Municipal Provision of Parking Facilities

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•MANY methods are available for the municipal financing of parking facilities. Some are simple, requiring only a decision by the governing body or the adoption of an ordinance. Others are more complex, involving preliminary preparation which may include the holding of a referendum, the drawing of bond covenants or trust indentures, and a trial in the courts.

Unless provided by gift, facilities are paid for ultimately by the citizenry as a whole or by special classes thereof, either through direct use of revenues derived by various methods or by borrowing. The chief means of obtaining funds that fall within these two general classes and the use of gifts or grants are discussed.

Legal provisions refer to laws in force as of 1954, unless otherwise indicated.

DIRECT REVENUE SOURCES

Revenues that may be used for parking, either directly or to support a bond issue, are derived principally from regular ad valorem taxes, special property taxes, benefit assessments, parking fees and charges for both on-street and off-street parking, rental income from leased facilities, and revenue obtained from the leasing of part of the space in a parking facility for the sale of automobile accessories, for car servicing and minor repairs, or for commercial purposes unrelated to motor vehicles.

A municipality may utilize any one or all of the various sources, where legally permissible, for deriving funds to finance its parking facilities. The city of Alhambra, Calif., paid for its first parking lot from the accumulated revenues of its street parking meters. Later a parking district was created, under the Vehicle Parking District Law of 1943, and costs of the parking facilities were assessed against benefiting real property. To acquire additional facilities, the city issued revenue bonds pursuant to provisions of its charter. Also, to assist in financing facilities, local property owners made a donation of $70,000.

General Fund Appropriations

Many cities are able to finance parking facilities without the necessity of borrowing. When this can be done, it is one of the most painless and economical methods for financing facilities. Costs are spread over the whole city and no interest charges are involved. If a surplus does not exist in the city treasury and this method is adopted, new sources of general revenues may have to be found or else an increase in ad valorem assessments may be required. Methods used by cities of over 10,000 population in 1953 are given in Table 1.

Special Taxes

Many general and local laws, enacted as of 1954, authorized the levying of a special tax for the purpose of financing parking facilities (Table 2). About half of the laws provided that special taxes are to be used as an additional support for an authorized issue of bonds. In some laws, the tax is authorized as a standby measure, to be used only in the event that other methods of financing prove inadequate. In other statutes, the special tax is designed to pay part of the cost of facilities in a parking district, the balance to be supplied by benefit assessments.

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TABLE 1

METHODS USED BY CITIES OF OVER 10,000 POPULATION FOR FINANCING PARKING LOTS ACQUIRED IN 1953[a]

Financing Method	Cities Using Each Method	
	No.	Percent of Total
Parking meter revenues	136	54.1
General taxes	41	16.3
Parking meter revenues and general taxes	11	4.4
Revenue bonds	18	7.2
General obligation bonds	9	3.6
General obligation bonds backed by parking meter revenues	7	2.8
Combination of foregoing and miscellaneous	29	11.6
Total	251	100.0

[a]Data derived from The Municipal Year Book, The International City Managers' Assoc. Chicago, Ill., 1954, p. 466. (These cities constituted 45 percent of the 554 cities of over 10,000 population reporting in 1953 that they owned parking lots.)

The California Vehicle Parking District Law of 1943, as amended, provided that a special tax not to exceed $0.05 on each $100 of assessed value of all taxable property in a parking district shall be levied each year for operation, maintenance, repair, and improvement of parking places. The California Parking District Law of 1951 provided that an ad valorem assessment, to be fixed by the legislative body, may be levied on all taxable real property in a parking district to the extent to which

TABLE 2

FINANCING METHODS AND CONDEMNATION POWER AUTHORIZATION IN STATE GENERAL, LOCAL, AND SPECIAL ENABLING LEGISLATION, BY TYPE OF POLITICAL SUBDIVISION, 1954[a]

Political Subdivision to Which Laws Apply	Total No. of Laws	General Fund Appropriations	Special Tax	General Obligation Bonds	Revenue Bonds[b]	Assessment Bonds	Benefit Assessments	Parking Fees & Charges	Curb Meter Revenues	Power to Condemn
State General Laws										
Cities	92	25	20	31	49	4	17	63	43	64
Percent		27	22	34	53	4	18	68	47	70
Towns	45	11	10	17	22	2	8	30	21	28
Percent		24	22	38	49	4	18	67	47	62
Villages	24	4	6	9	11	1	5	14	7	16
Percent		17	25	38	46	4	21	58	29	67
Counties	19	1	4	4	10	1	3	16	7	16
Percent		5	21	21	53	5	16	84	37	84
Townships	11	1	1	2	6		1	8	2	8
Percent		9	9	18	55		9	73	18	73
Boroughs	9	4	2	3	5	1	2	7	3	7
Percent		44	22	33	56	11	22	78	33	78
Schools, fire, sanitary or other districts, legal subdivisions, or public corportations	12	3	1	2	7	1	2	10	4	11
Percent		25	8	17	58	8	17	83	33	92
Total general laws (items are nonadditive)	105	28	24	38	50	7	20	68	42	74
Percent		27	23	36	48	7	19	65	40	70
Number of states involved	38	19	16	22	31	3	13	36	25	34
Local Laws										
Specified cities[c]	127	26	15	68	72	1	10	97	38	105
Percent		20	12	54	57	1	8	76	30	83
Specified towns	44	12	9	29	14	1	9	31	12	35
Percent		27	20	66	32	2	20	70	27	80
Specified villages	2	1	1	2				1		
Percent		50	50	100				50		
Specified counties	4		1	1	2			4	4	
Percent			25	25	50			100	100	
Total local laws	177	39	26	100	88	2	19	133	50	144
Percent		22	15	56	50	1	11	75	28	81
Number of states involved	18 and D.C.	8 and D.C.	9	13	14	1	4	17 and D.C.	9 and D.C.	17 and D.C.
General & Local Laws										
Total general and local laws	282	67	50	138	138	9	39	201	92	218
Percent		24	18	49	49	3	14	71	33	77
Number of states involved (duplication eliminated)	42 and D.C.	25 and D.C.	23	29	38	3	16	41 and D.C.	28 and D.C.	38 and D.C.
Special Laws										
Total special laws	56	11	5	10	13			8	2	15
Percent		20	9	18	23			14	4	27
Number of states involved	14 and D.C.	3	4	5	7			6	2	6
Summary - General, Local & Special Laws										
Total general, local & special laws[d]	338[d]	78	55	148	151	9	39	209	94	233
Percent		23	16	44	45	3	12	62	28	69
Number of states involved (duplications eliminated)	43 and D.C.	25 and D.C.	24	30	38	3	16	41 and D.C.	28 and D.C.	38 and D.C.

[a]Based on U. S. Bureau of Public Roads data.
[b]The term "Revenue Bonds" refers to all bonds other than general obligation bonds and assessment bonds and includes "parking lot bonds," "off-street parking bonds," and "mortgage bonds." Such bonds are generally payable from the revenues of the facilities financed from the proceeds of such bonds, but are also sometimes made payable from the revenues of other parking facilities or from street parking meter revenues and are sometimes further secured by a pledge of ad valorem taxes or a statutory mortgage lien on parking facilities.
[c]Includes the unincorporated business district of Silver Spring, Md.
[d]Not included in the tabulation are 65 laws applicable to state projects and 13 applicable to private business.

revenues from the parking lots and parking meters are insufficient to meet bond obligations.

A North Dakota law provided that up to 20 percent of the cost of providing parking facilities in a parking lot district may be collected by general taxation, such amount to be within constitutional debt limits, and the balance assessed on benefited property in proportion to benefits. A Kansas law applicable to first class cities provides that the portion of the cost of a parking facility not assessed against benefiting property, ranging between 10 and 50 percent of the cost, is to be collected by means of a general city tax. A Virginia law provided that unlimited ad valorem taxes may be levied on property in cities, towns, and certain densely populated counties to pay for bonds issued to finance parking projects.

An Iowa law for cities and towns provided that, among other financing methods, a tax not exceeding ½ mill may be levied on the city as a whole to finance facilities, or that a 7-mill tax may be levied and collections placed in a street fund and appropriations made from the street fund for parking facilities. A Minnesota law for municipalities (except first class cities) likewise provided for the levy of a half-mill tax in any one year on taxable property in the municipality as one of several financing methods. Other rates authorized were $0.10 on each $1,000 of assessed valuation of property in Boston and $0.25 on each $1,000 in other cities and towns in Massachusetts; 2 mills on ratable estate in the city of Hartford; and 1 mill on each dollar of taxable property in Marietta, Ga.

An example of success in providing parking funds by a special tax in combination with parking meter revenues is provided by the unincorporated business district of Silver Spring, Md. The state law applicable to Silver Spring provided for the annual levy by the county commissioners of a special tax of $0.40 cents per $100 of assessed value of improved real estate used for commerce, industry, or general business and of tangible personal property used for retail sale or distribution in such commerical buildings or on such commercial land, and $0.20 per $100 of assessed value of real property not used for business purposes but which is classified or recommended for classification in a zone permitting commercial, industrial or general business uses. Business owners who provide their own parking facilities are exempted from the tax to the extent that the facilities provided meet county requirements for parking and can be used by the public free of charge.

Pursuant to this Maryland law, a system of parking lots has been provided in Silver Spring. Bonds in the amount of $800,000 were issued to finance the initial program. Parking meters were installed on the streets and in one parking lot where it was desired to discourage all day parking. The bonds are payable primarily from the special taxes, but the full faith and credit of the county are pledged as well as parking meter revenues. Several additional issues have been sold to provide funds for expansion of the system, all financed by means of the special tax and revenues from the parking meters, plus rents from property acquired but not yet used for parking.

Benefit Assessments[1]

Financing by means of assessments levied on property benefiting from the proximity of parking facilities is a method that has been employed by some cities with success. This plan contemplates the establishment of a parking benefit district and the assessment of the total or a part of the cost of providing the facilities against the owners of property within the district. The theory behind this method is that business property in close proximity to parking facilities enjoys a greater proportion of the benefit accruing from the facility than property farther away or the city as a whole. It is held

[1] Technical Bulletin No. 15, Special or Benefit Assessments for Parking Facilities, Urban Land Institute, Washington, D.C., April 1951, 8 pp. (A discussion of the benefit assessment technique, its legal background and use.)

that parking facilities attract customers, thus increasing the business activity of nearby property and ultimately enhancing its value. Consequently, it is believed that such property owners should bear the total cost, or a large portion of the cost, of establishment of the facilities.

The placing of an assessment on property is complicated and time consuming. The major problem consists in deriving an equitable method for determining relative benefits. A number of methods are in use. Benefits may be based on: (a) assessed valuation of property for tax purposes, (b) front footage of property fronting on streets in the assessment district, (c) floor area of business establishments, (d) the volume of business transacted, as determined by gross or net receipts or other measures, or (e) any other desired method or any combination of methods. A more nearly equitable distribution of costs may be realized by dividing the benefit district into two or three zones of benefit and apportioning the costs to the designated zones on the basis of proximity to the parking facility. The cost assigned to each zone is then distributed to each parcel of property within the respective zones by one of the foregoing methods.

The city of Kalamazoo, Mich., many years ago inaugurated a plan of this type. The benefited area was divided into three zones of benefit. The zone nearest the parking facility included only 24 percent of the total area of the benefited district but was assessed 40 percent of the total cost; the next zone contained 36 percent of the area and was also assessed 40 percent of the cost; the farthest removed zone contained 40 percent of the area and was assessed only 20 percent of the cost. Fifty percent of the assessment was for the valuation of each owner's property and 50 percent was on the basis of area. The plan was worked out by city officials with the close cooperation of merchants and property owners.

A resolution adopted by the common council of Milwaukee on June 29, 1951, as amended on September 17, 1957, sets forth the method to be used in determining the part of the cost of a parking facility that shall be assessed against benefited property in that city. As far as it is practical and legal, the council decided that the city's contribution to any parking facility, to be determined only after submission by the Board of Assessment of its statement of benefits and damages, should "generally be limited to the net receipts from such off-street facility, on-street parking meters, and special privilege parking permits derived from the area prior to the completion of the facility and the estimated net receipts from such sources in a period not to exceed 15 years" subsequent to completion in the case of a parking lot and not to exceed 30 years in the case of a parking structure. The total amount of benefit assessment to be levied may not exceed the estimated cost of the project minus the city's contribution. The relative amount of assessment to be assigned to the respective properties is to be determined by the Board of Assessment.

A benefit district may be established by ordinance in a first class city of Kansas, after which no further action may be taken unless within 60 days a petition is filed requesting establishment of parking stations. This petition must be signed by residents owning real estate having not less than 51 percent of the front feet of real estate fronting upon streets included in the district. The law provides that not less than 50 percent nor more than 90 percent of the cost of providing parking stations within a benefit district shall be assessed against the district, the balance to be paid by a general city tax. Apportionment of the assessment shall be made by three disinterested property owners.

The Oregon Motor Vehicle Parking Facilities Act of 1949, as amended, provides that any anticipated shortage in parking facility revenues to meet bond payments and pay operating expenses may be provided by the proceeds of a benefit assessment levied on real property in a benefit district. The district may not be formed if opposed by owners of real property in the proposed district with an assessed valuation of not less than 60 percent of the total assessed valuation of all real property in the district. The assessments are to be fixed each year to yield revenues sufficient to meet any anticipated deficit in parking facility revenues available for bond payments and operating expenses.

Although the owners of benefiting property have sometimes resisted the method of financing which allows owners to deduct assessments as a business expense, the courts

in a number of states where the issue has arisen have found the plan valid. Opposition may be less pronounced in the future as a result of a ruling by the Commissioner of Internal Revenue in 1958 that assessments were deductible as ordinary and necessary business expenses for federal income tax purposes. The ruling was made in connection with special assessments for parking lots levied against commercial properties in the central business district of Bismarck, N. Dak. The taxpayer is required by the ruling to show that the expense bears a reasonable and direct relationship to his business and that there is an expectation of a financial return commensurate with the payments made.

Garden City, Long Island, N. Y., provides one of the best known examples of the use of the assessment plan to provide parking facilities. The basic theory underlying Garden City's plan was that provision of parking facilities was a public responsibility; that adequate parking should be adjacent to the business and apartment properties generating the parking demand; that the cost of acquiring the necessary land should be assessed against the generators, whereas the cost of improving the land for parking should be a general municipal expense. Land for 13 business district parking areas acquired before 1954 was paid for in accordance with this plan. Rates of assessments for the seven lots in Section No. 1 of the program ranged from about $29 to $58 per $1,000 of valuation. Cost of the land for the next four lots was apportioned against abutting business and apartment property at a uniform rate of $140 per $1,000 of assessed valuation. The higher rate for the four lots was the result of the more limited area of the assessment district and the comparatively large amount of undeveloped land in the area. The municipality assumed the cost of making the improvements.

Kansas City, Kan., was one of the cities that early adopted the benefit assessment method for financing parking facilities. Suits by affected property owners delayed action for a number of years, and it was necessary to obtain additional enabling legislation before the city could proceed as proposed. As of 1954, however, nine parking lots, providing 1,065 parking spaces, had been provided and had been financed by the benefit assessment plan adopted by the city. Twenty percent of the total cost of the facilities was paid by the city and the remaining 80 percent was assessed against benefiting property owners. Apportionment of assessments was made by disinterested property owners appointed by the city court. Assessments were to be paid over a 10-yr period. An important feature in connection with the use of the facilities is that parking is free.

