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is given responsibility, authority or control by this act, by-law, town meeting vote or by vote of said board.

SECTION 3. The town administrator shall appoint, based upon merit and fitness, all department heads and officers, subordinates and employees under the jurisdiction of the board of selectmen, except employees of the school department and persons serving under officers, boards, or committees elected directly by the voters of the town of Manchester-by-the-Sea. Appointments of department heads by the administrator shall be subject to confirmation by the board. All other appointments shall be made in consultation with the appropriate department head, board, commission, or committee and shall be in compliance with the personnel by-law and personnel rules and regulations of said town.

SECTION 4. Any person holding office or employment in the town of Manchester-by-the-Sea upon the effective date of this act shall retain such office or employment and shall continue to perform his duties under the provisions of the personnel by-law and personnel rules and regulations of said town.

SECTION 5. All laws, by-laws, votes, rules and regulations which are inconsistent with this act so far as they refer to the town of Manchester-by-the-Sea, are hereby suspended and such suspension shall not revive any pre-existing enactment. Nothing contained herein shall impair contractual rights established prior to the adoption of this act.

SECTION 6. This act shall take effect upon its passage.

Approved September 24, 1999.

Chapter 86. AN ACT ESTABLISHING THE SCANTIC VALLEY WATER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. The inhabitants of the town of Hampden hereby create a water district in the following described geographical area in the town:

Beginning at the north side of Main Street at a point located approximately 1,850 feet east of east sideline of North Road, thence proceeding NORTHERLY 620 feet, thence EASTERLY 700 feet, thence SOUTHERLY 270 feet, thence EASTERLY to the west sideline of Glendale Road, thence running easterly from the east sideline of Glendale Road parallel to and at a distance of 350 feet north of the north sideline of Scantic Road and continuing to a point on the west side of South Monson Road, thence SOUTHWESTERLY along the west sideline of South Monson Road and following that line crossing to the south side of Scantic Road to a point 300 feet south of Scantic Road, thence WESTERLY parallel to and at a distance of 300 feet south of Scantic Road to Main Street, thence continuing said line parallel to and at a distance of 300 feet south of the south side of Main Street to a point opposite the 1,850 feet point east of North Road, thence NORTHERLY across Main Street to the point of beginning.

The water district shall be a body politic and corporate by the name the Scantic Valley Water District, in this act called "the district", for the purpose of supplying themselves with water for domestic and other purposes, with power to lay water mains, and to relocate and discontinue the same, to regulate the use of such water and to fix and collect rates to be paid therefor, and for the purposes of assessing fees as provided herein for the payment of such services, and for defraying the necessary expenses of carrying on the business of the district, except as otherwise provided in this act. The district shall also have for its purpose the construction and financing of such water treatment works and facilities as may be necessary to deliver pure and healthful drinking water. The district shall seek, obtain and accept any available capital and operating funds from the commonwealth or the federal government or any authority or entity created by either government. The district shall have the power to prosecute and defend all actions relating to its property and affairs and shall be deemed a public employer for purposes of chapter 258 of the General Laws.

SECTION 2. Any person or entity owning land which has any part of its frontage, as defined in the zoning by-laws of the town of Hampden, located within the geographical area of the district may petition the district to be admitted for the purpose of being supplied with water. The district is not authorized to provide water to other persons or entities.

Acknowledging that the sole purpose of the district is to provide an alternative public water supply to residents within the district whose drinking water has been adversely affected by the existence or closing of the town of Hampden landfill, the district retains the authority and power to decline to supply water to residents if it, in its discretion, determines that adding service for the resident would be beyond the capacity of the existing system taking into consideration not only the current water supply but the potential need to service additional residents within the district whose drinking water has been adversely affected by the existence or closing of the landfill.

The district may not decline to supply water to any person or entity owning land which has any part of its frontage in the district and whose drinking water supply has been adversely affected by the existence or closing of the landfill.

SECTION 3. For the purposes of this act, the district, acting by and through its board of water commissioners may:

(a) in addition to the powers granted to it by sections 8, 9 and 10, take by eminent domain under the provisions of chapter 79 or chapter 80A of the General Laws or acquire by lease, purchase or otherwise, and hold the waters or any portion thereof, of any pond, spring or stream or of any ground sources of supply by means of driven, artisan or other wells, within the territorial limits of the water district not already appropriated for the purposes of a public water supply by another governmental body and the water and flowage rights connected with any such water sources; may take as aforesaid, or acquire by purchase or otherwise, and hold, all lands, rights of way and other easements necessary for collecting, storing, holding, purifying and preserving the purity of the water and for conveying the same to any part of the district; but no source of water supply or lands necessary for preserving the quality of the water shall be so taken or used without first obtaining the advice and approval

