

SENATE No. 313

The Commonwealth of Massachusetts

SENATE, April 11, 1928.

The committee on Municipal Finance to whom was referred the petition (with accompanying bill, House, No. 925) of Arthur Underwood and others that the town of Falmouth be authorized to construct a sewerage system, report the accompanying bill (Senate, No. 313).

For the committee,

WALTER E. McLANE.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Twenty-Eight.

An Act authorizing the Town of Falmouth to construct a Sewerage System.

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 1. The town of Falmouth is hereby
2 authorized to lay out, construct, maintain and
3 operate a system or systems of main drains and
4 common sewers for a part or the whole of its
5 territory, with such connections and other works
6 as may be required for a system of sewage dis-
7 posal; and to construct such sewers or main
8 drains over or under land or tide water in the said
9 town as may be necessary to conduct the sewage
10 to Great Harbor, and to establish filter beds for
11 the treatment of the sewage collected by said
12 system, and for the purpose of providing better
13 surface or other drainage, guarding against pol-
14 lution of waters and otherwise protecting the
15 public health, may lay, make and maintain such
16 main drains as it deems best. For the purposes
17 aforesaid the town may, within its limits, deepen,
18 widen, and clear of obstruction any brook,
19 stream or water course, and may straighten or
20 alter the channel or divert the water thereof, and

21 may make and maintain subdrains, and, with the
22 approval of the state department of health, dis-
23 charge the water into any brook, stream or water
24 course within the town.

1 SECTION 2. The town may vote that the
2 selectmen shall act as a board of sewer commis-
3 sioners. If the town has not so voted at a town
4 meeting, the town shall elect by ballot, at any
5 town meeting a board of three sewer commis-
6 sioners, who shall be citizens of the town, to hold
7 office for one, two, and three years, respectively,
8 from the date of their election and until their
9 successors are elected and qualified; and there-
10 after at each annual town meeting the town shall
11 elect one member of the board to serve for three
12 years or until his successor is elected and quali-
13 fied. If a vacancy occurs in the board the town
14 may at a meeting called for the purpose elect a
15 person duly qualified to fill the vacancy.

1 SECTION 3. Said board of sewer commission-
2 ers, acting for and on behalf of said town, may
3 take by eminent domain under chapter seventy-
4 nine of the General Laws, or acquire by purchase
5 or otherwise, any lands, water rights, rights of
6 way or easements, public or private, in said town,
7 necessary for accomplishing any purpose men-
8 tioned in this act, and may construct such main
9 drains and sewers under or over any bridge,
10 railroad, railway, boulevard or other public way,
11 or within the location of any railroad, and may

12 enter upon and dig up any private land, public
13 way or railroad location, for the purpose of laying
14 such drains and sewers and of maintaining and
15 repairing the same, and may do any other thing
16 proper or necessary for the purposes of this act;
17 provided, that they shall not take in fee any
18 land of a railroad corporation, and that they shall
19 not enter upon or construct any drain or sewer
20 within the location of any railroad corporation
21 except at such time and in such manner as they
22 may agree upon with such corporation, or, in
23 case of failure to agree, as may be approved by
24 the department of public utilities.

1 SECTION 4. Any person injured in his prop-
2 erty by any action of said board of sewer com-
3 missioners under this act may recover damages
4 from said town under said chapter seventy-nine.

1 SECTION 5. The town shall by vote deter-
2 mine what proportion of the cost of said system
3 or systems of sewerage and sewage disposal the
4 town shall pay; provided, that it shall pay not
5 less than one fourth nor more than two thirds of
6 the whole cost. In providing for the payment of
7 the remaining portion of the cost of said system
8 or systems or for the use of said system or systems
9 the town may avail itself of any or all of the
10 methods permitted by general law, and the pro-
11 visions of General Law relative to the assessment,
12 apportionment, division, reassessment, abate-
13 ment, and collection of sewer assessments, to

14 liens therefor and to interest thereon shall apply
15 to assessments made under this act. At the same
16 meeting at which it determines the proportion
17 of the cost which is to be borne by the town, it
18 may by vote determine by which of such methods
19 the remaining portion of said cost shall be pro-
20 vided for. The collector of taxes of said town
21 shall certify the payment or payments of such
22 assessments or apportionments thereof to said
23 board of sewer commissioners, who shall pre-
24 serve a record thereof.

1 SECTION 6. For the purpose of paying the
2 necessary expenses and liabilities incurred by said
3 town under this act, it may borrow from time to
4 time within a period of five years after this act
5 is accepted such sums as may be necessary, not
6 exceeding, in the aggregate, one hundred thousand
7 dollars, and may issue bonds or notes therefor,
8 which shall bear on their face the words, Falmouth
9 Sewerage Loan, Act of 1928. Each authorized
10 issue shall constitute a separate loan. Indebted-
11 ness incurred under this act shall, except as pro-
12 vided herein, be subject to chapter forty-four of
13 the General Laws, and amendments thereto.

1 SECTION 7. The receipts from sewer assess-
2 ments and from payments made in lieu thereof
3 shall be applied to the payment of charges and
4 expenses incident to the maintenance and opera-
5 tion of said system of sewerage, or to the exten-
6 sion thereof, to the payment of interest upon

7 bonds or notes issued for sewer purposes or to
8 the payment or redemption of such bonds or
9 notes.

1 SECTION 8. Said board of sewer commis-
2 sioners may annually appoint a clerk, and may
3 appoint a superintendent of sewers, who shall not
4 be members of the board, and may define their
5 duties. It may remove the clerk or superintend-
6 ent at its pleasure.

1 SECTION 9. All contracts made by the said
2 board of sewer commissioners shall be made in
3 the name of the town and shall be signed by said
4 board, but no contract shall be made or obligation
5 incurred by said board for any purpose in excess
6 of the amount of money appropriated by the town
7 therefor.

1 SECTION 10. Said board may from time to
2 time prescribe rules and regulations for the con-
3 nection of estates and buildings with main drains
4 and sewers, and for inspection of the materials,
5 the construction, alteration and use of all con-
6 nections and drains entering into such main drains
7 or sewers, and may prescribe penalties, not ex-
8 ceeding twenty dollars, for each violation of any
9 such rule or regulation. Such rules and regula-
10 tions shall be published at least once a week for
11 three successive weeks in some newspaper pub-
12 lished in the town of Falmouth, if there be any,
13 and if not, then in some newspaper published in

14 the county of Barnstable, and shall not take
15 effect until such publications have been made.

1 SECTION 11. No act shall be done under au-
2 thority of the preceding sections, except in the
3 making of surveys and other preliminary inves-
4 tigations, until the plans for the said system of
5 sewerage have been approved by the state de-
6 partment of health. Upon application to said
7 department for such approval the department
8 shall give a hearing, after due notice to the public.
9 At such hearing plans showing all the work to be
10 done in constructing said system of sewerage shall
11 be submitted for the approval of the state de-
12 partment of health.

1 SECTION 12. Until said board of commission-
2 ers shall have been elected as provided in this
3 act, the town may carry on the construction of
4 its system of sewerage by a duly authorized
5 committee of the town. Said committee shall
6 serve without pay and shall have all the powers
7 and authority given to the board of sewer com-
8 missioners in this act or by the General Laws
9 relating to boards of sewer commissioners.

1 SECTION 13. This act shall take effect upon
2 its passage, but no expenditure shall be made
3 and no liability incurred hereunder until this
4 act has been accepted by a vote of a majority
5 of the voters of said town voting thereon at a
6 legal meeting called for the purpose.

