

# HOUSE . . . . No. 990

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By Mr. Robert L. Lee of Boston, petition of the Public Franchise League for amendment of the law relative to establishment of municipal lighting plants. Power and Light.

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## The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Thirty-Two.

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An Act relative to the Establishment of Municipal Lighting Plants and the Powers of the Department of Public Utilities Relative Thereto.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Section forty-three of chapter one hundred and  
2 sixty-four of the General Laws, as amended by sec-  
3 tion two of chapter three hundred and seventy-nine  
4 of the acts of nineteen hundred and twenty-nine,  
5 is hereby further amended by striking out said sec-  
6 tion forty-three and inserting in place thereof the  
7 following:—

8 *Section 43.* If a town which votes to establish a  
9 municipal lighting plant fails, within ninety days  
10 from the passage of the final vote required by sec-  
11 tion thirty-five or thirty-six, to agree, as to price  
12 or as to the property to be included in the purchase,  
13 with any person or municipality engaged at the time  
14 of the first vote required by section thirty-five or

15 thirty-six in generating or distributing gas or elec-  
16 tricity for sale for lighting purposes in such town  
17 and electing to sell, either such town or such person  
18 or corporation may apply to the department of  
19 public utilities within thirty days after the expira-  
20 tion of said ninety days for a determination as to  
21 what property ought in the public interest to be  
22 included in the purchase and what price should be  
23 paid, having in view the cost of the property less a  
24 reasonable allowance for depreciation and obsoles-  
25 cence; and thereupon the department, after notice to  
26 the parties, shall give a hearing thereon, and make  
27 such determination. Such price may include damages,  
28 if any, which the department finds would be caused  
29 by the severance of the property proposed to be  
30 included in the purchase from other property of the  
31 owner. If any such property is subject to any mort-  
32 gages, liens or other encumbrances, the department  
33 in making its determination shall provide for the  
34 deduction or withholding from the purchase price,  
35 pending discharge, of such sum or sums as it deems  
36 proper.

37 If within thirty days after such determination  
38 shall have been made by the department, the owner  
39 shall notify the town of its acceptance of the deter-  
40 mination as made by the department, and within  
41 a further period of thirty days shall tender a good  
42 and sufficient deed of conveyance to the city or town  
43 clerk of the property required by the department  
44 to be purchased, and shall then place said deed in  
45 escrow, the town shall have sixty days in which to  
46 accept or reject said tender, and if it accepts shall  
47 have a further period of sixty days in which to pay  
48 to the owner the price determined as hereinbefore

49 provided. Such acceptance or rejection in case of a  
50 city shall be by vote of its city council, or its com-  
51 missioners if its government consists of a commis-  
52 sion, and in case of a town shall be by vote at a  
53 town meeting. A rejection of the tender shall  
54 operate as a rescission of all votes theretofore passed  
55 for the establishment of a municipal lighting plant.  
56 Should the owner not file such acceptance and  
57 tender within the time so limited, or should neither  
58 the town or such lighting company or municipality  
59 apply to the department for a determination as  
60 hereinbefore provided, the town may proceed to  
61 construct or otherwise acquire a municipal plant  
62 without further attempt to acquire the plant of  
63 such owner or any part thereof, provided, however,  
64 that in case of a city such action is authorized by  
65 vote of its city council, or of its commissioners if  
66 its government consists of a commission, and that  
67 in case of a town such action is authorized by vote  
68 at a town meeting.

