

Chap. 321. AN ACT AUTHORIZING THE TOWN OF GREAT BARRINGTON TO TAKE OVER THE FRANCHISE OF THE GREAT BARRINGTON FIRE DISTRICT SO FAR AS THE SAME RELATES TO SEWERS WITHIN THE LIMITS OF SAID DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. The Great Barrington Fire District is hereby authorized to sell and convey for a nominal consideration to the town of Great Barrington all of its right, title, interest, privileges and franchise so far as the same relate to sewers in said district, and said town is hereby authorized to take over and assume the same together with all of the duties and obligations of said district.

SECTION 2. The town of Great Barrington, hereinafter called the town, may lay out, construct, maintain and operate a system or systems of common sewers for a part or the whole of its territory, with such connections and other works as may be required for a system or systems of sewerage and sewage treatment and disposal, and may construct such sewers in said town as may be necessary.

SECTION 3. The town may make and maintain, in any way therein where common sewers are constructed, such connecting sewers within the limits of such way as may be necessary to connect any estate which abuts upon the way.

SECTION 4. The town may, at the meeting when this act is accepted, vote that the selectmen shall act as a board of sewer commissioners. If the town does not so vote at said meeting, the town shall elect by ballot, at any town meeting not later than the second annual meeting after the commencement of construction hereunder of a system or systems of sewerage and sewage disposal, a board of three sewer commissioners, who shall be citizens of the town, to hold office, if elected at an annual meeting, one until the expiration of one year, one until the expiration of two years, and one until the expiration of three years, from such annual town meeting, and until their successors are qualified, or, if elected at a special meeting, one until the expiration of one year, one until the expiration of two years, and one until the expiration of three years from the next succeeding annual town meeting, and until their successors are qualified, and thereafter, at each annual town meeting when the term of a member expires, the town shall elect one member of the board to serve for three years and until his successor is qualified. Any selectman shall be eligible for election to said board. In either case, whether the town votes that its selectmen shall act as a board of sewer commissioners or elects a board of sewer commissioners, the town may at any time thereafter, by any or all the methods permitted by general law, provide for the election of a board of three sewer commissioners, or that the selectmen may act as a board of sewer commissioners, as the case may be.

SECTION 5. Said board of sewer commissioners, acting for and on behalf of the town, may take by eminent domain under chapter seventy-nine of the General Laws, or acquire by purchase or otherwise, any lands, water rights, rights of way or easements, public or private, in said town, necessary for accomplishing any purpose mentioned in this act, and may construct such sewers under or over any bridge, railroad, railway, boulevard or other public way, or within the location of any railroad, and may enter upon and dig up any private land, public way or railroad location, for the purpose of laying such sewers and of maintaining and repairing

the same, and may do any other thing proper or necessary for the purposes of this act; provided, that they shall not take in fee any land of a railroad corporation, and that they shall not enter upon or construct any sewer within the location of any railroad corporation except at such time and in such manner as they may agree upon with such corporation, or, in case of failure to agree, as may be approved by the department of public utilities.

SECTION 6. Until the board of sewer commissioners has first been elected as provided in this act, or the selectmen have first been authorized by vote to act as such board, as the case may be, but not in any event later than the second annual meeting after the commencement of the work of construction authorized hereby, the town may carry on such work by a duly authorized committee of the town. The committee shall serve without pay and shall have all the powers and authority given to the board of sewer commissioners in this act or by general law. Whenever the phrase "said board of sewer commissioners" or "said board" hereinafter occurs, it shall mean and include the board of sewer commissioners, the selectmen acting as such, or the committee of the town provided for in this section, as the case may be.

SECTION 7. Any person injured in his property by any action of said board of sewer commissioners under this act may recover damages from said town under said chapter seventy-nine.

