

SENATE No. 541

To accompany the petition of Charles W. Harris, Francis J. O'Neil and others for legislation to establish the Dighton Water District in the town of Dighton and to repeal certain acts establishing the Dighton Water Supply District and the South Dighton Fire and Water District. Water Supply.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty.

AN ACT ESTABLISHING THE DIGHTON WATER DISTRICT IN THE TOWN OF DIGHTON, AND REPEALING ACTS ESTABLISHING THE DIGHTON WATER SUPPLY DISTRICT AND THE SOUTH DIGHTON FIRE AND WATER 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 inhabitants of the town of Digh-
2 ton, liable to taxation in said town, and residing within
3 the territory comprised within the following boundary
4 lines, to wit:—Beginning at the intersection of the
5 Taunton and Three Mile rivers and continuing up
6 stream by the south side of the Three Mile river to the
7 boundary of the North Dighton fire and water dis-
8 trict, thence southerly by said boundary to the
9 southeast corner of the North Dighton fire and water
10 district, then westerly by said district boundary and
11 extending beyond it to a corner five hundred feet
12 true north of the center line of Tremont street at a

13 point five hundred feet west of the intersection of the
14 center lines of Middle street and Tremont streets,
15 thence in a southerly direction to the northwest
16 corner of the "Brick" Church cemetery on Center
17 street, thence along the westerly boundary of said
18 cemetery to a corner at Center street and thence
19 proceeding southerly to a point twenty-five hundred
20 feet west of the intersection of the center lines of
21 Milk and Main streets to a corner, thence south-
22 easterly to a corner one thousand feet west of the
23 center line of Elm street and five hundred feet south
24 of the center line of Hart street, thence easterly
25 parallel to Hart street and five hundred feet distant
26 from the center line of Hart street to the old road
27 bed right of way of the New York, New Haven and
28 Hartford Railroad, thence southerly by the old rail-
29 road right of way to Broad cove, thence easterly by
30 the shore of Broad cove to the Taunton river and
31 thence northerly by the west shore of said river to
32 the point of beginning, — shall constitute a water
33 district and are hereby made a body corporate by the
34 name of the Dighton Water District, hereinafter
35 called the district, for the purpose of supplying them-
36 selves with water for the extinguishment of fires and
37 for domestic and other purposes, with power to estab-
38 lish fountains and hydrants and to relocate and
39 discontinue the same, to regulate the use of such
40 water and to fix and collect rates to be paid therefor,
41 and for the purposes of assessing and raising taxes
42 as provided herein for the payment of such services,
43 and for defraying the necessary expenses of carrying
44 on the business of said district, subject to all general
45 laws now or hereafter in force relating to such dis-
46 tricts, except as otherwise provided herein. The

47 district shall have power to prosecute and defend
48 all actions relating to its property and affairs.

1 SECTION 2. For the purposes aforesaid the district
2 acting by and through its board of water commis-
3 sioners hereinafter provided for, may contract with
4 any municipality, acting through its water depart-
5 ment, or with any water company, or with any other
6 water district, for whatever water may be required,
7 authority to furnish the same being hereby granted,
8 and may lay water mains anywhere within the town
9 of Dighton for the purpose of securing said water
10 supply, and, in addition or in the alternative, may
11 take by eminent domain under chapter seventy-nine
12 or chapter eighty A of the General Laws, or acquire
13 by lease, purchase or otherwise, and hold, the waters,
14 or any portion thereof, of any pond, spring or stream,
15 or of any ground sources of supply by means of driven,
16 artesian or other wells, within the town of Dighton
17 not already appropriated and used for the purposes of
18 a public supply, and the water and flowage rights
19 connected with any such water sources; and for said
20 purposes may take as aforesaid, or acquire by purchase
21 or otherwise, and hold, all lands, rights of way and
22 other easements necessary for collecting, storing,
23 holding, purifying and preserving the purity of the
24 water and for conveying the same to any part of said
25 district; provided, that no source of water supply
26 or lands necessary for preserving the quality of the
27 water shall be so taken or used without first obtaining
28 the advice and approval of the state department of
29 public health, and that the location and arrangement
30 of all dams, reservoirs, springs, wells, pumping,
31 purification and filtration plants and such other