Pomona was the first California city successful in carrying out a municipal program under the Vehicle Parking District Law of 1943.[2] The first parking district in the city was formed following petition by merchants in the proposed district. Because of the many problems involved in this first venture of this nature, it required 3½ yr to place the first parking lot in operation. Other districts were formed, however, following the success of this first effort, and a number of parking lots have been provided by assessing costs against benefiting property. The popularity of this financing plan in Pomona may be due to several facts, one of which is that the city's zoning ordinance requires either that parking spaces be provided in connection with new commercial buildings or that the property be included in a parking district. The formation of parking districts is further stimulated by an ordinance that provides that net revenues from street parking meters shall be apportioned annually among the parking districts. After assessments have been paid in all districts, parking meter revenues will be placed in the city's general fund.

Other California cities that have been successful in acquiring parking facilities under the Vehicle Parking District Law of 1943 are Glendale, San Buenaventura, Sierra

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[3] Gardner, Lamar W., "Los Angeles' Off-Street Parking in Smaller Business Districts," Traffic Quarterly, the Eno Foundation for Highway Traffic Control, Saugatuck, Conn., July 1955, pp. 338-341. (The step-by-step procedure required in establishing parking facilities under the 1943 and 1951 vehicle parking district laws of California is outlined.)

Madre, El Monte and Mill Valley. Several districts have been initiated in Los Angeles and 30 or 35 additional districts are under consideration in that city. Proceedings have started in a number of other cities under the 1943 parking district law as amended in 1955.

Parking Revenues

With increasing frequency, it is being realized by municipal officials that parking is a business that can "pay its own way" under many circumstances. Parking fees exacted from those enjoying the most direct benefits from the conveniences provided, both on-street and off-street, may constitute significant sums for financing parking facilities. Parking meter fees should be expended in the interests of the motorists who pay them. When used to finance parking facilities, such revenues go a long way toward alleviating downtown parking problems.

In a survey conducted by the National Retail Dry Goods Association (now the National Retail Merchants Association) in 1954 to ascertain the most serious problems existing in downtown areas, over 81 percent of retail association executives of more than 200 cities named the inadequacy of parking as a problem. It was found that 97 percent of the cities had installed parking meters in attempts to improve parking conditions, but only about half of the cities were using parking meter revenues to provide off-street parking facilities.[3]

The parking system pioneered by the city of Ann Arbor, Mich., provided for the integration of curb and municipal off-street parking facilities into a single unified whole, controlled, operated, and financed as a single unit. In such a system, the revenues from all facilities, both curb and off-street, are placed in a common fund for the use, as needed, on any part of the system. Among the benefits to be derived are the following: (a) revenue bonds may be sold more easily and at a lower interest rate when secured by the combined revenues of curb and off-street facilities, and may be liquidated more quickly; (b) off-street facilities that may not be completely self-liquidating but are an essential part of the parking program, if combined with financially successful facilities, may be continued in operation to serve a particular need, supported in part by the more prosperous members of the system; and (c) the rate structures for curb and off-street facilities may be brought more easily into a reasonable relation with each other.

Questions were raised concerning the legality of the use of parking meter revenues for off-street parking; however, and it was not until 1949 that the decision of the Michigan Supreme Court, in the well-known case of Parr v. Ladd,[4] established the right of cities and villages in that state to create a unified system of municipal parking facilities. Ann Arbor has successfully provided a number of fine parking structures and lots, financed by revenue bonds secured by the combined revenues from off-street and on-street parking facilities. The cost for parking in any of the facilities has been kept very low. Property for parking sites has never been acquired by condemnation but has been purchased through real estate dealers or city officials. Sites were chosen with care, all within 500 ft of the core area. The system is operated independently of the city budget.

Functionally, the on-street and off-street facilities complement each other. If curb parking restrictions are imposed, off-street space will be required to compensate for such loss in parking supply. When a parking lot is withdrawn from such use—perhaps for some more profitable venture—an additional burden is placed on remaining accommodations. The demand for the movement of vehicles needs to be considered at the same time as the requirements for parking.

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[3] "Central City Recovery: A Nationwide Report," Stores magazine, National Retail Dry Goods Assoc., New York, Jan. 1955.

[4] 323 Mich. 592; 36 N.W.2d 157 (1949); 8 A.L.R.2d 357.

Seventy-one percent of the general and local parking laws, enacted as of December 1954, authorized the imposition of a charge for parking in off-street facilities (Table 2). The use of on-street parking meter revenues for financing off-street facilities was authorized in one-third of the laws. The revenues were to be used directly in financing or were to be used to finance bond issues, in most cases revenue bonds; but in a few cases, general obligation bonds were also indicated for parking meter support.

An amendment to the California State Constitution, approved by the electorate in 1950,[5] provides that whenever any city, county, parking authority or other public body is authorized by state law or its charter to establish off-street parking facilities and for payment of the cost thereof to issue bonds or other securities payable in whole or in part from the revenues of such parking facilities, such public body is also authorized to pledge as additional security for the payment of such obligation any or all revenues from any or all street parking meters then owned or controlled or any thereafter owned or controlled by any such public body.

An Illinois act of 1943, as amended, authorizes cities to issue revenue bonds for parking facilities and to finance the bonds with revenues from "any or all" of the city's parking facilities. In a case contesting the validity of the use of parking meter revenues for this purpose in the city of Kankakee, the Illinois Supreme Court decided that it was the intention of the law that such use could be made of meter revenues.[6] At the same time it sustained an ordinance of the city of Kankakee which authorized the issuance of $430,000 of parking system revenue bonds, pledging revenues from existing parking meters to payment of the bonds and covenanting against changing the ordinance while the bonds remained outstanding.

Cities in other states have also adopted the system device for financing their parking facilities. Only a few states have authorized "parking systems" by name, but any authorization for the use of parking meter revenues to aid in financing off street facilities in effect sanctions the system idea.

Parking meters are proving to be a prolific source of income in some places. The net income from a given number of parking meters will usually finance an equivalent, or a larger, number of off-street parking spaces. Estimated average annual gross revenue per meter for the smallest places, those with less than 2,500 population, was $42.28 in 1951.[7] This average increased with the size of places in which they were installed up to an income of $89.67 for places with populations between 250,000 and 500,000. The average for some individual places is even higher. After the meters have been paid for, which usually requires from one to three years, net income from the meters added to that from off-street facilities is sufficient to finance all but the most expensive parking programs.

The use of meter income for financing parking facilities acquired in 1953 was more common than any other financing method among cities reporting to the International City Managers' Association in that year (Table 1).

A further indication of the popularity of this use of meter funds is provided by a report on parking meter usage by Levin.[8] Over 18 percent of the incorporated places reported that they use meter revenues for off-street parking facilities.

Where a municipality has no legal authority to allocate parking meter revenues for provision of off-street parking facilities, it may still accomplish the same purpose by appropriating equivalent amounts from the city general fund. Milwaukee adopted a plan whereby all parking meter revenues, less cost of installation, maintenance and operation, were put into a separate off-street parking fund. This use of revenues was attacked in a taxpayer's suit. Now the same objective is accomplished by appropriating from the general fund an amount equal to the estimated income from the parking meters.

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[5] California State Constitution, Article XI, Section 18¼.

[6] Poole v City of Kankakee, 406 Ill. 521, 94 N.E.2d 416 (1950).

[7] Levin, D. R., Parking Meters, A Study of Their Number, Revenue, and Use, HRB Bull. 81, 1954, 119 pp.

[8] Ibid., pp. 60-67.

After provision for paying the cost of meter installation, operating, and maintenance from the appropriation, the balance is set up for the development of off-street parking facilities.

BORROWED CAPITAL

The borrowing of funds for parking usually involves the issuance of bonds payable from property taxes or from special revenues. The three most common types of bonds are general obligation bonds, revenue bonds, and assessment bonds.

General Obligation Bonds

By 1954, nearly one-half of the general and local parking laws authorized the issuance of general obligation bonds to obtain necessary funds to provide parking facilities (Table 2). Such bonds are generally supported by a pledge of the full faith and credit of the city and unlimited ad valorem taxes, but may also be made payable from any desired city revenues, including revenues from off-street parking facilities, parking meters, or benefit assessments in a parking district. They are usually issued within legal debt and tax limits and also usually require approval of the electorate unless specifically exempted from these requirements by law. These requirements alone may serve as deterrents to this type of bond financing. Legal debt limits may already have been reached, and it is both time consuming and uncertain to wait for a popular vote. The chief advantages are a low interest rate, as the bonds would be backed by the faith, credit, and taxing power of the city, and the ease in marketing an issue.

In practice, few of the cities reporting to the International City Managers' Association in 1953 used general obligation bonds, backed by general taxes alone, to finance parking facilities acquired that year. Another three percent used such bonds secured by a pledge of parking meter revenues in addition to general taxes (Table 1).

The voters in a number of places have approved large issues of general obligation bonds for parking. Many facilities have been provided and others are either under construction or planned.

Assessment Bonds

Several of the general and local laws that authorize the assessment of the total or a part of the cost of parking facilities against benefiting property provide that the funds thus collected shall be used to support bonds issued to provide the facilities. Some laws provide that the bonds shall be payable solely from assessments, whereas others provide that assessments may be levied in case other revenues prove insufficient. Interest rates on assessment bonds tend to be higher than on general obligation bonds.

Two Minnesota laws, applicable to first class cities, authorized the issuance of special certificates of indebtedness, payable out of funds collected from benefit assessments. Another Minnesota law, applicable to second, third, and fourth class cities and to villages and boroughs, provided that bonds may be paid wholly or partly from general ad valorem taxes, on-street and off-street parking revenues, or benefit assessments. A fourth law, applicable to certain home rule cities of the first class, provided for payment of bonds by special taxes or assessments on real property in a parking district comprising substantially the central business district.

A Michigan law enacted in 1959 authorized municipalities to issue special assessment bonds to retire any outstanding revenue bonds issued for parking.

The actual number of benefit assessment bonds issued for parking was reported to be very small. The lack of popularity of the method may be due in part to the general opposition of property owners who would be subject to assessment and in part to the higher interest rate required compared with the rate for general obligation bonds.

Revenue Bonds

Pure revenue bonds are payable solely from the revenues of the facilities financed by the proceeds from such bonds. They are usually more difficult to market than bonds backed by the faith and credit of the city, and, because of the element of risk, require

TABLE 3

PROVISIONS IN GENERAL AND LOCAL LAWS CONCERNING THE MORTGAGING OF PARKING PROPERTY AS SECURITY FOR REVENUE BONDS

State and Subdivision	Enabling Act	Statutory Provision
	(a) Laws Authorizing Mortgages (1954)	
Arkansas:		
City, town	Acts of 1949, ch. 468	Statutory mortgage lien on facilities shall be created in favor of bondholders.
Connecticut:		
City, town, borough, fire district	Public Acts of 1953, chs. 157 and 323	Bond ordinance may provide for mortgaging parking facilities.
Town of East Hartford	Special Acts, 1953, Sp. No. 305	Bond ordinance may provide for mortgaging parking facilities as additional security for bonds.
City of New Haven	Special Acts, 1951, Sp. No. 473	Parking facilities may be mortgaged as additional security for bonds.
City of Norwich	Special Acts, 1951, Sp. No. 573	City may issue revenue bonds secured by mortgage of property.
Florida:		
City of Belle Glade	Special Acts, 1951, Vol. 2, Part 1, ch. 27400	City commission may make part payments for lands acquired and give its notes and a purchase money mortgage to secure balance of purchase price.
City of Lake Worth	Special Acts, 1949, Vol. 2, Part 1, ch. 25962	City may execute notes or bonds and secure same by mortgage upon buildings and lands.
Palm Beach County	Special Act, 1941, Vol. 2, ch. 21463	Upon purchase of land, county board may execute notes or issue county bonds and may mortgage land as security.
City of Tallahassee	Special Acts, 1949, Vol. 2, Part 2, ch. 26246	City may issue and sell bonds upon its property or on earnings thereof.
Georgia:		
City of Savannah	Local and Special Acts, 1952, No. 873, p. 2739	City may borrow funds from any source and secure payment by executing deeds and mortgages.
Inciana:		
1st class city	First Class Cities Off-Street Parking Act	Revenue bonds may be payable from revenues of facilities or from proceeds from disposition of facilities. Amounts equal to real and personal property taxes on facilities and gross income tax shall be transferred to general fund semianually and shall constitute a lien on facilities in favor of city prior to rights of lien of bondholders.
Kansas:		
1st class city	Laws of 1951, ch. 175	Revenue bonds shall be a specific lien on land, improvements and revenue derived from facilities.
Maine:		
City of Portland	Portland Public Development Commission	Corporation may borrow money, issue notes, bonds or other obligations and secure payment thereof by mortgage, pledge, or assignment of its properties.
New Jersey:		
City, town, township, borough, village, county, municipal subdivision	Parking Authority Law	Bonds may contain covenants securing bondholders, including mortgage of parking property or other property of Authority.
Ohio:		
City, village	Laws of 1947, p. 630, as amended, 1949, p. 172	Governing body may issue mortgage revenue bonds.
South Carolina:		
City, county, town, township, school district political subdivision	Revenue Bond Act	Property or system shall be subject to statutory lien in favor of bondholders who may either at law or in equity enforce lien.
City, town	Off-Street Parking Facilities Act	There shall be created in authorizing bond ordinance a statutory lien upon any project in favor of bondholders.
Tennessee:		

City of Burlington	Acts and Resolves, 1949, No. 298, as amended, 1953, No. 299	City council may mortgage any part of facilities to secure payment of costs.
West Virginia:		
City, town	Acts of 1945, ch. 90, as amended	Bonds may be secured by trust indenture or mortgage lien upon works.
Wisconsin:		
City, county	Laws of 1943, ch. 262, as amended	Bonds may be secured by trust indenture or by a mortgage on the property and revenues therefrom.
City, village	Parking Systems	Governing body may issue mortgage bonds to finance provision of facilities.

(b) Laws Prohibiting Mortgages (1954)

Florida:		
City, town, village	Municipal Parking Facilities Law of 1951	Facilities may not be mortgaged or conveyed.
City of Miami	Special Acts, 1951, Vol. 2, Part 2, ch. 27725	Bond ordinance may not convey or mortgage parking facilities.
Town of Palm Beach	Special Acts, 1951, Vol. 2, Part 2, ch. 27796	Bond ordinance may not convey or mortgage parking facilities.
City of St. Petersburg	Special Acts, 1951, Vol. 2, Part 2, ch. 27877	City may not sell, mortgage, or encumber properties or facilities.
Town of Sunset Beach	Special Act, 1951, Vol. 2, Part 2, ch. 27912	No mortgage or incumbrance of town property is created.
City of West Palm Beach	Special Acts, 1947, Vol. 2, Part 2, ch. 24982	Bond ordinance shall not convey or mortgage and parking facility.
Georgia:		
City, county, town	Revenue Certificate Law of 1937, as amended	Anticipation certificates shall never constitute a lien upon property of municipality. In case of default in payments, receiver may be appointed to operate and maintain facilities, but not to sell or otherwise dispose of property.
Maine:		
City of Augusta	Private and Special Laws, 1947, ch. 124	Indenture may pledge prospective revenues, but may not convey or mortgage parking areas.
City of Waterville	Waterville Parking District	District may not convey or mortgage parking areas.
Maryland:		
Baltimore County	Baltimore County Parking Authority Act	Trust indenture may pledge revenues of any project but may not covey or mortgage parking facilities.
Nevada:		
Las Vegas	Statutes of 1953, ch. 314	Board of commissioners may not mortgage or pledge any property of city for any purpose.
North Carolina:		
City, county, town, village, sanitary district, political subdivision, public corporation	Revenue Bond Act of 1938, as amended	Governing body shall not encumber or mortgage its property.
Pennsylvania:		
City, county, town, township, borough, school district	Municipal Authorities Act of 1945, as amended	Receiver may be appointed but he may not dispose of any assets of Authority.
Cities of 1st, 2nd, 2nd A, and 3rd classes, borough, 1st class township	Parking Authority Law	Receiver may be appointed but he may not mortgage or dispose of any assets of Authority.
Tennessee:		
City of Nashville	Nashville Parking Board Act	Receiver may be appointed to take possession of and operate facilities but he may not mortgage or dispose of any assets of Board.

a higher interest rate. An outstanding municipal finance consultant has pointed out that for successful marketing of parking revenue bonds there should be evidence of good structural engineering in connection with the proposed parking facilities, of location and size of facilities in accordance with demand, of design that will produce a maximum of income with a minimum of expense, and of substantiated estimates of capital costs and projected income and expense.[9] A bond prospectus is usually required with such information. Generally, it is considered desirable to maintain an earnings ratio of 1.5 or better; i.e., the ratio of annual net income to bond service charges. This is usually expressed as the "coverage."