SECTION 8. The town shall, by vote, determine whether it shall pay the whole or a portion of the cost of said system or systems of sewerage and sewage disposal and if a portion, what proportion of the whole cost. If the town votes to pay less than the whole cost, in providing for the payment of the remaining portion of the cost of said system or systems the town may avail itself of any or all of the methods permitted by General Laws, including section sixteen of chapter eighty-three of the General Laws providing for the establishment of just and equitable annual charges for the use of the common sewers, and the provisions of said General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefor and to interest thereon, shall apply to assessments made under this act, except that interest shall be at the rate of four per cent per annum. At the same meeting at which it determines that any portion of the cost is to be borne by the town, it may, by vote, determine by which of such methods the remaining portion of said cost shall be provided for. The collector of taxes of said town shall certify the payment or payments of such assessments or apportionments thereof to the sewer commissioners, or to the selectmen acting as such, who shall preserve a record thereof.

SECTION 9. For the purpose of paying the necessary expenses and liabilities incurred under this act, the town may, from time to time, within five years after the passage of this act, borrow such sums as may be necessary, not exceeding, in the aggregate, nine hundred and fifty thousand dollars, and may issue bonds or notes therefor, which shall bear on their face the words, Great Barrington Sewerage Loan, Act of 1964. Each authorized issue shall constitute a separate loan and such loans shall be payable in not more than thirty years from their dates. Indebtedness incurred under this act shall be in excess of the statutory limit, but shall, except as provided herein, be subject to chapter forty-four of the General Laws.

SECTION 10. The receipts from sewer assessments and from payments made in lieu thereof shall be applied to the payment of charges and expenses incident to the maintenance and operation of said system or systems of sewerage and sewage disposal or to the extension thereof, to the payment of interest upon bonds or notes issued for sewer purposes, or to the payment or redemption of such bonds or notes.

SECTION 11. Said board of sewer commissioners may annually appoint a clerk and may appoint a superintendent of sewers who shall not be a member of the board, and shall define their duties. It may remove the clerk or superintendent at its pleasure. Said clerk may be the clerk of the board of selectmen and said superintendent of sewers may be the superintendent of streets or the superintendent of public works.

SECTION 12. All contracts made by the board of sewer commissioners shall be made in the name of the town and shall be signed by the board, but no contract shall be made or obligations incurred by the board for any purpose in excess of the amount of money appropriated by the town therefor.

SECTION 13. Said board of sewer commissioners may, from time to time, prescribe rules and regulations for the connection of estates and buildings with sewers, and for inspection of the materials, the construction, alteration and use of all connections entering into such sewers, and may prescribe penalties not exceeding twenty dollars, for each violation of any such rule or regulation. Such rules and regulations shall be published at least once a week for three successive weeks in some newspaper published in the town of Great Barrington, if there be any, and if not, then in some newspaper published in the county of Berkshire, and shall not take effect until such publications have been made.

SECTION 14. This act shall take effect upon the acceptance of section one by a majority of the legal voters of the Great Barrington Fire District present and voting at a meeting legally called for the purpose, and upon the acceptance of this act by the town of Great Barrington.

Approved April 27, 1964.

Chap. 322. AN ACT DEFINING THE WORDS "FORESTER", "STATE FORESTER" AND "STATE FIRE WARDEN".

Be it enacted, etc., as follows:

Section 7 of chapter 4 of the General Laws is hereby amended by adding after clause Forty-fifth the following clause: —

Forty-sixth, "Forester", "state forester" and "state fire warden" shall mean the commissioner of natural resources or his designee.

Approved April 27, 1964.

Chap. 323. AN ACT MAKING CERTAIN CHANGES IN THE LAW REQUIRING THAT CERTAIN MEETINGS OF CERTAIN PUBLIC BOARDS AND COMMISSIONS SHALL BE OPEN TO THE PUBLIC.

Be it enacted, etc., as follows:

SECTION 1. Chapter 39 of the General Laws is hereby amended by striking out section 23C, inserted by section 5 of chapter 437 of the acts of 1960, and inserting in place thereof the following section: — *Section 23C.* Upon proof of failure by any public board or commission or by