

SENATE No. 340

To accompany the petition of Jeremiah S. Connors for legislation to improve rapid transit facilities in Boston and to provide for rapid transit extensions outside of said city and to enlarge the Boston Metropolitan District. Transportation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Seven.

AN ACT TO IMPROVE RAPID TRANSIT FACILITIES IN BOSTON AND TO PROVIDE FOR RAPID TRANSIT EXTENSIONS OUT- SIDE THE CITY OF BOSTON, AND TO ENLARGE THE BOSTON METROPOLITAN DISTRICT.

*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 following words as used in this
2 act shall, unless the context otherwise requires, have
3 the following meanings:—

4 “City” shall mean the city of Boston.

5 “Company” shall mean the Boston Elevated Rail-
6 way Company, its successors or assigns.

7 “Department” shall mean the transit department of
8 the city of Boston or such board of officers as may
9 succeed to its rights and duties.

10 “Premises” shall mean the property authorized to
11 be acquired or constructed by the department except
12 equipment.

13 “Equipment” shall mean the property the depart-
14 ment is authorized to provide and furnish under the
15 provisions of this act.

16 “Trustees” shall mean the board of trustees of the
17 Boston metropolitan district established by section 2
18 of chapter 383 of the acts of 1929.

19 Whenever any act is required or authorized to be
20 done or performed by the department under this act,
21 such act shall be in the name and on behalf of the
22 Boston metropolitan district.

1 SECTION 2. Provided the board and the governor
2 approve the projects hereinafter authorized, the
3 trustees in the name and on behalf of the district may
4 construct rapid transit extensions outside the city of
5 Boston connecting with existing lines of the company
6 by means of subways, tunnels, ramps, viaducts, re-
7 served spaces, private rights of way, surface tracks
8 with cuts or fill, bridges or other forms of construction,
9 as follows: —

(a) An extension near Park drive connecting with the location
of the Boston & Albany Railroad Company, and thence over said
location by the way of the Highland branch, and by way of the
main line to Riverside.

(b) An extension of the existing lines of the company at or near
Lechmere square connecting with the location of the Boston &
Maine Railroad and thence over said location to Woburn.

1 SECTION 3. The department subject to the ap-
2 proval of the board and the governor may construct a
3 subway for two or more tracks connecting the present
4 Park street subway station with the subway station
5 at Scollay square and to alter and enlarge the present
6 subway between Boylston and Park street stations
7 and to alter the existing subway between Park street

8 and Winter street stations to provide for pedestrian
9 traffic and to construct a passageway underground for
10 pedestrian traffic between Boylston street and Essex-
11 Boylston stations.

1 SECTION 4. The trustees shall forthwith cause to
2 be prepared by the department preliminary plans,
3 together with all preliminary investigations, surveys,
4 borings and estimates of the cost for the construction
5 and equipment of the extensions and additional im-
6 provements of the subways hereinbefore provided,
7 but not more than the sum of twenty-five thousand
8 dollars shall be expended therefor.

1 SECTION 5. No work of construction shall be done
2 until the trustees have caused to be prepared plans to
3 show the proposed locations of the extensions herein
4 provided for, the general form and method of construc-
5 tion, the location and equipment of proposed tracks
6 and the alignment and grade thereof and the proposed
7 stations and approaches and other structures, which
8 plans shall be submitted to the company for examina-
9 tion; nor until the trustees after public hearing, notice
10 of which shall be published at least one week prior
11 thereto in at least two newspapers published in the
12 city of Boston, shall formally approve and sign the
13 same; nor until a contract for the use of the same by
14 the company has been executed as hereinafter pro-
15 vided. Any such plan so approved and signed may be
16 altered at any time before the execution of the contract
17 for use of the extension included therein and its equip-
18 ment, by a new plan prepared, submitted and approved
19 in like manner; but after execution of the contract
20 for use no changes shall be made in the plan for the

21 premises without the consent of the company thereto
22 in writing nor at any time except with the approval of
23 the board and the governor.

1 SECTION 6. The department shall provide, equip
2 and furnish the extension authorized by section two,
3 including terminals, stations, shops, shelters, enclosed
4 areas, yards and structures appurtenant thereto, with
5 all necessary ballast, tracks, rails, fastenings, frogs,
6 switches, switch stands, ties, tie plates, wires, poles,
7 signals, conduits, lighting and power distribution
8 systems, fences, barriers, station and shop equipment
9 and incidental apparatus, and in general shall com-
10 pletely equip and furnish the same with all property,
11 appliances, apparatus, machinery, furniture and fix-
12 tures proper and adapted thereto and necessary for
13 the convenient maintenance and operation of a rail-
14 way and for the safety and accommodation of passen-
15 gers using the same.