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of the department of environmental protection and that the location and arrangement of all dams, reservoirs, springs, wells, pumping, purification and filtration plants and such other works as may be necessary in carrying out the provisions of this act shall be subject to the approval of the department;

(b) construct and maintain on the lands acquired and held under this act, wells, springs, stand pipes, tanks, pumping plants, buildings, fixtures and other structures, including the establishment and maintenance of filter beds and purification works or systems and may make excavations, procure and operate machinery and provide such other means and appliances and do such other things as may be necessary for the establishment and maintenance of a complete and effective water district; and may construct pipelines, wells and reservoirs, establish pumping works and may construct, lay, acquire and maintain aqueducts, conduits, pipes and other works under or over any land, water courses, railroads, railways and public or other ways and along such ways, in the town, in a manner as not to obstruct unnecessarily the same;

(c) for the purpose of constructing, laying, maintaining, operating and repairing such aqueducts, conduits, pipes and other works, and for all other purposes of this act, dig up or raise and embank any such lands, highways or other ways in such manner as to cause the least hindrance to public travel on such ways; but the manner in which all things are done upon any such way shall be subject to the direction of the board of selectmen; and provided that the district shall not enter upon or construct or lay any conduit, pipe or other works within the location of any railroad corporation or, in case of failure to so agree, as may be approved by the department of telecommunications and energy;

(d) enter upon any lands for the purposes of making surveys, test wells or pits and borings, or any of them, and may take or otherwise acquire the right to occupy temporarily any lands necessary for the construction of any work or for any other purpose authorized by this act;

(e) employ personnel and may engage architectural, engineering, accounting, management, legal, financial and environmental consulting and other professional services; and

(f) do all things necessary, convenient or desirable to carry out the purposes of this act or the powers expressly granted or necessarily implied by this act.

SECTION 4. Any person sustaining damages in his property by any taking under this act or any other thing under authority thereof may recover such damages from the district under the provisions of chapter 79 or chapter 80A of the General Laws; but the right to damages for the nonexclusive taking of any water, water right or water source or injury thereto, shall not vest until water is actually withdrawn or diverted under authority of this act.

SECTION 5. The town of Hampden, for the purposes of paying the cost of and expenses incurred in connection with the taking or the acquisition of the properties for use by the district as provided in this act and for putting such properties in a satisfactory operating condition as may be in the district's opinion needed and as approved by the department of environmental quality engineering may, from time to time, borrow such sums

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as may be necessary. The district, for the purpose of paying other necessary expenses and liabilities incurred under this act, other than expenses of maintenance and operation, may from time to time borrow such additional sums as may be necessary, not exceeding, in the aggregate, the amounts permitted by law to be borrowed by water districts. The district may borrow from time to time such sums as may be necessary for the purposes of this act in anticipation of revenue. Indebtedness incurred under this act shall, except as otherwise provided in this act, be subject to the provisions of chapter 44 of the General Laws pertaining to districts. Each borrowing shall constitute a separate loan, shall be authorized by the affirmative vote of not less than two-thirds of all the members of the board of water commissioners and shall be upon the full faith and credit of the district. All bonds or notes issued under the provisions of this act shall be obligatory upon the district and its inhabitants and the property within the limits of the district according to the tenor and purport thereof.

SECTION 6. (a) The district, acting by and through the board of water commissioners, shall, subject to the applicable provisions of law, fix just and equitable prices and rates for the use of water and shall prescribe the time and manner of payment. Such prices and rates shall be reviewed on not less than an annual basis and as necessary shall be revised. If there should be a net of operation and the expenses, such surplus shall be applied to pay costs of operation for the district for the succeeding fiscal year. The fiscal year of the district shall commence July 1 and end June 30, or as otherwise provided in the by-laws of the district.

(b) The district shall recognize and be bound by contractual obligations undertaken by the town of Hampden in the settlement of lawsuits or claims filed prior to or subsequent to the creation of the district relating to the amounts, if any, to be charged for the use of water or other charges.

(c) The district shall recognize and be bound by contractual obligations between the town of Hampden and the Massachusetts Audubon Society relating to the easements and agreements with respect to the district including, but not limited to, the amounts, if any, to be charged for the use of water or other charges.

SECTION 7. If for any reason the revenues and available funds of the district, including revenues from prices and rates for the use of water as provided in section 6, shall be determined by the board of water commissioners not to be sufficient to pay the full cost of operation of the district, the board of water commissioners shall apply to the board of selectmen for the placement of an article in a town meeting warrant to raise and appropriate the necessary funds for the operation of the district.