To insure redemption, increase the salability of revenue bonds, and obtain a favorable interest rate, additional support from other sources is often needed. Pursuant to legislative authorizations and favorable court decisions of recent years, cities in increasing numbers are finding net parking meter revenues (amount remaining after payment of the costs of purchase, installation, operation and maintenance) give the additional security required to support a sale of revenue bonds. Revenues from other parking facilities, whether or not financed by a similar bond issue, are also frequently pledged. The California Parking District Law of 1951 provided that bonds issued to provide parking facilities in a parking district may be made payable solely from net revenues from the parking facilities provided in the district, from net revenues from specified parking meters, or from a limited ad valorem assessment on taxable real property in the district.

State legislatures seem to favor revenue bond financing, but only a little more than 7 percent of the 251 places reporting their financing methods to the City Managers' Association adopted the revenue bond method of financing in 1953 (Table 1).

The procedures involved in revenue bond financing are simpler as a rule than those entailed in financing through establishment of a parking district or by the issuance of general obligation bonds. Usually, revenue bonds may be issued outside legal debt limits, and the approval of the electorate is not required. In California, a proposed revenue bond issue must be approved by a simple majority of the citizens, a general bond issue by a two-thirds majority. Under some circumstances, the comparative simplicity of revenue bond financing may be decisive in permitting a city to go ahead with an attack on its parking problem.

Authorizations for bond issues may limit the principal amount of an issue to that required for a particular project or the aggregate principal amount for a number of projects for an entire parking program. If a program is extensive, the authorization may be open-ended, permitting the issuance of additional bonds as long as specified requirements are met.

A number of parking laws have dealt with the matter of mortgaging parking property as additional security for revenue bonds. As of 1954, at least 14 states had enacted general or local laws authorizing the placing of mortgages on parking facilities in support of revenue bonds, while 8 states had enacted laws prohibiting such security (Table 3).

A few states have not been consistent in their policy. A Georgia law applicable to cities, counties, and towns provided that revenue bonds may never constitute a lien on property of a municipality. The charter of the city of Savannah provided that the city may borrow funds from any source and secure payment by executing deeds and mortgages. One general law and five local laws of Flordia prohibited mortgages, whereas four local laws in that state authorized mortgages. The state of Maine authorized the Portland Public Development Commission to secure the payment of debt by placing mortgages on its property, whereas it prohibited two cities from conveying or mortgaging parking areas. The Parking Authority of the city of Knoxville could encumber its properties, whereas the Parking Board of the city of Nashville had no such authority.

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[9] Carey, Matthew, "Financing Off-Street Parking Facilities," 1952 Proceedings, Twenty-Third Annual Mtg., Institute of Traffic Eng., Chicago, Ill., pp. 33-34.

Income for the support of revenue bonds may be assured by entering into arrangements for leasing a proposed parking facility. The Public Parking Authority of Pittsburgh planned to issue $6 million of 3½ percent revenue bonds to construct two parking garages. Before the bonds were put on sale, the Authority entered into arrangements with a private corporation whereby the two proposed garages would be leased to the corporation for a term of six years. The rental payments were approximately equal to the annual principal and interest requirements on the bonds.

Another plan to provide additional security for bonds, where legally valid, is to construct a combined parking garage and store building, the stores to be leased for commercial use. Service facilities for supplying gasoline and oil, washing cars, and selling tires, batteries, and other supplies may be provided, and such facilities leased for private operation. Any municipality proposing commercial operations or accessory services in connection with a parking facility should first check the legal status of the proposed activities.

Provisions to protect bondholders may be vested in a fiscal agent by a bond ordinance or resolution, in a trustee by a trust indenture, or, because of the present acceptability of parking revenue bonds, the city treasurer or other city officials may assume responsibility for seeing that the city meets its obligations to bondholders. Additional expense is involved in setting up trust indentures and providing for a trustee. Major investors in revenue bonds may require the appointment of a trustee, however, to handle funds and protect their interests.

Among the many covenants that may be contained in a bond ordinance or trust indenture are those concerning: (a) the fixing of rates and their revision from time to time as required so that parking revenues, together with any other income, will be sufficient to pay the cost of operation and maintenance of the parking project, meet bond payments, and provide a sinking fund and depreciation and other reserves; (b) a provision that, if a parking facility cannot compete with private facilities because of its charges, only such rates as will produce the maximum gross revenue will be charged; (c) the proper operation and maintenance of the parking property and continuous operation until the bonds have been paid in full; (d) the carrying of sufficient insurance; (e) the appointment of a trustee who may at law or in equity enforce the rights of bondholders; (f) the appointment of a receiver to take over and operate the facilities in case of a default in bond payments; (g) agreement by the city not to establish competitive parking facilities; (h) agreement by the city not to issue additional bonds secured by the same revenues or liens; and many other safeguards for protecting bondholders and making the bonds more marketable.

It has been suggested by an expert in revenue bond financing[10] that experienced legal counsel should work with the city early in any plans to issue revenue bonds and should arrange for all legal proceedings. Such counsel will know whether enabling legislation contains all the provisions and safeguards necessary to draw up a bond resolution or trust indenture satisfactory both to the issuer and the investor.

Prospective buyers of revenue bonds must have sufficient information concerning a proposed project to enable them to formulate an opinion concerning the chances of its financial success, and must have assurance that their rights are adequately protected. To this end, various kinds of expert knowledge and judgment are required in the preparation of the information on which a determination of feasibility may be made. The information must cover the cost to build and operate a project and the anticipated earnings of the project. Civil engineers and architects are required in the planning and designing of facilities. Traffic engineers will determine from origin and destination studies the expected usage of a project and will make preliminary estimates of costs, operating expenses, and anticipated revenues. Financial advisers will prepare any trust indentures or bond covenants and other documents required in bond financing.

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[10] Morgan, William F., Blyth and Company, Inc., New York, "Financing by Revenue Bonds," Traffic Quarterly, The Eno Foundation, Saugatuck, Conn., Jan. 1956, pp. 79-88.

Such experts can render invaluable aid in making a bond issue attractive to investors, in obtaining the lowest possible interest rates, and in setting up a bond issue to the advantage of the community.[11]

One of the biggest parking programs to be financed by revenue bonds is the one underway in Chicago. The program embraces the whole city—both the central business district and neighborhood residential and business areas. In 1952 the city council, by ordinance, adopted an open-end authorization for the issuance of revenue bonds, Series A, up to a limit of $50 million to finance new parking facilities. After the first issue, additional bonds up to the $50 million limit may be issued only so long as protective conditions are observed. Assurance that the bonds will be sound is contained in the stipulation that revenues from the program as a whole must cover bond service charges at least one and one half times. Bonds are payable solely from revenues of the parking facilities, including parking meters. The amount of revenue collected from the city's 30,000 parking meters in 1957 was $2,461,000.

As of August 1957, $41 million worth of bonds had been sold. A total of 78 off-street facilities, with over 15,000 spaces, had been provided, and 36 others were in process. Most of the facilities were expected to be profitable, and the system as a whole was working well.

In addition to the city's parking program, the Chicago Park District sold $8,300,000 worth of revenue bonds to finance construction of an underground garage beneath Grant Park and Michigan Avenue. The facility, the nation's largest parking structure, accommodates over 2,000 cars. This facility was subsequently expanded.

GIFTS AND OTHER SOURCES

Authorizations for municipalities to accept gifts, grants, bequests or other aids for the purpose of providing parking facilities have been included in over one-fourth of the general and local parking laws enacted as of December 1954. The amount of parking that has been provided as a result of donations of land or money by public agencies or by public-spirited citizens or organizations will probably never be known. Small gifts of money or land are generally never publicized beyond the limits of the local subdivision.

In 1951 three prominent attorneys of Waukegan, Ill., presented the city with a tract of land in the heart of the downtown business section to be used for off-street parking purposes. At that time it was estimated that it might have cost the city as much as $200,000 to acquire the land by any other means.

Perhaps the largest contribution on record is that made to the city of Pittsburgh by three Mellon family foundations, consisting of a gift of $4.4 million to be used to purchase a site, and, after construction of an underground parking garage thereunder, to provide a city park on the surface.

The review of provisions contained in general and local laws for financing parking facilities discloses that the most popular methods authorized are the use of parking fees and charges, issuance of revenue bonds and general obligation bonds, and the use of parking meter revenues. The use of city general funds stands in fifth place. The levying of benefit assessments and special taxes is found to be the least popular of the methods authorized.

METHODS FOR INCREASING PARKING INCOME

Four practices that may be of material help in successfully financing parking facilities are the following: (a) the use of a portion of a parking facility for a business other than the parking of motor vehicles; (b) the exemption from tax assessments of parking property, parking revenues, bonds issued for parking and moneys pledged to bond payments; (c) self-parking; and (d) mechanization within the parking facilities.

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[11] See special bulletin, "Marketing Municipal Bonds," Feb. 1946, Municipal Finance Officers Association.

Accessory and Other Commercial Uses in Parking Facilities

An activity that has developed in connection with the operation of public parking facilities is the use of a part of the facility for purposes that may be considered as accessory to the parking business or for commercial purposes unrelated to the parking of motor vehicles. Some of the reasons justifying the extra activities and the legality of such practices are indicated next.

With increasing frequency, self-sustaining projects, financed by revenue bonds without the backing of the faith and credit of the municipality, are being authorized by state legislatures and undertaken by local authorities. In many cases, operation of such projects proves to be an unprofitable undertaking. Particularly, this may be true in connection with expensive parking buildings. In situations of this kind, it may sometimes be desirable to supplement parking revenues with a steady income derived from the use of parts of the facilities for accessory or incidental uses, such as furnishing automobile supplies and servicing cars, or by renting a portion of the ground floor area of a parking structure for retail store business. Such income may mean the difference between a self-sustaining project and one that would require support from municipal funds.

An accessory or other commercial use may be of particular advantage during the first few months of operation of a facility before its maximum usage has been established. The extra funds thus provided may be urgently needed to pay operating expenses and meet other financial obligations.

Private operators as well as municipalities are finding it advantageous to provide space for the extra activities. A large parking structure provided for downtown visitors by two competing department stores in Richmond, Va., was made financially feasible by the leasing of ground floor space for commercial uses. One corner of the structure is occupied by a woman's shop and another by a restaurant. The J. L. Hudson Company of Detroit, one of the nation's largest department stores, erected a parking deck for shoppers with 850 parking spaces. The first floor of the structure contains 14 retail stores, which are rented for various types of operations.

Accessory uses are frequently desirable from several other standpoints: (a) they are a convenience to motorists and may be an attraction that would increase patronage of the facility; (b) bonds are more easily sold if a proposed structure is to be multipurpose; (c) the extra revenue obtained from additional uses and services may allow parking at rates considerably lower than would otherwise be required; and (d) the theory has been advanced that where parking buildings are located in a retail sales area so as to disrupt the continuity of the character of the area, window shopping is discouraged, volume of sales decreases, and property values become depreciated. It is held that the inclusion of commercial sales areas on the first level of the parking facilities helps to maintain the continuity of the retail district.

There is no question concerning the propriety or legality of the use of parking property for accessory uses under private administration. Under municipal or parking authority ownership, however, accessory uses or the leasing of space for retail stores are sometimes forbidden by law, particularly where a parking site has been obtained by condemnation.

The uses and services authorized or prohibited in parking laws may be roughly divided into the following four classes: (a) the sale, storage, or dispensing of products for servicing motor vehicles by a municipality, or the lessee or occupant of a parking facility; (b) the servicing of motor vehicles at a parking facility by the municipality or a lessee or occupant of the facility; (c) the lease for unrelated commercial activities of space that could be used for parking; and (d) the sale or lease for commercial purposes of surplus space or space uneconomical for use for parking (Table 4).

Two-thirds of the general and local parking enabling acts that had been enacted as of 1954 contain provisions dealing with accessory and other commercial uses, some granting authority to engage in the extra activities and others denying such privilege. One-half of the laws are general in nature, applying to any political subdivisions of the designated classes; the other half are local, applying to single specified places.

TABLE 4

LEGISLATIVE PROVISIONS CONCERNING THE OPERATION OF ACCESSORY AND OTHER COMMERCIAL USES AND SERVICES IN CONNECTION WITH MUNICIPAL PARKING FACILITIES, 1954

Nature of Accessory or Commercial Activity	Statutory Provisions					
	Authorizing Activity		Prohibiting Activity		Total	
	No.	No. of States	No.	No. of States	No.	No. of States
Sale, storage or dispensing of products for servicing motor vehicles	8	8	43	20	51	23
Servicing of motor vehicles	12	9	25	14	37	20
Lease of space usable for parking for commercial purposes unrelated to parking	17	9	1	1	18	9
Lease for commercial purposes of surplus space or space uneconomical for use for parking	9	8	-	-	9	8
Space may be provided for accessory and commercial uses when facility is constructed	5	4	-	-	5	4
Total (columns are nonadditive)					68	27

The most common provisions dealing with accessory and commercial uses are those forbidding the sale, storage, or dispensing of products for servicing motor vehicles, such as gasoline, oil, and automobile accessories, and those with the simple but broad provision prohibiting the municipality, its agent, or a lessee or occupant of a facility from engaging in any commercial or proprietary activity in connection with the facility. A majority of the laws dealing with accessory uses have provisions falling in these classes.

There are frequently qualifications which limit the application of the law. In several cases, the prohibition is specified only with respect to operation of the activity by the city or its regularly constituted parking agent and would not affect facilities leased or operated under contract.

On the positive side, 8 of the 68 laws authorized the sale, storage, or dispensing of products for servicing motor vehicles. One law (charter provision for the city of Los Angeles) specified that operation of a facility shall include incidental uses such as the sale of gasoline, oil, and accessories and the provision of service to vehicles. Most frequently the laws provided that such handling shall be by a lessee or private firm or person under contract or concession arrangement.

A bolder legislative approach is one in which space for commercial uses is authorized to be included in the original plans and the construction of parking facilities. Laws enacted in four states provided that extra space for commercial uses may be provided in parking buildings at the time of construction to assist in defraying expenses of the project. The parking law for the city of Providence, R.I. provided that rental space may be included in facilities when such space is incidental to and reasonably related to the public use of the facilities and will materially reduce net public expenditure.