32 works as may be necessary in carrying out the provi-
33 sions of this act shall be subject to the approval of
34 said department. Said district may construct and
35 maintain on the lands acquired and held under this
36 act proper dams, wells, springs, reservoirs, standpipes,
37 tanks, pumping plants, buildings, fixtures and other
38 structures including also the establishment and main-
39 tenance of filter beds and purification works or systems,
40 and may make excavations, procure and operate
41 machinery and provide such other means and appli-
42 ances, and do such other things as may be necessary
43 for the establishment and maintenance of complete
44 and effective water works; and for that purpose
45 may construct pipe lines, wells and reservoirs and
46 establish pumping works and may construct, lay,
47 acquire and maintain aqueducts, conduits, pipes and
48 other works under or over any land, water courses,
49 railroads, railways and public or other ways, and
50 along such ways, within said town of Dighton in
51 such manner as not unnecessarily to obstruct the
52 same; and for the purposes of constructing, laying,
53 maintaining, operating and repairing such aqueducts,
54 conduits, pipes and other works, and for all proper
55 purposes of this act, the district may dig up or raise
56 and embank any such lands, highways or other ways
57 in such manner as to cause the least hindrance to
58 public travel on such ways; provided, that the manner
59 in which all things are done upon any such way shall
60 be subject to the reasonable direction of the select-
61 men of the town of Dighton. Said district shall not
62 enter upon, or construct or lay any conduit, pipe or
63 other works within the location of any railroad corpo-
64 ration except at such time and in such manner as it
65 may agree upon with such corporation, or, in case of
66 failure so to agree, as may be approved by the depart-

67 ment of public utilities. Said district may enter
68 upon any lands for the purpose of making surveys,
69 test wells or pits and borings and may take or other-
70 wise acquire the right to occupy temporarily any
71 lands necessary for the construction of any work or
72 for any other purpose authorized by this act.

1 SECTION 3. Any person sustaining damages in his
2 property by any taking under this act or any other
3 thing done under authority thereof may recover such
4 damages from the district under said chapter seventy-
5 nine or said chapter eighty A; but the right to dam-
6 ages for the taking of any water, water right or water
7 source, or for any injury thereto, shall not vest until
8 water is actually withdrawn or diverted under au-
9 thority of this act.

1 SECTION 4. For the purpose of paying the neces-
2 sary expenses and liabilities incurred under the provi-
3 sions of this act, other than expenses of maintenance
4 and operation, the district may borrow from time to
5 time such sums as may be necessary, not exceeding,
6 in the aggregate, three hundred thousand dollars,
7 and may issue bonds or notes therefor, which shall
8 bear on their face the words, Dighton Water District
9 Loan, Act of 1950. Each authorized issue shall con-
10 stitute a separate loan, and such loans shall be payable
11 in not more than thirty years from their dates. In-
12 debtedness incurred under this act shall be subject
13 to the provisions of chapter forty-four of the General
14 Laws pertaining to such districts.

1 SECTION 5. The district shall, at the time of
2 authorizing said loan or loans, provide for the pay-
3 ment thereof in accordance with section four of this

4 act; and when a vote to that effect has been passed
5 a sum which, with the income derived from water
6 rates, will be sufficient to pay the annual expense of
7 operating its water works and the interest as it accrues
8 on the bonds or notes issued as aforesaid by the
9 district, and to make such payments on the principal
10 as may be required under the provisions of this act,
11 shall without further vote be assessed upon the
12 district by the assessors of said town of Dighton
13 annually thereafter until the debt incurred by said
14 loan or loans is extinguished.

1 SECTION 6. Any land taken or acquired under this
2 act shall be managed, improved and controlled by
3 the board of water commissioners hereinafter pro-
4 vided for, in such manner as they shall deem for the
5 best interest of the district. All authority vested in
6 said board by this section shall be subject to section
7 nine.