SECTION 8. The management and control of all property acquired by, and the exercise of all the powers, privileges and duties conferred upon the district, pursuant to any of the provisions of this act, shall be vested in and exercised by a board of water commissioners which shall be constituted as follows:

The board of water commissioners provided for in this section and sections 3, 5, and 6 shall consist of three members who shall be inhabitants of and registered voters in the town of Hampden. No such member shall hold any other elective or appointive office or be an

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employee of said town. The board of selectmen of the town of Hampden, after the town shall have accepted this act, shall appoint three inhabitants of and registered voters in the town to serve as members of the board of water commissioners, one of whom shall serve until January 1, 2002 and one shall serve until January 1, 2001 and one shall serve until January 1, 2000 or until their successors are appointed and qualified. Beginning January 1, 1999, and annually thereafter, one inhabitant of and registered voter in the town shall be appointed by the board of selectmen to serve as a member of the board of water commissioners for the term of three years or until a successor is appointed and qualified. Members of the board of water commissioners shall serve without pay but may be compensated for their actual expenses as approved by the board of water commissioners.

The district acting through its initial board of water commissioners shall promptly adopt by-laws describing by whom and how meetings of the board of water commissioners shall be called, notified and conducted, establish rules and regulations for the management of its affairs not inconsistent with this act or any other provision of law, shall appoint, each for a term as it may determine, a clerk and a treasurer of the district and such other officers and employees not specifically provided for in this act as it deems necessary and proper and shall fix their compensation. At meetings of the board of water commissioners, two members shall constitute a quorum. Any member of the board of water commissioners may be removed by the board of selectmen who appointed the member for misfeasance, malfeasance or willful neglect of duty or other cause after notice and a public hearing unless the notice and hearing shall be expressly waived in writing. Vacancies occurring in the membership of the board of water commissioners for any cause may be filled for the remainder of the unexpired term by the board of selectmen. No vacancy occurring in the membership of the board of water commissioners shall disqualify the board of water commissioners from taking any action authorized or permitted by this act.

The district shall annually prepare and provide to the board of selectmen, and to each user of water in the district who requests the same, a written report of the condition of the system, the actions of the board of water commissioners and the receipts and expenditures of the district for the preceding fiscal year. The district shall furnish the board of selectmen with such other information as to the condition of the system, the actions of the board of water commissioners and the district and the receipts and expenditures of the district as may be reasonably requested by the board of selectmen and such information shall be furnished within a reasonable time after receipt of such a request.

SECTION 9. Whoever willfully or wantonly corrupts, pollutes or diverts any water obtained or supplied under this act, or willfully or wantonly injures any reservoir, well, standpipe, aqueduct, pipe or other property owned or used by the district shall be liable to the district for three times the amount of damages assessed therefor, to be recovered in an action of tort and upon conviction of any of the above willful or wanton acts shall be punished by a fine of not more than \$300 or by imprisonment for not more than one year or both.

SECTION 10. The town of Hampden may, by two-thirds vote of an annual town meeting, increase the geographical area of the district.

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SECTION 11. The acceptance of this act by the town of Hampden shall be an acceptance by the district of sections 42A to 42I, inclusive, of chapter 40 of the General Laws and promptly after the formation of the district the clerk shall file a certificate in the registry of deeds in the county of Hampden signifying the acceptance by the district of said sections 42A to 42I, inclusive, of said chapter 40.

SECTION 12. This act shall be accepted by the town of Hampden in the same manner as provided in section 4 of chapter 4 of the General Laws for acceptance of statutes by towns. Notwithstanding the provisions of said section 4 of said chapter 4 the town must accept the provisions of this act within four years after its passage.

SECTION 13. This section and sections 11 and 12 shall take effect upon their passage and the remaining sections shall take effect upon acceptance of this act by the town of Hampden as provided in said sections 11 and 12.

Approved September 24, 1999.

Chapter 87. AN ACT ABOLISHING TERM LIMITS FOR ELECTED PUBLIC OFFICIALS OF THE CITY OF LOWELL.

Be it enacted, etc., as follows:

SECTION 1. Section 31 of the charter of the city of Lowell, as most recently amended by section 1 of chapter 135 of the acts of 1994, is hereby further amended by striking out the last paragraph.

SECTION 2. Section 96 of said charter, as most recently amended by section 2 of said chapter 135, is hereby further amended by striking out the last paragraph.

SECTION 3. Section 103 of said charter, as most recently amended by section 3 of said chapter 135, is hereby further amended by striking out the last paragraph.

SECTION 4. This act shall be submitted to the voters of the city of Lowell at the city election to be held in the year 1999 in the form of the following question, which shall be placed upon the official ballot to be used for the election of city officials at said election:-

"Shall an act passed by the general court in the year 1999, entitled 'An Act abolishing term limits for elected public officials in the city of Lowell' be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, but not otherwise, this act shall take effect as of 10:00 a.m. on January 3, 2000.

SECTION 5. This act shall take effect upon its passage.

Approved September 24, 1999.