Questions have arisen concerning the legality of accessory and commercial uses in municipal parking facilities. A private property owner whose land has been taken for a project which will be used in part for private business, or a private businessman who is performing similar services to those proposed to be operated as accessory or incidental uses in a municipal parking facility may feel aggrieved and seek relief in court. Several cases of this nature have been adjudicated.

The most liberal decision in support of nonparking uses is one handed down by the Supreme Court of Delaware in June 1954.[12] The Delaware Parking Authority law pro-

[12] Wilmington Parking Authority v Ranken, 105 A.2d 614 (1954).

vided, among other things, that the parking authority may issue revenue bonds to finance a parking project; that it may not directly engage in the sale of gasoline and automobile accessories or any commodity of trade, or engage in any garage service other than the parking of vehicles, but that it may lease first floor space for such purposes when it deems such leasing to be in the interest of successful financing and operation of the facilities.[13] A Wilmington taxpayer questioned the constitutionality of the statute and the legality of acts of the Wilmington Parking Authority under the law.

The court did not concern itself with the leasing of space for related uses; i.e., the sale of gasoline, oil, and automobile accessories, holding that such uses furthered the convenience of the public and encouraged the use of the facility, and that such use was widespread and immune to attack. In regard to commercial leasing for wholly unrelated uses, the court held that if the sole or primary purpose of the project was private and the public benefit incidental only, the project was unconstitutional and raised the question, "...if the legislature determines that a public project should be self-sustaining, and if it clearly appears that leasing for unrelated commercial uses is necessary to make it self-sustaining, is such leasing, to the extent necessary for the purpose, to be deemed a use of public property subordinate to the public use?"

The court concluded that since the dominant or underlying purpose of the contemplated project subserved a public use, commercial leasing of space therein for uses unrelated to the public use was permitted to the extent necessary and feasible to enable the authority to finance the project, and that to such extent the private use was deemed to be incidental to the public use.

A Michigan statute authorized cities to acquire and operate parking facilities and permitted the leasing of any portion of the ground and basement floor space, not exceeding 25 percent of the total floor area of the entire structure, if such leasing was deemed to be beneficial in connection with the acquisition and/or operation of the facility. The Detroit Parking Authority proposed to acquire land by condemnation and to construct a parking facility accommodating 780 cars, with 22 stores on the first floor to be rented for the purpose of producing revenue. The Supreme Court of Michigan held that the power of eminent domain may not be employed to condemn property for private uses and that since the public and private purposes for which the property was to be used were so intertwined as not to be capable of separation, condemnation must fail.[14] The statute was accordingly held to be unconstitutional.

In reaching its adverse decision, the court took note of the fact that there was no contention by the city that the revenue from leasing was necessary to finance the project. Neither did the statute under which the project was undertaken limit the area for commercial leasing to such amount as might be necessary to finance the project. In this respect, the circumstances surrounding this case were different from those involved in the Wilmington trial where commercial leasing was authorized only to the extent deemed necessary for successful financing of the project.

A third trial to determine the right to engage in accessory activities at a parking facility involved the Public Parking Authority of Pittsburgh.[15] The Pennsylvania law authorizing the establishment of municipal parking authorities, as written at the time of the litigation, expressly provided that an authority should not engage in the sale of gasoline or automobile accessories or of any commodity of trade or commerce, nor should it provide any automobile repair or other garage service. Acting under statutory authority, the Pittsburgh Authority leased two properties to a private parking corporation for operation. The lease stipulated that the corporation should sell petroleum products, tires, batteries, and automobile accessories, and should provide garage services, including minor repairs. Suit was brought by a competitor of the corporation to enjoin the performance of the nonparking services.

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[13] Delaware Laws, 1951, ch. 369, as amended, 1953, chs. 2 and 72.

[14] Shizas et al. v City of Detroit, 333 Mich. 44, 52 N.W.2d 589 (1952).

[15] Midtown Motors, Inc., et al. v Public Parking Authority of Pittsburgh, 372 Pa. 475, 94 A.2d 572 (1953).

The authority and the lessee of the two facilities contended that although the authority itself did not possess the right to engage in the activities under question, the lessee did. It was held by the court that the statutory provision prohibiting the accessory uses and services was designed to ameliorate the impact on private business of entry by municipalities into the parking business, and that the effect on private enterprise of the prohibited sales and services would be precisely the same whether engaged in by the authority or its lessee.

The conflicting claims were clarified by the 1953 amendment to the Parking Authority Law, which provided that where desirable to assist in defraying expenses, an authority may lease on a competitive basis portions of the street level or lower floors of a parking facility for commercial use, including emergency repair service and the sale, by lessee, of any commodity of trade or commerce or any service except sales of gasoline or automobile accessories.

If it is anticipated that it may be desirable to supplement parking income with revenues derived from accessory and commercial activities, each interested municipality should determine whether or not it already has authority to engage in such activities. If it does not now enjoy such rights, it may be desirable for the municipality to seek enabling legislation granting them. Court decisions are more likely to be favorable, and frustrating delays in getting a parking project or a parking program started may be avoided, if the legal right to conduct operations which may be subject to question is established in advance.

Tax Exemption for Parking Facilities

Municipal provision of parking facilities is now generally recognized as being for a public purpose. The provisions contained in general property tax acts of the respective states exempting publicly owned property used for a public purpose from taxes are thus applicable to parking facilities. Additionally, many states have enacted parking enabling statutes that specifically exempt from taxes municipal parking property and the revenues therefrom, bonds issued for parking and the bond income, and moneys pledged to bond payments (Table 5).

An Ohio law[16] applicable to cities and villages, provided that real estate acquired for parking shall not be tax exempt. According to court interpretation, two Michigan laws provide that municipally owned parking facilities of which a portion is leased for private purposes shall not be exempt from taxation.[17] The intent of the Michigan laws, as interpreted, is to eliminate unfair competition between private business operations on municipally owned facilities and competing businesses on privately owned lands.

A small number of laws provide that payments in lieu of property taxes may be made periodically to the city general fund to offset the loss in ad valorem taxes and, in some cases, the loss in gross income tax. Additionally, a few laws make such payments obligatory. One such law, applicable to first class cities in Indiana (Indianapolis),[18] provided that amounts equal to real and personal property taxes and gross income tax shall be transferred to the general fund semianually and that such amounts shall constitute a lien on the municipal parking facilities in favor of the city before the rights of bondholders.

Two Maryland laws applicable to Baltimore[19] provided that the proceeds of certificates of indebtedness may not be expended for construction of a municipal parking facility until the city shall have entered into a binding contract with a legal entity for reimbursement to the city of the estimated loss in real estate taxes on land or property used for a municipal parking project, the assessment to be based on the value of the

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[16] Laws of Ohio, 1947, p. 630, as amended, 1949, p. 172.

[17] Public Acts of Michigan, 1947, No. 286, and Public and Local Acts, 1952, No. 219.

[18] Indiana Acts 1949, ch. 261, as amended, 1951, ch. 312; 1953, ch. 252.

[19] Laws of Extraordinary Session, 1948, ch. 28, and Laws of 1951, ch. 29.

TABLE 5

LEGISLATIVE PROVISIONS CONCERNING THE TAXING OF PUBLICLY OWNED PARKING PROPERTY AND BONDS, 1954[a]

Nature of Provision	Number of Laws, Classified by Type[b]						
	General	Local	Special	State Projects	Private Business	Total	Percent of Total Number of Laws[c]
Exempt from taxation							
Parking property	14	22	10	12	3	61	14.7
Payments in lieu of taxes shall be made	2	3		2		7	1.7
Payments in lieu of taxes may be made	4	2	1	1		8	1.9
Parking revenues and monies	6	7	4	6	1	24	5.8
Revenue bonds	22	27	7	12	2	70	16.8
Income from bonds	9	16	7	10		42	10.1
Monies pledged to bond payments		5	1	1		7	1.7
Total (columns are nonadditive)	25	40	11	16	3	95	22.8
Not exempt from property taxes	3[d]					3[d]	0.7
Not exempt from gift, inheritance, transfer and estate taxes	7	8	3	4	1	23	5.5
Total laws involved (columns are nonadditive)	28	40	11	16	3	98	23.6

[a] Data are based on information furnished by the U. S. Bureau of Public Roads.
[b] See Table 1.
[c] The total number of parking enabling statutes that had been enacted as of December 1954 was 416 (see Table 1).
[d] Includes two Michigan laws which, according to court interpretation, provide that any municipally owned and operated parking facility of which a part is leased for private purposes shall not be tax exempt.

property at the start of the project. The Parking Authority Law of New Jersey[20] provided that, in lieu of taxes, an authority may pay for services or facilities furnished by any subdivision, such as water, lights, closing of streets, and lease or gift of property.

Madison, Wis., adopted an ordinance in April 1950 that provided for the payment of tax-equivalents on city-owned parking lots. The ordinance required that each year there shall be paid into the city general fund a sum "equal in amount to the general taxes which would have been levied on the several parcels included within the parking area, based on the assessed valuations of these parcels on May 1, 1950, and the mill rate as adopted by the city council in December of each preceding year."

As an incentive to construction of parking buildings, the state of New York enacted a law providing that any city with a population between 200,000 and 250,000 or between 500,000 and 1,000,000 may adopt a local law providing that any building which shall be constructed, altered, remodeled, or reconstructed for use for off-street parking for at least 150 automobiles shall be exempt from taxation for a period not to exceed 15 years, starting from the taxable status data immediately following construction.[21] Such construction shall be completed by specified dates and at least 75 percent of the total floor area shall be used for parking. The exemption applies only to the portion of the building used for parking and does not apply to land on which the building is situated.

Parking facilities provided by the Long Island Transit Authority as well as other property of the authority, and its income and operations were tax exempt as to sales,

[20] Laws of 1948, ch. 198, as amended, 1952, ch. 303, 1953, ch. 153, 1954, ch. 138.
[21] Laws of New York, 1952, ch. 665; 1954, ch. 618.

excise, and license taxes.[22] Its bonds were exempt from taxation except estate, gift, and transfer taxes. The property of the Boston Metropolitan Transit Authority is likewise exempt from taxes and assessments and its bonds are exempt from state taxes while held by the authority.[23]

The city of Cleveland constructed a large stadium and acquired large areas of land to be used for stadium parking. The facilities were rented to private persons for substantial sums of money and the city also received a share of the profits from sales by concessionaires. The city appealed when the board of tax appeals upheld the county auditor in restoring the property to the tax duplicate of the county. The Supreme Court held that the stadium and its four parking lots could not be exempted under the constitution "as public property used exclusively for any public purpose," and the city would, therefore, be required to pay taxes on the property.[24]

The Pennsylvania Parking Authority Law of 1947, as amended, exempted parking authority property from ad valorem taxes. The Public Parking Authority of Pittsburgh let two parking garages and two parking lots to private parties for operation. One garage contains five rooms for use as stores. When the authority brought action to restrain the assessment and levy of taxes on its property, its claim for exemption was attacked on the ground that the facilities were leased to private parties who operated them for profit.

The Supreme Court reasoned that parking authority property did not lose its tax exempt status merely by reason of being leased for operation, that the lease for parking purposes was merely a choice of means, and that the public purpose was being served even though the lessees derived profit from the operation. The Court held that the portion of such property rented for commercial purposes, however, did lose its tax exempt status, even though the rentals went to authority purposes. The test of exemption, said the court, is the use of property and not the income derived therefrom.[25]

A block of county-owned property located in downtown Tampa, Fla., was leased to a group of private individuals as a commercial parking lot. The county had agreed that no city or county ad valorem taxes would be levied, but that any buildings constructed would be subject to taxes. The circuit court had ruled that the lease should be assessed as tangible personal property. Reversing the circuit court, the supreme court declared that tangible taxes could not be levied on the lease inasmuch as Florida law makes no provision for imposing tangible taxes against leases.

In 1956, the Supreme Judicial Court of Massachusetts, Suffolk, upheld the validity of a statute that provides that no property assessment shall be paid by any corporation leasing the underground area of Boston Common for a parking facility.[26] The Court was of the opinion that the statute was valid even though the lessee was a private corporation and would be operating the leased portion for its own profit without public regulation of its rates or services, and even though other leased municipal properties, where lessees use them for their business purposes, remain taxable. The court held that the whole garage scheme was justified on the principle that the project was for the purpose of abating the nuisance of traffic congestion and was, therefore, for a valid public purpose.

The Delaware law authorizing the creation of a parking authority in any municipality provided that the property and bonds of an authority should be exempt from taxes in the state. Accordingly, in a trial involving the Wilmington Parking Authority, the Supreme Court held that all property and bonds of the authority and the income from the authority's parking facility were exempt from all taxes imposed within the state, notwith-

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[22] Laws of New York, 1951, ch. 361, as amended, 1952, ch. 379.

[23] Massachusetts Acts, 1947, ch. 544, as amended, 1949, chs. 572, 675, and 798; 1950, ch. 364.

[24] City of Cleveland v Board of Tax Appeals, 91 N.E.2d 480 (1950).

[25] Public Parking Authority of Pittsburgh v Board of Property Assessment, 377 Pa. 274, 105 A.2d 165 (1954).

[26] Cabot et al. v Assessors of Boston et al., Supreme Judicial Court of Massachusetts, Suffolk, 138 N.E.2d 618 (1956).

standing the fact that a portion of the space in the facility would be leased for nonparking commercial purposes.[27]

Automobile parking spaces owned by George Washington University and rented to students for a nominal fee of $0.20 cents a half day were held to be exempt from District of Columbia realty taxation. The fee was not shown to exceed the cost of operation. The statute under which the exemption was granted provided that grounds belonging to a university and reasonably required and actually used for carrying on the activities and purposes of the university, not organized or operated for private gain, are exempt from realty taxes.[28]

The most expensive item in the operating costs of parking facilities is the salary of parking attendants. When motorists park their own vehicles, the number of attendants at a parking facility may be kept to a minimum. For this purpose, aisles and parking must be conveniently arranged and of sufficient width to permit parking by the unskilled vehicle operator as well as the more proficient driver.

Mechanical devices to take the place of attendants are being developed and are becoming increasingly popular. The most common device is the parking meter, installed in parking lots and garages. Operating costs in the parking facilities can be greatly reduced and parking turnover significantly increased. Numerous cities and private parking operators have resorted to this money-saving device.

Meters may be set to operate on a number of different coin-time combinations. The parking fee may be varied according to the location of the lot in relation to the central business district. For convenience to parkers, coin changing machines may be installed at convenient locations, so that a parker may obtain the correct coins to pay his parking charge. The city may make collections from the meters in municipally owned lots and maintain and police the lots by the use of its regular police personnel with little additional expense for such service.

Another labor-saving device, developed about 1954, that may be utilized under certain conditions to cut operating expenses is an electrically controlled gate located at entrances to parking lots. Gates may be controlled by treadles, photocells, buried loops or other detectors. The actuating instrument to enter or leave a gate may be a coin, token, magnetic card, or a key (for monthly rate patrons). The deposit of the coin, card, or key actuates a control which opens the gate to pass a car, closes the gate when the car clears, prevents the gate coming down on the car, prevents the passing of more than one car in one operation. There is no coin-time mechanism that accepts different fees for parking periods of different lengths. The device is practical, therefore, only for flat-rate parking lots that are unprofitable to operate with attendants. It has its most beneficial use in fringe lots and in lots reserved for particular patrons. Another use is in downtown parking lots that are closed during the evening because they cannot earn enough revenue to cover the cost of attendants. By using attendants for daytime control and the electric gate at night, a substantial volume of evening and overnight business may be attracted to the facility.