1 SECTION 7. Whenever a tax is duly voted by said
2 district for the purposes of this act, the clerk shall
3 send a certified copy of the vote to the assessors of
4 said town, who shall assess the same on property
5 within the district in the same manner in all respects
6 in which town taxes are required by law to be as-
7 sessed; provided, that no estate shall be subject to
8 any tax assessed on account of the system of water
9 supply under this act, if, in the judgment of the board
10 of water commissioners hereinafter provided for,
11 after a hearing, due notice of which shall have been
12 given, such estate is so situated that it will receive no
13 aid in the extinguishment of fire from the said system
14 of water supply, or receive no benefit in fire insurance

15 grading therefrom, or both, or if such estate is so
16 situated that the buildings thereon or the buildings
17 that might be constructed thereon, could not be sup-
18 plied with water from said system in any ordinary or
19 reasonable manner; but all other estates in said
20 district shall be deemed to be benefited and shall be
21 subject to the tax. A certified list of the estates
22 exempt from taxation under the provisions of this
23 section shall annually be sent by the board of water
24 commissioners hereinafter provided for to the as-
25 sessors, at the same time at which the clerk shall
26 send a certified copy of the vote as aforesaid. The
27 assessment shall be committed to the town collector,
28 who shall collect said tax in the manner provided by
29 law for the collection of town taxes, and shall deposit
30 the proceeds thereof with the district treasurer for
31 the use and benefit of said district. Said district may
32 collect interest on overdue taxes in the manner in
33 which interest is authorized to be collected on town
34 taxes.

1 SECTION 8. Any meeting of the voters of the
2 territory included within the boundaries set forth in
3 section one to be held prior to the acceptance of this
4 act, and any meeting of the voters of the district
5 to be held prior to the qualification of a majority
6 of the water commissioners, shall be called, on petition
7 of ten or more legal voters therein, by a warrant from
8 the selectmen of said town, or from a justice of the
9 peace, directed to one of the petitioners, requiring
10 him to give notice of the meeting by posting copies
11 of the warrant in two or more public places in the
12 district seven days at least before the time of the
13 meeting. Such justice of the peace, or one of the

14 selectmen, shall preside at such meeting until a clerk
15 is chosen and sworn, and the clerk shall preside until
16 a moderator is chosen. At any meeting held here-
17 under prior to the acceptance of this act, after the
18 choice of a moderator for the meeting, the question
19 of the acceptance of this act shall be submitted to the
20 voters, and if it is accepted by a majority of the
21 voters present and voting thereon it shall thereupon
22 take effect, and the meeting may then proceed to act
23 on the other articles in the warrant. After the quali-
24 fication of a majority of the water commissioners,
25 meetings of the district shall be called by warrant
26 under their hands, unless some other method be
27 provided by by-law or vote of the district.

1 SECTION 9. The district shall, after the acceptance
2 of this act as aforesaid, elect by ballot, either at the
3 same meeting at which this act shall have been
4 accepted, or thereafter, at an annual meeting or
5 at a special meeting called for the purpose, three
6 persons, inhabitants of and voters in said district,
7 to hold office, one until the expiration of three years,
8 one until the expiration of two years, and one until
9 the expiration of one year, from the day of the next
10 succeeding annual district meeting, to constitute a
11 board of water commissioners; and at every annual
12 district meeting following such next succeeding annual
13 district meeting one such commissioner shall be
14 elected by ballot for the term of three years. The
15 date of the next annual meeting shall be fixed by
16 by-law or by vote of the board of water commis-
17 sioners, but in no event shall it be later than fifteen
18 months subsequent to the date on which the water
19 commissioners were first elected. All the authority

20 granted to said district by this act, except sections
21 four and five, and not otherwise specifically provided
22 for, shall be subject, however, to such instructions,
23 rules and regulations as the district may by vote
24 impose. At the meeting at which said water com-
25 missioners are first elected and at each annual district
26 meeting held thereafter, the district shall elect by
27 ballot, each for a term of one year, a clerk and a
28 treasurer of the district. The treasurer shall not be
29 a water commissioner and shall give bond to the
30 district in such an amount as may be approved by
31 said water commissioners and with a surety company
32 authorized to transact business in the commonwealth
33 as surety. A majority of said water commissioners
34 shall constitute a quorum for the transaction of
35 business. Any vacancy occurring in said board from
36 any cause may be filled for the remainder of the
37 unexpired term by said district at any legal meeting
38 called for the purpose. No money shall be drawn
39 from the treasury of the district on account of its
40 water works except upon a written order of said water
41 commissioners or a majority of them.

