or privately owned public utility, with the written consent and agreement of said department or agency or public utility owner, which agreement shall establish the terms and conditions upon which such collections shall be made. Such agreement, in the discretion of such department or agency or public utility owner making the collections, also may provide that said rates shall be itemized, billed upon the same bill, and collected as one item, together with and not separately from such other utility service charge.

(Amended by Stats. 1949, Ch. 1507.)

5054. The remedies specified for collecting and enforcing rates are cumulative and may be pursued alternatively or may be used consecutively when the governing body so determines.

If any remedy is invalid, all valid remedies shall remain effectual.

(Enacted by Stats. 1939, Ch. 60.)

5055. Until the principal and interest of the bonds are fully paid any holder of any bond outstanding at any time may compel the use of any or all of the remedies provided in this chapter.

(Enacted by Stats. 1939, Ch. 60.)

5056. After rates are fixed pursuant to this article, any person may pay such rates under protest and bring an action against the governing body in the superior court to recover any money which the governing body refuses to refund. Payments made and actions brought under this section, shall be made and brought in the manner provided for the payment of taxes under protest and actions for refund thereof in Article 2, Chapter 5, Part 9, Division 1 of the Revenue and Taxation Code, insofar as those provisions are applicable.

(Added by Stats. 1949, Ch. 865.)