From the standpoint of minimizing inbound reservoir space, and still avoiding any backup into the street system, a free-entry, pay-exit gate arrangement has great advantage for flat-rate parking facilities.

PROVISION OF PARKING FACILITIES THROUGH ESTABLISHED MUNICIPAL DEPARTMENTS

Municipal Responsibility

One of the purposes for which governments are formed is to protect the health and safety of the citizens and to provide for their welfare. If a parking problem persists

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[27] Wilmington Parking Authority v Ranken, 105 A.2d 614 (1954).

[28] District of Columbia v George Washington University, 243 F.2d 246, U.S. Court of Appeals, District of Columbia Circuit, March 21, 1957.

in a community, it may become the responsibility of the municipality to take whatever steps are required to eliminate congestion, facilitate traffic movement, and provide for the needs of the inhabitants. Thus, if private enterprise fails to make satisfactory provision for important parking needs, local government should consider its responsibility in the matter.

A section of the parking policy of the American Municipal Association, adopted in 1954, reads as follows:

> The provision of parking places off-the-street, in the motor age, has come to be regarded as a legitimate, expected and necessary public municipal service. For the welfare, safety, and convenience of its citizens, and to insure its own future existence, each municipality must accept the responsibility for definite action which will result in the furnishing of adequate, permanent parking facilities at reasonable rates.

Recognizing their obligation, municipalities in increasing numbers are providing and operating off-street parking facilities. However, cities have not rushed pell-mell into the parking business. There has been a reluctance on the part of municipalities to enter this field, traditionally considered a proper one for private enterprise. Present municipal interest is the outgrowth of a mounting dissatisfaction with existing parking conditions in business areas. In many places, private citizens, merchants, and other businessmen have become disturbed by the increasing inadequacy of accessibility and the lessening customer-attracting ability of downtown establishments, and are demanding that the municipality take action.

Tardiness in municipal action is clearly demonstrated by data obtained in annual surveys conducted by the International City Managers' Association to ascertain the number of municipalities of over 10,000 population that had provided off-street parking facilities as of each survey year. In 1938, the association found that only 33 cities reported municipal off-street parking facilities. And yet traffic congestion on city streets was of such proportions even 10 years earlier, as of 1928, that a number of cities had already taken steps to reduce or control parking on the streets.

Some of the subsequent surveys by the Association disclose a steady increase in municipal activity in this field (Table 6).

Thus, in 1945 only 33 percent had provided parking lots. By 1957, 68 percent had provided parking lots. Unless parking pressures are eased by other means, it is likely that municipal provision of facilities will continue, and at an accelerated rate.

TABLE 6

MUNICIPAL PARKING ACTIVITY (CITIES OF OVER 10,000 POPULATION)

Survey Year	Date of Municipal Year Book	No. Reporting	With Off-Street Parking			
			No.	Percentage of Cities Reporting	No. of Parking Lots	Avg. No. of Lots per City
1941	1942	(Cities of over 10,000 population, 1940 census, 1,077)	211		(400 by 188 reporting cities)	
1945	1946	836	280	33	570	2.0
1947	1948	867	302	35	622	2.1
1949	1950	961 (Cities of over 10,000 population, 1950 census, 1,233)	380	40	828	2.2
1951	1952	1,137	484	43	1,163	2.4
1953	1954	892	554	62	1,747	3.2
1955	1956	1,132	675	60	2,397	3.6
1956	1957	1,130	746	66	2,872	3.8
1957	1958	1,109	751	68	3,160	4.2

There may be concern as to what the proper role of the municipality should be in the provision of off-street parking. The very magnitude and complexity of the problem in the larger cities and the lack of knowledge concerning proper procedures in planning for facilities and implementing a program probably account for some of the lag in accomplishment. Another major reason is that responsibility for the municipality's part in the provision of off-street parking has generally not been specifically assigned. The services of various municipal departments may be required and their work must be coordinated.

The lack of legal authority to perform the necessary operations required in providing and operating off-street parking facilities may tie the hands of city officials so that municipal action is effectually blocked. The scarcity of reasonably priced, suitable land for parking sites in the larger, more compactly built cities, and the necessity to take property by condemnation are apt to be serious deterrents. Financing of expensive projects may constitute complex problems. Opposition by private parking interests is typical.

Source and Adequacy of Essential Powers

A basic consideration for the municipal development of off-street parking facilities concerns the adequacy of powers to do the things required in planning and establishing the facilities. Such powers should include the ability (a) to plan for a coordinated system of off-street parking facilities, well-located and functionally designed, and in connection with such planning to conduct surveys; (b) to assemble land for parking facilities at desired locations; (c) to finance in any desired manner; (d) to construct facilities or to contract for construction; and (e) to operate and maintain facilities or to enter into arrangements with others for operation and maintenance.

The right of a municipality to perform the functions necessary to establish parking facilities may be provided through home rule powers, through powers delegated by state enabling legislation, or by means of implied powers—those not specifically delegated but considered to be covered by some broad assigned authority.

Home Rule Powers[29]—The term "home rule" denotes authority of municipalities to exercise substantial powers of self-government in local affairs. The municipal charter is the instrument in which the powers, privileges, and duties of the home rule municipality are prescribed. Authority stems from state constitutions or directly from state legislatures. The most effective arrangements are the constitutional provisions of the following types: (a) the "self-executing" provision that grants home rule directly to municipalities and contains sufficient procedural direction to enable the municipalities to frame their own charters; and (b) the "mandatory" provision, that grants home rule, but requires that the state legislative body provide implementing procedural laws.

Two other methods for obtaining home rule have proven more or less ineffectual. One is a constitutional provision that permits the legislative body to grant home rule. The other consists of home rule obtained by a mere statute and is generally regarded as inadequate.

Every municipality should examine its home rule powers with respect to parking and take whatever steps are required to implement any grant of power contained in the constitution or in legislative enactments.

Parking Enabling Legislation[30]—Where home rule powers for dealing with parking problems do not exist, it is essential that legislative enactments delegate the necessary authority.

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[29] Kerstetter, John R., "Municipal Home Rule," The Municipal Year Book, The International City Managers' Assoc., Chicago, Ill., 1956, pp. 256-266; and Rhyne, Charles S., Municipal Law, National Institute of Municipal Law Officers, Washington, D.C., 1957, pp. 62-64.

[30] Data relating to enabling legislation are based on information obtained from the U.S. Bureau of Public Roads.

For convenience in analyzing the authority delegated, the laws have been classified into five general types, according to the extent of their application, as follows: (a) general laws, authorizing all municipalities within a given state, or designated classes thereof, to provide parking facilities; (b) local laws, authorizing specified cities to deal with their parking problems in a more or less comprehensive manner; (c) special laws, authorizing the use of a specified piece of property for parking or the provision of parking facilities in connection with a single development or establishment; (d) laws applicable to state projects, authorizing the provision of parking facilities in connection with designated state properties; and (e) laws applicable to private business, authorizing the provision of parking facilities in connection with a designated private business or specified types of private business (Table 7).

Enactments in several states apply to specified property uses within the designated subdivisions or to the use of designated property for parking. They constitute authorizations for the provision of parking facilities in connection with such uses as beaches, parks, parkways, civic centers, court houses, markets, or stadiums, or the use of state owned or municipally owned property for parking. Facilities provided pursuant to this special legislation might constitute important contributions to the parking pool in some places. Except in very small places, however, the single parking facility authorized by a special law or the facilities provided in connection with a single property use probably would not provide any great relief where parking is a serious problem.

Other laws consist of authorizations for parking facilities to be undertaken at the state level. These relate to the provision of parking facilities in connection with such state property as capitol buildings, office buildings, world trade centers, parks, memorials, state college stadiums, tidal power plants, dams, highways, parkways, port districts, and beaches. Such facilities serve a very necessary purpose in connection with the use of the designated state properties, although in many cases they are far removed from the congested central city areas.

The adequacy of the laws may be gaged by the extent to which all political subdivisions with parking problems are covered by the laws and the completeness of the essential powers delegated to do the job. If the general laws were comprehensive, both in the range of political units to which applicable and in the extent of the powers delegated, there would probably be no further need for parking legislation in the states represented.

Laws providing for the provision of parking facilities by cities are not applicable to all cities within the states involved, and not each of the other laws is applicable to all units of the specified kind within the respective states. Although couched in general terms, some of the laws are very limited in their application. For instance, the single general law enacted in one state is applicable only to cities of less than 60,000 population, operating under a home rule charter, which owned and were operating one or more public parking lots as of January 1, 1949; and the single law in another state is applicable only to cities with over 20,000 population. Of the five general parking laws in one state, one is applicable to counties, one to townships, one to home rule cities, one to cities in general, and one to any city, county, village, township, or specified types of districts.

Special laws usually authorize the establishment of a single parking facility, or facilities in connection with a single property use. Moreover, the projects are not usually located in central city areas. The laws applicable to state projects (Table 1) and those involving private business are also generally of limited application. Such laws are for the most part ineffectual in alleviating central city parking difficulties. For this reason they have been omitted from the section dealing with the extent of the powers granted.

The fundamental powers that are required in dealing with parking problems are (a) the ability to plan and design facilities, (b) to finance, (c) to assemble land, (d) to construct facilities, and (e) to operate and maintain facilities.

The right to plan and design individual parking projects and to plan for a complete system of off-street parking facilities is necessary in any parking program. The success or failure of a program will depend largely on the ability of those charged with

TABLE 7

SUMMARY OF TYPES OF PARKING ENABLING STATUTES, BY STATES (1954)
TYPES OF LAWS ENACTED

State	Applicable to Municipalities[a]			Applicable to State Projects	Applicable to Private Projects
	General	Local	Special		
Ala.			1		
Ariz.	1			1	
Ark.	2				
Calif.	9	2	4	4	
Conn.	1	30		2	
Del.	1	2			
D. C.		1	1		
Fla.	1	35	3		
Ga.	1	29		1	
Idaho	1	2			
Ill.	1	1		4	
Ind.	5		2	1	
Iowa	1				
Kan.	5			2	
Ky.	3				
La.				3	
Me.	2	5		1	
Md.		24	2	2	2
Mass.	3	4	19	9	5
Mich.	5			2	
Minn.	5			2	
Miss.	2		1		
Mo.	3		1	1	
Mont.	4				
Nev.		2			
N. H.	2	1		2	
N. J.	5		2	5	
N. Mex.	1				
N. Y.	7	9	6	3	4[b]
N. C.	5	3	3		
N. Dak.	3			1	
Ohio	1			1	1
Okla.	1			1	
Ore.	1			2	
Pa.	7		3	1	
R. I.		4	6		
S. C.	3		2		1
S. Dak.	1				
Tenn.		4		1	
Texas	1			2	
Utah				2	
Vt.	1	1		2	
Va.	2	18		3	
Wash.				2	
W. Va.	2				
Wis.	5			2	
Wyo.	1				
Total no. of laws	105	177	56	65	13
No. of states involved	38	18 and D.C.	14 and D.C.	29	5

[a]General laws are those applicable to any municipality (city, town, village, county, township, borough, or other legal subdivision) or designated classes thereof; local laws are those that are applicable to a specified municipality; and special laws are those that are applicable to a particular project within a specified municipality or to specified property uses.

[b]One New York law provides that, under specified conditions, parking buildings in cities of designated sizes in New York State shall be exempted from local tax levies.

TABLE 8

WALKING DISTANCES OF PARKERS[a]

Population Group	No. of Cities	Less Than:				1,550 ft and Over	Avg. Distance Walked (ft)
		350 ft	750 ft	1,550 ft	1,550 ft		
Under 5,000	17	77	94	98	99	1	223
25,000- 50,000	16	76	92	97	99	1	293
50,000- 100,000	5	68	88	95	98	2	353
100,000- 250,000	13	63	85	93	97	3	397
250,000- 500,000	6	58	79	89	95	5	502
500,000-1,000,000	5	57	80	91	95	5	523
Over 1,000,000	3	45	68	81	89	11	549

[a]Drivers of both passenger cars and trucks.

responsibility to anticipate the steps that will be involved and to make proper preparation therefore in addition to ascertaining the parking needs, planning a parking program, and designing individual facilities, the matter of financing will require early decisions and preparation. The adoption of ordinances may be required and an election held for a bond issue, the levying of benefit assessments, or other matters. These preliminary steps are authorized in only some of the parking laws.

Perhaps one of the ultimate tests of the adequacy of parking legislation lies in the extent to which power is granted to finance facilities. Clear and assured legal authority is imperative, especially in connection with the marketing of securities.

A summary of the most important methods authorized for financing by general and local laws and the number of states involved in each authorized method is given in Table 2. The use of parking fees and other parking revenues was authorized in 201 laws. Financing by means of general obligation bonds was authorized in 138 laws and by revenue bonds also in 138 laws. The use of parking meter revenues ranks next, being found in 92 laws. Other methods were less favored.

Of the general and local laws, about 77 percent authorize the use of the power of eminent domain in assembling land for parking facilities. The lack of such power could mean the difference between well-located, efficiently used facilities and facilities not used to capacity and not bringing the anticipated parking and traffic relief.

Based on parking surveys in 65 cities, the U.S. Bureau of Public Roads determined the distances that parkers in cities of various populations walked from their parking places in the central business district to their destinations.[31] These data, classified according to distance walked and the population of the respective cities, are given in Table 8.

These data reflect the actual distances walked, not the distance preferred by parkers. The larger the city, the greater the average distance that parkers walked. Thirty-two percent of the parkers in the three largest cities surveyed, all with over 1,000,000 population, walked 750 ft or over from parking place to destination and 11 percent walked 1,550 ft or over. In the five cities with populations ranging between 500,000 and 1,000,000, 20 percent of parkers walked 750 ft or over and 5 percent walked 1,550 ft or over. Comparable figures in the 17 cities of the smallest population group, those under 5,000, were 6 percent for parkers who walked 750 ft or over and 1 percent for those who walked 1,550 ft or over.

These figures seem to indicate a shortage in the larger cities of parking facilities conveniently located to the destinations of parkers and acceptable in other material matters.

Cost of parking and convenience in reaching a parking facility and in getting away from the downtown area at the end of the day seem to have had a decided influence on

[31] "Parking Guide for Cities," U.S. Bureau of Public Roads, Washington, D.C., 1956, Table 23.

the choice of parking facilities by a segment of Detroit parkers. The Municipal Parking Authority located a 600-car parking ramp 2½ blocks from the access to an expressway and six blocks from the main business corners of the downtown area for the principal purpose of serving all-day parkers. A parker could reach the expressway one minute after leaving the parking site and without the necessity of driving in downtown traffic. Because of the cheaper land cost, a lower parking rate was charged than for facilities located closer to the main shopping district. The parking rate was $0.15 for the first hour, $0.10 for each additional hour, and $0.65 for all day. The monthly rate was $13.00. Of the regular monthly parkers using the facility, 48 percent walked more than 1,200 ft to reach their destinations; whereas, in two other facilities located closer to the downtown area, only 5 to 17 percent of such parkers walked in excess of 1,200 ft to destinations.[32]

Another matter that undoubtedly affects the choice of a place to park is the character of the neighborhood through which the parker must walk in reaching his destination and in returning to his vehicle. The walk can be a pleasant, relaxing experience if the intervening area is a well-kept, first-class business, residential or recreational district. If the facility is located in a substandard area, walking may be considered unpleasant or hazardous. This is especially true for women parkers. Moreover, vandalism may be more prevalent in such areas. The saving in cost of a site acquired in a run-down area may be greatly outweighed by the reluctance of parkers to use such a facility. The success of the Ann Arbor parking system is attributed in part to the choice of the best locations for its parking facilities, even when the cost was more than for other available sites. If direct negotiations fail, the power of condemnation may be required to obtain such desirable parking sites.