1 SECTION 10. Said commissioners shall fix just and
2 equitable prices and rates for the use of water, and
3 shall prescribe the time and manner of payment.
4 The income of the water works shall be appropriated
5 to defray all operating expenses, interest charges
6 and payments on the principal as they shall accrue
7 upon any bonds or notes issued under authority of this
8 act. If there should be a net surplus remaining after
9 providing for the aforesaid charges, it may be appro-
10 priated for such new construction as said commis-
11 sioners may recommend, and in case a surplus should

12 remain after payment for such new construction the
13 water rates shall be reduced proportionately. Said
14 commissioners shall annually, and as often as the
15 district may require, render a report upon the con-
16 dition of the works under their charge, and an account
17 of their doings, including an account of receipts and
18 expenditures.

1 SECTION 11. The district may adopt by-laws,
2 prescribing by whom and how meeting of the district
3 may be called, notified, and conducted; and, upon the
4 application of ten or more legal voters in the district,
5 meetings may also be called by warrant as provided
6 in section eight. The district may also establish
7 rules and regulations for the management of its
8 water works, not inconsistent with this act or with
9 any other provision of law, and may choose such
10 other officers not provided for in this act as it may
11 deem necessary or proper. The district shall have
12 all the rights and privileges conferred by law upon
13 water districts, so far as applicable.

1 SECTION 12. Whoever wilfully or wantonly cor-
2 rupts, pollutes or diverts any water obtained or
3 supplied under this act, or wilfully or wantonly
4 injures any reservoir, well, standpipe, aqueduct,
5 pipe or other property owned or used by the district
6 for any of the purposes of this act, shall forfeit and
7 pay the district three times the amount of damages
8 assessed therefor, to be recovered in an action of tort,
9 and upon conviction of any of the above wilful or
10 wanton acts shall be punished by a fine of not more
11 than one hundred dollars or by imprisonment for not
12 more than six months.

1 SECTION 13. Upon a petition in writing addressed
2 to said commissioners requesting that certain real
3 estate, accurately described therein, located in said
4 town and abutting on said district and not otherwise
5 served by a public water supply be included within
6 the limits thereof, and signed by the owners of such
7 real estate, or a major portion of such real estate,
8 said commissioners shall cause a duly warned meeting
9 of the district to be called, at which meeting the
10 voters may vote on the question of including said real
11 estate within the district. If a majority of the voters
12 present and voting thereon vote in the affirmative the
13 district clerk shall within ten days file with the town
14 clerk of said town and with the state secretary an
15 attested copy of said petition and vote; and there-
16 upon said real estate shall become and be part of the
17 district and shall be holden under this act in the
18 same manner and to the same extent as the real
19 estate described in section one.

1 SECTION 14. Chapter 254 of the acts of 1914, as
2 amended by section 2 of chapter 339 of the acts of
3 1926, is hereby further amended by striking out the
4 words "and of Muddy cove brook or either of them,
5 from section two of said chapter three hundred and
6 thirty-nine."

1 SECTION 15. Chapter 226 of the acts of 1911, as
2 amended by chapter 192 of the acts of 1914, and
3 chapter 202 of the acts of 1927, as amended by chap-
4 ter 410 of the acts of 1939, and by chapter 26 of the
5 acts of 1946, are hereby repealed.

1 SECTION 16. This act shall take full effect upon
2 its acceptance by a majority vote of the voters of the

3 territory included within said district by section one
4 of this act present and voting thereon, by use of the
5 check list, at a district meeting called, in accordance
6 with section eight, within four years after its passage,
7 but not otherwise.