1 SECTION 7. For the purpose of this act the de-
2 partment shall have all the powers conferred upon the
3 Boston transit commission by chapter five hundred
4 and forty-eight of the acts of eighteen hundred and
5 ninety-four and by chapter seven hundred and forty-
6 one of the acts of nineteen hundred and eleven and
7 amendments thereof, either generally or in connection
8 with the construction or operation of any tunnel or
9 subway authorized by said chapters, and like powers
10 as conferred by chapter four hundred and eighty of
11 the acts of nineteen hundred and twenty-three with
12 respect to the works authorized thereunder, and by all
13 other acts conferring authority upon the Boston
14 transit commission or the department; provided, that

15 whenever any act or action is authorized, required
16 or estimated by said statute to be done by or in the
17 name and behalf of the city of Boston the department
18 shall have like power and authority to act in the
19 name and behalf of the district.

1 SECTION 8. For the purpose of constructing the
2 works herein authorized the department may enter
3 upon and use the land of others. Any person injured
4 in his property by such entry or use of his land by
5 the department may recover his damages from the
6 district under chapter seventy-nine of the General
7 Laws. Extensions herein authorized may be con-
8 structed upon, under or over public or private ways
9 or public land or lands devoted to the public use, in-
10 cluding any property belonging to a railroad. The
11 department in the name and behalf of the district,
12 with the approval of the trustees, may lease, purchase
13 or acquire by eminent domain rights of way in and
14 over the tracks of the Boston & Albany Railroad
15 Company and of the New York, New Haven & Hart-
16 ford Railroad Company. The department will also
17 provide, equip and furnish any such extension and
18 the property and structures provided for herein to
19 the same extent and manner as provided in section
20 three of chapter four hundred and eighty of the acts
21 of nineteen hundred and twenty-three with respect
22 to the railway authorized by said chapter.

1 SECTION 9. To meet the cost of carrying out the
2 provisions of this act, the trustees in behalf of the dis-
3 trict shall issue and sell bonds of the district in the
4 manner and subject to the provisions of section ten
5 of chapter three hundred and eighty-three of the acts

6 of nineteen hundred and twenty-nine and section two
7 of chapter one hundred and forty-seven of the acts
8 of nineteen hundred and thirty-two, and the provisions
9 of said section shall apply thereto in the same manner
10 and to the same extent as if such notes and bonds of
11 the district were specifically authorized in said chapter
12 three hundred and eighty-three.

1 SECTION 10. When plans have been approved as
2 aforesaid and the approvals required by this act have
3 been given, the trustees in the name and behalf of the
4 district may execute a contract with the company
5 upon the terms and conditions herein prescribed for
6 the use of the premises and equipment thereof for the
7 running of trains, and/or cars therein and thereon
8 and for such other uses as the trustees and the com-
9 pany may agree upon for a term which shall extend
10 from the beginning of the use of the premises to the
11 first day of July, nineteen hundred and eighty-one,
12 at a rental as hereinafter provided. Such contract for
13 use shall continue in force after the expiration of the
14 definite term specified upon the same terms and con-
15 ditions until the same is terminated by notice from
16 the district or from the company as hereinafter pro-
17 vided. The district may terminate said contract on
18 the first day of July, nineteen hundred and eighty-
19 one, or on the first day of July of any year thereafter
20 by giving at least two years' prior notice in writing,
21 and the company may likewise terminate said con-
22 tract on the first day of July, nineteen hundred and
23 eighty-one, or on the first day of any year thereafter
24 by giving to the trustees at least two years' prior
25 notice in writing; but no notice on the part of either
26 the district or the company shall be given more than