In the process of assembling property it may sometimes be necessary, in fairness to the private owner, to take more land than is actually needed for a parking project or to take land that is not of proper shape to use for parking. Also, property needed for parking at one time could become useless for that purpose at a later time. It is in the public interest to have authority to dispose of such surplus or unnecessary property.

State legislatures had made provision for disposition of unneeded property in about one-fourth of the general and local parking laws. Most of the provisions simply stated that property may be acquired in specified ways, including condemnation, and property no longer required may be sold or otherwise disposed of. There are peculiar restrictions in a few statutes, however, in connection with disposition.

The power to expropriate existing private off-street parking facilities is often desirable in the interest of obtaining conformity to an overall improvement plan, of enlarging facilities, or of assuring the future use of such property for parking. Certain states have enacted specific provisions relating to the taking of this type of property, with some of the laws authorizing the taking and others prohibiting it. Statutory provisions are indicated in Table 9. Other private property that is strategically situated with respect to parking may sometimes be acquired to assure its availability later for such purpose.

Expropriation Upheld—In Massachusetts, the Supreme Judicial Court reversed a decision of the Superior Court and upheld the right of the city of Malden to take an existing specified parking lot to be used for a municipal parking facility.[33] The Court held that the legislative body of the city, acting under power delegated to it by statute, could lawfully make plans for the future and provide lots to be used as parking areas, and that it could take them at such time as appeared appropriate, whether or not such lots were then devoted to like use by private owners. The court pointed out that the use of the land by the private owners for a public parking lot did not preclude the necessity for taking it, inasmuch as the owners, at any moment, could decide to sell the land or to use it for other purposes. This decision is based on a law which authorized the

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[32]McGillis, John D., Director, Municipal Parking Authority," A Report On Expressways and Walking Distances," City of Detroit, March 1, 1958, 3 pp.

[33]Tate et al. v City of Malden et al., 136 N.E.2d 188 (1956).

TABLE 9

STATUTORY PROVISIONS CONCERNING THE ACQUISITION OF EXISTING PARKING FACILITIES, AS OF 1954[a]

State and Subdivision	Administrative Body	Statutory Provision
California:		
Any city, city and county, or county (two similar laws)	Legislative body or parking authority	May not acquire existing parking facility except after public hearing. Proposed new facility must contain a parking capacity not less than three times that of existing facility.
Delaware:		
Any city, county or town	Parking authority	Property being used continuously for parking purposes may not be acquired by eminent domain.
Florida:		
Alachua County	Board of county commissioners	No "public work" may be undertaken in area where there is an existing private facility of similar nature unless existing facility shall first be acquired.
City of Miami	City commission	May acquire lots with improvements partially completed or under contract for construction and may complete the same.
Maryland:		
City of Annapolis	Legislative body	May not condemn parking lot used in connection with an established business.
Baltimore County	County parking authority	May acquire existing parking facility.
Massachusetts:		
City of Boston	Metropolitan Transit Authority	May not acquire existing parking facility by condemnation except with consent of owner.
Montana:		
Any city	Parking commission or city	Existing parking facility may not be acquired except after public hearing. Land area and parking area of proposed new facility must be not less than three times the land area and parking area of existing facility.
New Mexico:		
Any city	Legislative body	May not acquire by condemnation unless area of new facility will be not less than three times the area of existing facility and unless owner or lessor of existing facility shall refuse to furnish such enlarged facility.
Ohio:		
Municipal corporations (cities and villages)	Governing body	May acquire existing facility by purchase, gift, devise, exchange, lease, or sublease but may not condemn and take real estate upon which a parking facility open to the public has been established for a period of one year.
Oregon:		
Any city or town	Legislative body	May not condemn property being used for public parking purposes.
Pennsylvania:		
City of 1st, 2nd, 2nd A, or 3rd class, borough or 1st class township	Parking authority	May not condemn property being used continuously as a parking facility.
Rhode Island:		
City of Providence	City council	Parking facility may not be acquired unless proposed new facility will have a capacity at least 100 percent greater than existing facility.
Tennessee:		
City of Knoxville	Parking authority	May not condemn property that was in use for parking at time authority was constituted and subsequently has been continuously so used.

[a]Based on U. S. Bureau of Public Roads data.

city of Malden to acquire land and buildings located on specified streets in the city "or any other streets in said city as the city council may determine."[34]

The Massachusetts Supreme Judicial Court has also upheld the right of the city of Boston to take private parking lots for the purpose of constructing parking garages thereon. In 1957, owners of three downtown parking lots sought injunctions against the city and the Boston Real Estate Board to prevent seizure of the lots and to have the off-street parking law invalidated. The law authorizes the city "to acquire by purchase, gift, devise, eminent domain, or otherwise, but not by lease, real or personal property and interests therein other than leasehold." The court found that the law was constitutional and ordered the suits dismissed.[35]

In the Boston case, it was questioned whether it was legal for the city to acquire private property by condemnation and lease it to private operators who would operate the facilities for an indefinite period. It was believed that the private operators would profit from the operation. The court held that the private advantage aspects of the plan were reasonably incidental to carrying out a public purpose in a way discretionary of the legislative body.

In another case, two property owners of Miami Beach, Fla., applied for a permit to construct a parking garage on oceanfront property and to use the ground floor for

[34]Acts of Massachusetts, 1954, Ch. 600.

[35]The three suits, brought by the private parking operators, were heard together. Reported in Court Street Parking Co. v City of Boston et al., 143 N.E.2d 683, 1957.

retail stores. The property was located in a multiple-family district in which the provision of stores was prohibited, and the city refused to issue the permit. The Florida Supreme Court subsequently declared the action of the city in denying the permit to be valid.[36] In so doing, the Court referred to its decision in a previous case in which it held that the provision of stores in a parking structure located in a multiple-family district would violate the integrity of the district and would constitute spot zoning of the worst order. The city therefore sought to condemn the property for parking purposes, with stores excluded. Because of the traffic congestion in the area involved, the court deemed a parking garage essential to the maintenance of the integrity of the district and agreed with the city council's contention that the taking of the property was necessary to assure its use for parking.

The power to acquire land by lease has been included in many of the general and local laws. In most of the laws, leasing is merely enumerated as one of the permissible methods for acquiring parking sites. In a few, however, there are limitations on the leasing privilege.

Two general laws of Massachusetts, one enacted in 1926 and the other in 1949, provided that cities and towns of Massachusetts may not lease land for parking for a period in excess of 5 years. The Off-Street Parking Commission of the city of Springfield was authorized by a 1952 law to acquire real or personal property or rights therein for parking by purchase, gift, bequest, devise, grant, eminent domain, or by lease. The law specified, however, that wherever possible acquisition of real property should be in fee simple.

The Board of Real Estate Commissioners of the city of Boston may acquire real or personal property or any interest therein for parking except a lease-hold estate, such property to be acquired by eminent domain, purchase, gift, devise or otherwise, but not by lease.

In South Dakota, cities and towns may not lease property for parking for a term in excess of 15 years.

Though the leasing of property for parking provides little assurance as to the permanency of the facility, this disadvantage is sometimes offset by including a purchase option in the contract.

Coral Gables, Fla., utilizes a plan whereby the city leases space, frequently behind stores, from private owners and provides metered parking lots. The standard lease period is 25 years, with the city having an option to purchase the premises during the period of the lease. Property owners receive 35 percent of the revenues from the parking meters. A notable feature of the plan is that it does not remove the property so used from the tax rolls. The city assumes the taxpaying responsibility of the owner and makes payments out of its share of the parking meter revenues.

Generally, cities are granted authority to construct and maintain parking facilities, either through established city departments, leases, or contracts. Leasing or contracting for parking facility construction is often necessary, and many laws specify the maximum cost of materials that may be purchased, or contracts that may be let without bidding.

Most parking laws provide for operation of facilities by the city, a parking authority, or under contract or lease. Leasing or contracting for operation is mandatory in a few laws.

Leasing arrangements proposed by Camden, N.J., and Topeka, Kan., were ruled invalid by their respective state courts. In New Jersey, statutory authority for leasing municipal land for private development of public parking facilities was given only to parking authorities. Inasmuch as Camden had not established a parking authority, it had no authority to lease municipal lands for such purpose.[37]

The city of Topeka had proposed to lease, to a "park and shop" organization, all parking facilities that it would acquire in the future. However, a state court declared

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[36] Rott v City of Miami Beach, 94 So.2d 168, Supreme Court, en Banc, March 13, 1957, rehearing denied April 24, 1957.

[37] Camden Plaza Parking, Inc., v City of Camden, 16 N.J. 150, 107 A.2d 1 (1954).

that although cities may lease presently owned parking facilities, the law does not authorize them to contract to lease all parking facilities to be acquired in the future, and that a governing body may not bid its successors in office to lease parking facilities not yet in contemplation.[38]

In a number of places, private interests have built parking facilities on city property and operate them under leasing arrangements. Parking garages provided in this manner included those constructed under Union Square and St. Mary's Square in San Francisco, Pershing Square in Los Angeles, and Grant Park in Chicago. At the termination of the leases, title to the property will vest in the respective cities.

It may be legally necessary, and desirable as a matter of policy, for a municipality to retain some control over leased parking facilities to assure equitable parking rates and proper use of the facilities. This matter has been given attention in specific terms in a number of parking laws and appears to be implied in a number of other statutes. Some selected provisions which are specific as to powers conferred in connection with leased facilities are given in Table 10.

The matter of controlling rates in leased parking facilities was placed before the Supreme Court of Indiana when certain property owners and taxpayers of the city of Indianapolis brought suit charging that certain acts of the city, of its parking commission, and of the Department of Off-street Parking were illegal and that the First Class Cities Off-Street Parking Act[39] was unconstitutional. The Act gave the parking commission power to condemn property to be leased or sold to private operators for off-street parking, but it deprived the commission of any power to control rates or charges to the public for use of the facilities. The court found that the character of the control which the city and its commission might impress on the property when leased or sold, as provided in the act, would assure its public use and dedication for the purposes intended without control over parking rates. It was pointed out that the public had the basic right, under common law, to be served in all particulars without discrimination and at a reasonable price, and that it might bring suit to enforce this right.[40]

On the other hand, the California District Court of Appeal, First District, and the California Supreme Court found that the city of San Francisco's acquisition of land to be leased to private individuals for construction of a parking garage without the city controlling parking charges or otherwise regulating its operation was not a proper exercise of the constitutional power of eminent domain as implemented by general law.[41] The Court pointed out that there were other laws, such as the Vehicle Parking District Law of 1943, under which the city might have proceeded as proposed.

In another leasing arrangement entered into by the city of San Francisco and a nonprofit corporation, the city retains control over rates. Although the arrangement was attacked as an unlawful and arbitrary delegation of authority and not being of public purpose, the Court found the plan to be valid and constitutional.[42] Under the plan, the city acquires land and leases it to the corporation for construction of a garage. The facility is financed by notes of the corporation secured by the revenues of the project, with the corporation's stock being placed in trust for the city. The lease is awarded by competitive bidding and runs for a period of 50 years, although it may be terminated earlier providing construction notes are paid. The city will ultimately own the garage free and clear of any debt or lease.

The Supreme Court of Massachusetts has upheld the constitutionality of the parking law under which the city of Boston proposed to acquire three private parking lots by eminent domain, construct parking garages thereon, and lease the facilities to private

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[38] State ex rel. Hawks v City of Topeka et al., 176 Kan. 240, 270 P.2d 270 (1954).

[39] Burns' Indiana Statutes, Ann., Vol. 9, Part 2, with 1957 Cumulative Pocket Supplement, Title 48, Ch. 84, Secs. 48-8421 to 48-8449, Incl. (Acts of 1949, Ch. 261, as amended.)

[40] Foltz v City of Indianapolis, 130 N.E.2d 650 (1955).

[41] City and County of San Francisco v Ross, 270 P.2d 488 (District Court of Appeal, First District, Division 1, 1954); 279 P.2d 529 (Supreme Court, 1955).

[42] Larsen v City and County of San Francisco, 152 Cal.App.2d 355, 313 P.2d 959 (1957).

TABLE 10

SELECTED STATUTORY PROVISIONS RELATING TO RATES AND REGULATIONS IN FACILITIES LEASED FOR OPERATION (as of 1954)

State and Subdivision	Administrative Body	Statutory Provision
Arkansas:		
Any city or town	Parking authority	May operate facilities or may lease for operation and may control all matters pertaining to parking of vehicles. Rates fixed precedent to issuance of revenue bonds may not be reduced until bonds have been redeemed.
California:		
Parking district (1951 law)	Parking place commissioners	May operate or may lease or contract for operation. Property owners in parking district who have been assessed an ad valorem tax shall receive preferential rates for themselves, their tenants, and customers and use of facilities may be restricted for their benefit.
Any city or city and county (Bond law of 1949)	Legislative body	Shall lease for operation and shall fix and regulate rates and charges to yield revenues sufficient to meet expenses and make bond payments.
Any city or city and county (Parking Law of 1949)	Parking authority or legislative body	May lease for operation. Authority or legislative body shall fix and regulate rates and charges to yield revenues sufficient to meet expenses, make bond payments and provide sinking fund and reserves.
Connecticut:		
Town of East Hartford	Parking commission	May lease facilities upon terms in public interest. Subject to provisions of any lease, town council shall fix and revise rates, fees and rentals to yield revenues sufficient to meet expenses, make bond payments and provide reserves.
Indiana:		
Any city of first class (Indianapolis)	Parking commissioners	May lease for operation, with approval of mayor. Rates shall be prescribed by ordinance of legislative body; provided, rates may not be set where facility is leased to one who is to operate it in competition with private enterprise.
Iowa:		
Any city or town	City or town council	May lease or rent facilities for operation and may regulate rates and charges to be exacted.
Massachusetts:		
City of Boston	Board of real estate commissioners, subject to control by mayor	May acquire and lease property for provision thereon of parking facilities by lessee, or the board may provide facilities, which must be leased for operation. Every lease shall contain a schedule of maximum rates to be charged and shall contain regulations with respect to use, operation, and occupancy of property.
City of Springfield	Parking commission	May operate facilities or may lease or contract for operation. Shall prescribe and revise, from time to time, fees and charges for use of facilities, whether operated by commission or under lease of contract, and shall prescribe regulations for use of facilities.
Minnesota:		
Any 2nd, 3rd or 4th class city, or village or borough	Governing body	May rent or lease any part of parking facilities and may regulate rates and charges to be exacted.
Mississippi:		
Cities of over 20,000 population	Governing body	May rent or lease any facility subject to such regulations and rates as it shall prescribe.
New York:		
Any city, town, county, or village	Governing body	May sell or lease real estate for term not exceeding 99 years for establishment of parking facilities. Instrument conveying property shall provide for approval by board of estimate or other analogous body of rates to be charged and may specify rental at which property may be leased or subleased by grantor or lessee.
Oklahoma:		
Cities of 20,000 population or over	Governing body of city or board of trustees of parking station	May lease for operation, and if leased, storage rates, to be determined by governing body or board of trustees shall be sufficient to meet expenses, pay annual rental, and provide a reasonable return to lessee or operator.
Oregon:		
Any city or town	Legislative body	May contract for operation or may lease for term not exceeding 50 years. May operate only in event bids for operating or leasing are unacceptable. Shall determine fair and reasonable fees for use of facilities, which need not be limited to operation and maintenance costs but may be for revenue.
Rhode Island:		
City of Providence	City council	May lease for operation. Maximum and minimum rates for use of facility shall be fixed by city prior to issuance of invitations for proposals for leasing. City shall prescribe rules for use of facilities.

interests for operation.[43] The law provides that every lease shall contain schedules of maximum rates and regulations with respect to use, operation, and occupancy. The court held that there was reasonable provision for control of the facilities in the public interest and that, subject to the maximum limitation, rates would be adjusted by the operators so that the facilities would be used and would produce income.

The Court of Civil Appeals of Texas held that the proposed 40-yr lease by the city of San Antonio of the subsurface of a city park to a private individual for the establishment of an underground parking facility, without reservation of any controls over rates or operational policy, constituted an uncontrolled delegation of an implied grant of municipal power, taking from the enterprise its public nature. The proposed lease was held to be beyond the grant of power contained in the city's charter.[44]

[43] Court Street Parking Co. v City of Boston et al., 143 N.W.2d 683 (1957).

[44] Zachry v City of San Antonio, 296 S.W.2d 299 (Court of Civil Appeals, 1956).

The Municipal Parking Authority of Detroit decided that its parking facilities should be operated under contract by firms already operating parking lots and garages. The authority believed it important for the city to have complete control of rates and standards of service, which it felt would be largely lost under leasing arrangements. The operators of the authority's facilities are paid a fair management fee, and any profits realized from the operation of the facilities go to the city. The authority believes that more efficient, courteous, and profitable results will be obtained by reserving for the municipality, without qualification, all the necessary rights to correct faults and to insist on performance.[45]

Reserve Powers Desirable—New laws or special authority is often needed when a municipality decides to institute a particular type of parking program. City officials should determine the adequacy of existing powers with respect to the nature of proposed action and, if there should be a lack of any necessary authority, immediate steps should be taken to obtain same. If it appears that the desired legislative action will be very difficult to secure or that it will require considerable time, it may be best to alter the nature of the parking program.

A broad and sound state parking law is needed so that municipalities can institute and implement their parking programs without recourse to special legislation or court decisions. Otherwise, when parking action is required, a program may be seriously delayed pending the convening of the state legislature and the adoption of measures delegating the essential authority.

Comprehensive Parking Law—In action contesting the constitutionality of the procedure used in providing parking facilities, courts usually rely heavily on the intent of the legislature as indicated in the statute under which the municipality proposed to act. Provisions in the parking law should, therefore, cover all pertinent matters and should be clearly stated.

Generally, the powers needed for municipal provision of parking facilities are also required for provision by autonomous parking authorities. If it is desired that the city retain certain powers and that a parking authority have other powers, the specific functions to be performed by each should be indicated in the law.

Important matters to be considered in drafting a comprehensive parking law are as follows:

1. Public Purpose. Declaration of public necessity, such as the following: that the free circulation of traffic is necessary to the health, safety, and general welfare of the public; that the parking of motor vehicles on the streets can cause traffic congestion and impede the movement of emergency vehicles; that off-street parking facilities are needed to alleviate problems created by parked vehicles; that the amount of existing off-street parking space is inadequate; and that the provision of such facilities is a proper governmental undertaking for which public money may be spent and private property acquired.
2. Definitions. Definition of terms used, including the types of facilities included in the term "off-street parking facilities," such as: parking lots, garages, or other structures at, above, or below the surface of the earth, consisting of one level or multiple levels, and including all necessary appurtenances. Definition of other terms that might be ambiguous or might lead to controversy.
3. Subdivisions. The municipal subdivisions to which provisions are applicable; e.g., all cities, towns, villages, and boroughs, or specified classes thereof, or a specified municipality, and districts of various kinds, including a parking district.
4. Body Vested with Authority. The body in each municipal subdivision covered by the law in which authority shall be vested, such as the legislative or governing body or a parking authority.
5. Creation of Parking Authority. If a parking authority is desired, provisions for appointment of members and requested qualifications and term of office of members;

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[45] McGillis, J. D., "Municipal Parking—Detroit," Traffic Quarterly, The Eno Foundation for Highway Traffic Control, Saugatuck, Conn., Oct. 1958.

provisions concerning payment of members' expenses, for hiring legal, financial, and traffic or other experts or for the use of the services and facilities of existing municipal departments and for hiring adequate clerical help; provisions for the termination of the corporate existency of the authority and for the disposition of its property.

6. Planning. Provisions concerning the operations involved in planning; e.g., the authority to conduct surveys, to prepare a comprehensive plan for parking facilities including the size and type of facility needed at specific locations, to design facilities, to make estimates for such purposes to hire engineers, architects, and other consultants and staff; the necessity for the parking plan to conform to the city's master plan and to zoning, building, and other local laws; the adoption by the legislative body of any necessary ordinances, such as an ordinance declaring the intention to establish parking facilities, to condemn property therefor and to finance in specified ways; if approval of the electorate is required for any purpose, provisions concerning the holding of referendums.

7. Financing. Details concerning the various methods authorized for financing, such as: (a) issuance of general obligation bonds; (b) issuance of revenue bonds, and the funds for which payable; (c) levying of benefit assessments; (d) the use of parking fees and other income from the use of facilities; (e) the use of parking meter revenues; (f) the creation of parking systems and the use of system revenues to finance parking facilities; (g) the levying of special property taxes; (h) appropriations from the general fund; (i) acceptance of state or federal grants or local aids; (j) acceptance of gifts, bequests or devises; or (k) other financing methods.

8. Bond Issuance. Provisions concerning adoption of a bond ordinance, which should set forth the kind of bonds proposed to be issued, funds from which payable, the amount of a proposed issue or the aggregate amount for a number of issues, rate of interest, maturity periods, details concerning bond covenants or trust indentures to protect bondholders, the right to appointment of a receiver to take over and operate facilities in case of default in bond payments, and the power to mortgage parking facilities as security for bonds or the lack of such power; provisions concerning the issuance and redemption of bonds and the issuance of refunding bonds.

9. Accessory and Commercial Uses. Provisions authorizing or prohibiting the use of parts of a parking facility for sale of automobile accessories, for the servicing or repair of motor vehicles, or for other commercial operations.

10. Parking Fees and Charges. Authority for the governing body or the parking authority to establish fees and charges for the use of parking facilities and to revise them as required to meet obligations and effect the maximum usage of facilities.

11. Funds. Provisions concerning the establishment of sinking funds and of reserve funds of various kinds.

12. Taxes. Provisions concerning the payment of taxes on parking property and on bonds issued for parking and the income therefrom, or the exemption from the payment of such taxes; exceptions concerning gift, transfer, and inheritance taxes.

13. Land Acquisition. Provisions concerning the acquisition of property, real, personal or mixed and property rights, by purchase, lease, gift, bequest, devise, grant or by condemnation or limitations on any such powers; the power to acquire existing private parking facilities, or the lack of such power; the power to sell, encumber, lease, exchange, or otherwise dispose of property no longer required for parking.

14. Construction. The power to construct facilities or to contract for construction; requirements concerning bids in the purchase of materials or in the construction contract.

15. Operation and Maintenance. Authorization to operate and maintain facilities or to lease or contract for operation; provisions concerning competitive bids; provisions concerning controls in leasing arrangements.

16. Records and Reports. Provisions concerning the keeping of proper books of record, periodic auditing of such records, and the publishing of financial statements.

Citations to some representative parking laws are given in the Appendix.

CONCLUSIONS

An increasing number of municipalities now construct and operate off-street parking lots and garages on their own. Parking cannot be considered a new field of municipal interest or activity, because local governments have had long standing responsibility for and experience with curb parking control and improvement. Appropriate official action to improve parking conditions may then be considered a matter of degree, with the city construction and operation of off-street parking facilities an ultimate action.

In the majority of communities where municipal off-street parking has been provided, it has been accomplished through an existing department of the local administration without the establishment of a parking authority or other entity. The placing of responsibility for the development of off-street parking facilities in an existing municipal department has the potential advantages of: (a) making the community's parking system, including curb spaces, more efficient; (b) facilitating proper integration of parking with other highway transportation elements; (c) permitting maximum utilization of the municipality's powers, equipment and technical personnel; (d) keeping parking fees lower because no taxes or profits need be included; and (e) facilitating the regulation and enforcement of parking lot and garage operation, fee pattern, and usage.

Principal opposition to municipal parking is usually based on the contention that it represents unfair governmental competition with private enterprise. Municipal parking facilities may also involve removal of land from the tax roll, although as an offsetting consideration parking improvements often contribute to an increase in the tax revenues from nearby properties. Such persons contend, however, that professional private parking interests can do a more efficient job of developing and operating parking lots and garages, and that a municipal agency would be subjected to political pressures or otherwise hamstrung in its endeavors.

PROVISION OF PARKING FACILITIES BY PARKING AUTHORITIES[46]

In most communities, many municipal departments are involved in the provision of parking facilities. For example, the planning or engineering department may make surveys and formulate plans, the city legislative body acquires sites and arranges for financing, the public works department constructs and maintains facilities, and other departments may perform various other related functions. Seldom is a single department charged with complete administrative responsibility. Faced with the delays sometimes experienced because of such divided responsibility and authority, many municipalities turn to establishment of a parking agency in which complete or extensive responsibility is placed for the planning, provision, and operation of facilities. Table 11 indicates some provisions of state enabling statutes of general application relating to the establishment of parking facilities by parking agencies in 1954.

Parking Authority Enabling Legislation

The first requisite for establishing a parking agency is the authorization of the state legislature. The law usually specifies the powers that may be employed by the agency, the functions to be performed by the municipal government, and the matters that must have municipal or electorate approval, or that may be contingent on agreement between the city and the authority.

As of 1954, 11 states had enacted parking authority laws of general character, applicable to all or to certain classes of municipalities in the respective states. Additionally, 25 enactments in 9 states and the District of Columbia were applicable to specified municipalities only (the Indiana and Minnesota laws, although ostensibly general in nature, in fact applied only to the cities of Indianapolis and St. Paul, respectively).

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[46] Legal provisions based on laws in force as of 1954.

Constitution of Authorities

The members of a parking agency, most commonly numbering five, are usually appointed by the mayor, subject to approval of the local legislative body.

Selection of parking authority members should be primarily on the basis of proven ability and interest in civic affairs. The authority should be representative of as many affected groups as possible, including property owners, merchants, land developers, bankers, city officials, motorists, and commercial parking operators.

Parking authority members normally serve without compensation but are often reimbursed for necessary expenses incurred in the discharge of their duties. To carry out its duties, the authority usually needs a fulltime staff and should have legal, financial, and other experts available for counsel. It is sometimes required that parking authority staff be chosen by the civil service commission of the city or other municipal subdivision. The use of municipal employees and facilities for parking authority activities is frequently authorized, a privilege that often may be an important financial advantage of the authority.

The term of service of authority members is usually five years. The initial members are appointed to serve for one, two, three, four, or five years, respectively, and their successors to serve for five years each. Thus, the authority has one new member each year unless the authority law provides that members may succeed themselves. While acquiring possibly a fresh approach through new members, the insight into the problem which has been gained by the experience of the other authority members and a continuity of plans and programs may be retained. A member may be removed for just cause by the mayor or another appointive agency.

The term of the corporate existence of parking agencies varies, depending on the provisions of the laws under which they are created. Legal ability to dissolve usually hinges on the fulfillment of certain obligations, particularly with respect to bondholders.

Parking authorities are required by several of the general laws to give a periodic accounting to the municipal government. An annual audit of the books and accounts of the authority by a certified public accountant or a registered municipal accountant is required. Periodically, a report of the authority's transactions must be filed with the legislative body or chief executive officer and a financial statement must be filed or published annually.

Powers and Duties

The extent of the powers available to parking agencies depends on the legal authorization for their establishment as well as the attitude of the municipalities toward delegating parking responsibility. Agencies range in type, including committees authorized to study the situation and make recommendations; commissions with limited powers, subject in most of their functions to municipal control; and parking authorities, created pursuant to special acts of the legislature as public bodies, corporate and politic. Parking authorities have all or some of the following powers: (a) to conduct research and maintain current data essential to establishment of parking facilities; (b) to prepare a master plan of off-street parking facilities to meet present and anticipated future needs; (c) to plan, design, and locate facilities; (d) to program construction; (e) to purchase, lease or condemn property; (f) to construct, improve and maintain facilities; (h) to fix and alter rates, fees, charges or rentals for use of facilities; and (i) to lease for operation. Except as specifically authorized by statute, authorities may not levy taxes or assessments.

Responsibilities should be clearly defined, whether in relation to an authority, a commission, or a board, and adequate authority to perform the required functions should be delegated. Some authority laws contain a pledge by the state that it will not limit or alter the powers vested in the authority so long as bonds remain outstanding and unpaid. Only a few of the general laws provide for the creation of parking authorities completely autonomous with respect to all the operations required in providing, financing, and operating facilities. The principal method for financing authorized in the general laws is through the issuance of revenue bonds. Parking meter revenues and special taxes, to be pledged by the city, and benefit assessments are other authorized supports for bonds in some states.

TABLE 11

SOME PROVISIONS OF STATE ENABLING STATUTES OF GENERAL APPLICATION RELATING TO ESTABLISHMENT OF PARKING FACILITIES BY PARKING AGENCIES, 1954[a]

State, Political Subdivision; and Type of Parking Agency	Principal Sources of Funds for Financing							Mortgage Lien May Be Placed on Facilities	Power to Condemn	Power to Operate or Lease for Operation	Space May Be Leased for Accessory or Other Commercial Uses
	General Obligation Bonds	Revenue Bonds	Off-Street Parking Revenues	Parking Meter Revenues	Special Taxes	Benefit Assessments	General Fund Appropriations				
Arkansas:											
City, town authority		To be authorized by city ordinance	X					X (required)	X	X	
Califorinia:											
City, city and county authority		Electorate approval required	X	May be pledged and appropriated by governing body					X	May operate if no valid bid received for operation and may readevertise for bids once each year	Up to 25 percent of surface or floor area of facility
Connecticut:											
City, town, borough, fire district	If approved by legislative body			Bond ordinance of legislative body shall pledge parking facility revenues and may pledge parking meter revenues			X	X	X	X	
Authority or parking division in existing municipal department											
Delaware:											
City, county, town authority	May be issued by city outside legal debt limit to buy land for use of authority	May be authorized by resolution of authority	Authority may pledge its revenues			Authority may establish a benefit district and assess 80 percent of cost upon real estate in district			X	X	First floor space may be leased
Indiana:											
First class city, department of off-street parking		To be authorized by resolution of parking commissioners and	X	Meter revenues in parking fund may not be used until parking			Advances from general fund, to be repaid. Balance in any	Lien in favor of city for amounts due in lieu of taxes	If approved by major	May operate for such period as no acceptable leasee is available	Portions of ground floor area may be improved for business use

			for		be used	lien of bondholders			
Minnesota:									
First class city with home rule having certain qualifications, central business district authority	Bonds payable from special taxes in parking district if approved by city			May be levied by authority after city approves its budget and certifies same to county auditor			X	May operate directly or by contract, lease or license	
Montana:									
City, Commission	If approved by electorate; to be authorized by resolution of commission	X	May be appropriated by city		X		X	X	Up to 10 percent of surface or floor area
New Jersey:									
City, county, town, township, borough, village municipal subdivision; authority	May be authorized by resolution of authority and issued by authority	X				X	Consent of governing body may be required in ordinance creating authority	X	X
New Mexico:									
City, city and county, town, municipality having 5,000 or more population; authority	To be authorized and issued by city	X	May be pledge and appropriated by city				City may acquire by condemnation	X	X
North Carolina:									
City; authority	To be authorized by city, issued by authority and sold by local government commission	X	May be pledged by city						
Pennsylvania:									
City of first, second, second A, or third class, borough, first class township; authority	To be authorized and issued by authority	X				Receiver may take over and operate facilities; but he may not mortgage or dispose of any assets of authority	X	X	X

[a] Based on U.S. Bureau of Public Roads data.