27 three years prior to the date therein fixed for termina-
28 tion. Such contract for use shall provide that the
29 company shall pay to the district for each full year
30 ending with the last day of December and ratably
31 for any portion of a year, an annual rental which shall
32 be sufficient to provide an amount equal to one half
33 of one per cent of the net cost of the premises and
34 equipment in addition to the annual amount of in-
35 terest on bonds issued to pay for said net cost, but
36 not less than four and one half per cent of said net
37 cost in any event; provided, however, that said an-
38 nual rental shall be payable by the company in any
39 year only if and to the extent that the reserve fund
40 provided for by section five of chapter one hundred
41 and fifty-nine of the Special Acts of nineteen hun-
42 dred and eighteen exceeds on the first day of Decem-
43 ber the amount originally established; provided,
44 however, that such excess shall be determined and the
45 obligation to pay rental shall accrue only after de-
46 ducting from said reserve fund the full amount of
47 the rental payable under any contracts executed under
48 the authority of the Governor Square Act, so called,
49 being chapter three hundred and forty-one of the acts
50 of nineteen hundred and twenty-five, as amended, and
51 after deducting the full amount of the rental payable
52 under any contract for use of any subway extension
53 made under Part II of chapter three hundred and
54 sixty-six of the acts of nineteen hundred and thirty-
55 three, chapter six hundred and seventy-two of the acts
56 of nineteen hundred and forty-five and chapter four
57 hundred and ninety-four of the acts of nineteen hun-
58 dred and forty-six, and after fully reimbursing the
59 commonwealth as provided in sections eleven and thir-
60 teen of said chapter one hundred and fifty-nine. If by

61 reason of the foregoing provisos the company does not
62 make the full rental payment as above provided for
63 the premises and equipment herein authorized, any
64 amount so unpaid shall annually be raised by taxation
65 in the manner and as provided in section twelve of
66 said chapter three hundred and eighty-three.

67 Rental shall be payable annually on the twenty-
68 fifth day of July in each year.

1 SECTION 11. The department may make contracts
2 in the name of the district for the work herein author-
3 ized, but all contracts involving two thousand dollars
4 in amount shall be in writing and signed by a majority
5 of the department and shall not be binding until
6 approved by vote of the trustees. No such contract
7 shall be altered except by an instrument in writing,
8 signed by the contractor and a majority of the depart-
9 ment, and also by the sureties on any bond given by
10 the contractor for the completion of the original con-
11 tract, and approved by vote of the trustees. No such
12 contract and no alteration of any such contract shall
13 be valid or binding on the district unless executed in
14 the manner aforesaid.

1 SECTION 12. Said contract for use shall not in any
2 respect impair any right which the commonwealth or
3 any political subdivision thereof may at any time
4 have to take the railway properties and rights of the
5 company or any right which the commonwealth or
6 any political subdivision thereof may have under
7 section sixteen of chapter one hundred and fifty-nine
8 of the Special Acts of nineteen hundred and eighteen
9 or under section seventeen of chapter three hundred
10 and thirty-four of the acts of nineteen hundred and

11 thirty-one. In the event of such taking the compensa-
12 tion to be paid to the company shall not be enhanced
13 by reason of such contract nor shall it be diminished
14 because of the fact that without it properties might
15 be cut off.

1 SECTION 13. Chapter 383 of the acts of 1929, as
2 amended, is hereby further amended by striking out
3 section 1 and inserting in place thereof the following
4 new section: —

5 *Section 1.* The territory within and the inhabitants
6 of the following cities and towns, to wit: Arlington,
7 Belmont, Boston, Braintree, Brookline, Cambridge,
8 Chelsea, Dedham, Everett, Lexington, Lynn, Malden,
9 Melrose, Milton, Needham, Newton, Quincy, Read-
10 ing, Revere, Saugus, Somerville, Stoneham, Wakefield,
11 Waltham, Watertown, Wellesley, Winchester and
12 Woburn, shall constitute a district or incorporated
13 municipality, and for the purposes of this act are made
14 a body politic and corporate under the name of the
15 Boston metropolitan district, hereinafter called the
16 district, with power to take and hold property, sue and
17 be sued in law and equity, to prosecute and defend
18 in all actions relating to the property and affairs of
19 the district, and of contracting and doing other neces-
20 sary acts relative to its property and affairs; and said
21 territory and inhabitants shall be jointly and severally
22 liable for the debts and obligations thereof. Said
23 district shall have a corporate seal. Process may be
24 served upon the treasurer of the district as hereinafter
25 provided.

26 The real estate of the district, with the exception of
27 that used for tunnels, subways, stations, transfer
28 areas, rapid transit lines and their appurtenances, shall

29 be subject to taxation by the city or town in which it
30 is located in the same manner and to the same extent
31 as if privately owned.

1 SECTION 14. This act shall take full effect only
2 upon its acceptance both by the district acting by its
3 board of trustees and by the Boston Elevated Railway
4 Company vote of its board of directors, and by the
5 mayor of the city of Boston, and upon the filing of
6 certificates of such acceptance with the state secre-
7 tary; provided, that such acceptances, approval and
8 filing occur during the current year.

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