Most of the parking authority laws provide that the authority shall fix rates, fees, rentals or other charges for the use of its facilities. It is usually specified that revenues from the parking facilities, together with other authority income, shall be sufficient to pay expenses of the authority; repair, maintain, and operate the facilities; pay principal and interest on its bonds; create sinking and reserve funds; and fulfill the terms of any agreements with bondholders. Rates must be revised periodically to keep them as reasonable as possible while meeting the financial requirements of the parking program. The Arkansas law provided that rates fixed before issuance of bonds shall not be reduced until the bonds have been redeemed. As it is not always the high rate that produces the greatest revenue, such a provision could be a hindrance to profitable operation of authority facilities.

Additional financial support for bonds may be obtained in some instances by the lease of portions of the respective parking facilities for uses other than parking. A steady income may be guaranteed in this manner. Such use is usually confined to the first floor area of a parking building and sometimes to space that is surplus or uneconomical for use for parking.

Another financial aid for which provision is made in most of the general authority laws is the authorization for exempting authority property from tax assessment.

In most states, authority bonds are exempted from all but gift, inheritance, transfer, and estate taxes. Interest on the bonds, moneys provided for their redemption, and income from the bonds are exempted from taxes in some states.

When the margin is close between authority income and expenditures, which likely will be the case in the early days of authority operation, the revenues saved by tax immunity may be enough to keep an authority solvent.

The power of condemnation, so important for locating facilities advantageously, may be employed by most authorities.

An effective parking program presupposes good planning. There must be adequate traffic and parking surveys; proper analysis of engineering, financial and legal information; estimates of costs, expenses and income; and feasibility reports. On these will depend the establishment of facilities of proper size, design and location; maximum use and operational efficiency; and a profitable financial position. Authorities in most states may conduct research and formulate plans and programs, subject to applicable zoning, buildings, sanitary and planning laws, and to any master plan. Minnesota requires approval by the state legislature of any proposed parking project.

Justification for Authorities

There are some obvious advantages of authority administration in the provision of parking facilities, among them the following: (a) the centralization of extensive authority and responsibility for the parking program in a single agency; (b) relative freedom from political pressures; (c) the avoidance of certain governmental processes and other delays; and (d) the payment of costs, as a rule, from users of the facilities, with usually no direct effects on the regular municipal budget or tax program.

There are, of course, other matters to be considered in determining the advisability of a parking authority. There is no magic in a parking authority that can guarantee favorable financial results. Municipal subsidies of loans of cash, property, or services frequently are required. The same careful planning of programs and projects as is required under other types of municipal action is necessary. Proposed facilities should be in accordance with the needs as determined by parking surveys. The financial feasibility of each proposed project and the legality of all proposed procedures should be determined in advance.

Authorities may bypass city legal debt limits and issue their own revenue bonds. This ability is not considered a blessing by some economists inasmuch as the debt on the community is increased beyond the amount considered financially sound. The interest rate on authority bonds is high, and the debt greater than if the city finances the undertaking by general obligation bonds.

Justification for the establishment of a parking authority, therefore, must rest primarily on its ability to provide for the parking needs of the community more efficiently and expeditiously than existing agencies of the local government.

In New York State, the following tests are used to determine the desirability of municipal parking authorities:

1. Does the service to be performed require such techniques and methods that it is beyond the scope of the conventional agencies of government?
2. Does the area to be served extend beyond the boundaries of the governmental unit which otherwise might provide the service?
3. Do constitutional debt limitations stand in the way of providing the proposed service through the conventional agencies of government?
4. Can the service be made self-supporting?

Applying the tests to the provision of parking facilities in New York State, and taking into consideration the fact that self-liquidating debts are no longer required to be within constitutional debt limits in New York municipalities, the Department of Audit and Control in 1953 indicated that it did not believe it necessary for New York municipalities to establish parking authorities.

The third item in the New York test may be the chief consideration justifying the establishment of authorities in those cities in which self-liquidating debts are required to be within constitutional debt limits. Other matters that might be included in the test are the following:

1. Are city officials already overburdened with the duties of their offices to the extent that sufficient time is not available for proper consideration of the difficult and important problem of parking?
2. Are there political rivalries or other local conditions that may delay or prevent accomplishment of a proposed improvement by the municipality?

Speakers at a public works congress and equipment show questioned the wisdom of the widespread use of authorities. Although the advantages to be gained by their use were recognized, it was predicted that there would be future difficulties as special taxing districts and revenue-bond authorities continue to multiply. The opinion was expressed that authorities constitute an "expedient" and that, in the long run, problems would be better solved by adjusting laws so that regular public officials could establish and control facilities.

In most cities there is still an urgent need for more downtown parking facilities which are conveniently located, functionally designed, efficiently managed, and reasonably priced. This is particularly true in the larger municipalities, where the problem of providing facilities is much more complex. However, in small municipalities where transportation is often almost entirely by private automobiles, the demand for parking space can be critical. The need for an authority, therefore, is not a function of the size of the municipality.

Perhaps the controlling test is whether or not there is an awareness on the part of responsible officials of the potential seriousness of parking inadequacies and a determination to remedy them. Municipal officials must be willing to accept responsibility or else a willing agent should be created. The job is big enough and important enough to warrant the coordinated and continuous attention of regular municipal departments or the concentrated effort of a competent autonomous body.

The American Municipal Association reported in 1955 that over 80 cities in the United States, located in 26 states and the District of Columbia, had established parking agencies of one sort or another. These have sprung up within little more than a decade. Whatever the character of these parking agencies, they indicate an awareness on the part of municipalities that special official action is often needed to bring order to the parking confusion.

Financing and Operating Practices

Methods adopted by parking authorities for providing and operating parking facilities vary widely. Salient features of authority experience in several individual cities are indicated next.

White Plains, N. Y. —The city of White Plains recognized the necessity for additional parking facilities in 1946, and decided that a parking authority was needed. After

creation of the authority, the title to city-owned parking lots was transferred to the authority. A master plan of off-street parking facilities was developed by the authority in cooperation with the city planning board. In practice, the city acquires agreed-upon sites and develops the parking facilities. On completion of a project, ownership and operation are assumed by the authority, and the city is reimbursed for the cost of the facilities. The authority's function is to plan parking facilities and to construct and equip any project that the city is not authorized to undertake.

Through the use of income from street parking meters and the off-street parking facilities, the authority has been able to maintain a pay-as-you-go policy. Although the authority is an autonomous arm of the city government and could hire a complete staff, it prefers to work through regular city departments to hold administrative costs to a minimum. The city is reimbursed for any expenses incurred on behalf of the authority.

The White Plains Parking Authority has been outstandingly successful in providing parking facilities. Its organization, functions, methods of financing and general operational procedures are discussed in a report by the authority.

Baltimore, Md.—The Baltimore Off-Street Parking Commission, created in 1948, decided to attack the problem within the framework of the private enterprise system. It used the initiative and ingenuity of private business, the power of condemnation possessed by the commission through enabling legislation, and public funds obtained through the issuance of certificates of indebtedness by the city. One of the first objects of the Baltimore commission was to allay the fears of local businessmen and to obtain their cooperation.

After the parking, planning, traffic, and fire departments approved a project proposed by a private operator, a formal application was made to the parking commission. The application included a statement showing the feasibility of the project, financial statements, proposed method of operation, and proposed parking fees. After approval, the city solicitor prepared a formal contract to be entered into by the city and the applicant, which must be approved by the Board of Estimates and the Commissioners of Finance.

Under terms prescribed by the General Assembly, the city was to be reimbursed for all expenditures of money made by it, including interest on all funds advanced and any loss in real estate taxes from land acquired for the projects.

New Brunswick, N. J.—One of the first acts of the parking authority of New Brunswick was to seek the cooperation of the merchants in financing off-street parking facilities. An initial proposal, whereby the city and local business interests would share, on a 50-50 basis, the $250,000 estimated cost of land on which to build a parking facility proved unacceptable. Also rejected was a proposal to levy special assessments against property that would benefit from the proposed facilities. The Chamber of Commerce subsequently came up with a counter proposal: the issuance of interest-free bonds by the city, which would be purchased by the merchants. The city agreed and issued $300,000 worth of bonds to run for 20 years and to bear no interest. The entire issue was purchased by the merchants and property owners. In 1953, to expand off-street parking, the city purchased $150,000 of revenue notes from the parking authority at an interest rate of 2 percent. A substantially higher rate would have been required if the notes had been sold to private interests. The city had idle funds on which it was not receiving any interest. Consequently, both the city and the parking authority profited from this arrangement.

San Francisco, Calif.—A desirable guiding principle for every authority is that of obtaining as much participation as possible by commercial parking interests. The cooperation of the San Francisco Parking Authority with private enterprise was an outstanding feature of its program. (The Milwaukee authority was also noteworthy in this respect.) The San Francisco authority sought to operate in the following manner:

1. It would stimulate private enterprise to acquire sites, finance, and construct all the facilities included in the off-street parking program.
2. Where not successful in the first objective, the authority would facilitate the efforts of private enterprise through purchasing sites and leasing them to private busi-

ness for the provision of facilities (the voters approved a proposal to issue general obligation bonds for this purpose).

3. Whenever private participation in these first steps cannot be obtained, it would acquire sites, and finance, and construct facilities; bids to operate the completed facilities would then be called for.

4. If no satisfactory bid is received for operation, the authority would undertake operation; it could readvertise for bids each year.

Detroit, Mich. —Detroit has made good progress in combating its parking problem under a commission form of parking authority. The Municipal Parking Authority consisted of a 4-man board appointed by the mayor. The board employed a director and staff. The authority could make investigations, call on other city departments for assistance, and make recommendations to the mayor and common council as to number, type, and location of needed facilities. The mayor and council had final approval of all projects. The authority could manage and operate the completed facilities.

In planning and programming, the authority relied on the advice of the city council. The council supplied able men who drafted the necessary legislation. The city comptroller and private financial institutions, working in cooperation with the authority, determined that all municipal off-street and on-street facilities should constitute a single parking system and that new facilities should be financed through revenue bonds backed by the revenues of the system. City traffic engineers and outside consulting engineers assisted in work on major engineering problems. The city plan commission approved all plans before they were presented to the common council. The authority determined that its facilities should be operated by experienced parking operators under management contracts. The purpose was to retain control of rates and standards of service and to assure the return to the city of any profits resulting from successful operation.

Boston, Mass. —The 1958 general assembly created the Massachusetts Parking Authority with power to prepare plans, construct, maintain, repair, and operate or lease a garage under Boston Common for the parking, servicing, and repairing of motor vehicles. The authority was authorized to finance by means of revenue bonds, payable solely from the revenues from the facilities. The property and income of the authority were free from taxes and assessments. Authority bonds, the income therefrom, and the transfer of the bonds, including any profit on the sale thereof, were free from taxation within the state.

The law provided that the authority shall consist of three unpaid members, two of whom should be appointed by the governor, with the consent of the council, and the third member to be an officer of the city of Boston designated by the mayor, to serve ex officio. Members are eligible for reappointment.

Associated Legal Problems

Progress under parking authority administration cannot always be measured by the number of parking facilities in operation. Lengthy periods of planning and preparation are sometimes required; land acquisition alone can be a long and bothersome job. Legal questions may need to be resolved, or a test suit may have to be instituted by the authority itself to forestall later court actions. (The Baltimore Parking Commission requested 15 formal legal opinions from the city law department before it felt confident that it might proceed with its task. The commission's object was to obtain an understanding of its authority and the limitations on its powers.)

The significant thing is that a large number of judicial pronouncements have already been made in the short period since parking authorities came into being and that the path in the future will be less thorny perhaps than the one just traversed. Parking authorities that have been involved in major judicial actions and decisions include those in Pittsburgh, Pa., New Haven, Conn., Peekskill, N.Y., Hackensack, N.J., Elmira, N.Y., Detroit, Mich., and Milwaukee, Wis.

Appendix

SELECTED REPRESENTATIVE PARKING LAWS

General Laws

Oregon: Motor Vehicle Parking Facilities Act, Oregon Revised Statutes, Vol. 2, Title 21, Ch. 223, Secs. 223.805 to 223.879, incl. (Laws of 1949, Ch. 474, as amended, 1953, Ch. 668; 1957, Ch. 430.)

Iowa: Municipal Parking Lots, Iowa Code, Ann., Vols. 20 and 21, with 1958 Cumulative Annual Pocket Parts, Ch. 390, Secs. 390.1-390.15, incl. (Acts of 1947, Ch. 206, as amended) and Ch. 404, Sec. 404.7(5) (Acts of 1951, Ch. 159, as amended.)

Parking Authorities

California: Parking Law of 1949, West's California Streets and Highways Code, Ann., Vol. 64, with 1958 Cumulative Pocket Part, Secs. 32500-33552, incl. (Added by Stats. 1951, Ch. 463, Part 2, as amended. Based on Stats. 1949, Ch. 1503, as amended.)

Pennsylvania: Parking Authority Law, Purdon's Pennsylvania Statutes, Ann., permanent edition, Title 53, with 1958 Cumulative Annual Pocket Part, Pt. 1, Ch. 6, Art. II, Secs. 341-356, incl. (Laws of 1947, P.L. 458, No. 208, as amended.)

Assessment Districts

California: Vehicle Parking District Law of 1943, West's California Streets and Highways Code, Ann., Vol. 64, with 1958 Pocket supplement, Secs. 31500-31907, incl. (added by Stats. 1951, Ch. 463, Part 1, as amended. Based on Stats. 1943, Ch. 971, as amended.)

Kansas: Corrick's General Statutes of Kansas, Ann., 1949, and 1957 Supplement, Ch. 13, Art. 13, Secs. 13-1374-13-1392, incl. (Laws of 1941, Ch. 128, as amended, and 1951, Ch. 175, as amended.)

Parking Systems

Florida: Municipal Parking Facilities Law of 1951, Flordia Statutes, Ann., Vol. 9, with 1958 Cumulative Annual Pocket Part, Title XII, Ch. 183, Secs. 183.01 to 183.16, incl. (General Laws, 1951, Vol. 1, Ch. 26918, as amended.)

North Carolina: General Statutes of North Carolina, Vol. 3C, with 1957 Cumulative Supplement, Ch. 160, Art. 39, Secs. 160-497 to 160-507, incl. (Session Laws, 1951, Ch. 704.)

Revenue Bond Financing

Kentucky: Kentucky Revised Statutes, 1959, Ch. 93, Secs. 93.351-93.356, incl., and Ch. 94, Sec. 94.750 (Acts of 1942, Ch. 15, as amended, and Acts of 1944, Ch. 129, Sec. 6.)

Michigan: Revenue Bond Act of 1933, Michigan Statutes, Ann., Vol. 4A, 1958 Revision, Title 5, Ch. 53, Secs. 5.2731 to 5.2766, incl. (Acts of 1933, Act 94, as amended.)