

HOUSE No. 1443

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 25, 1931.

The committee on Water Supply, to whom was recommended the Bill to establish the Charlemont Fire District and to provide for supplying the same with water (House, No. 1353), report that the same ought to pass in a new draft herewith submitted (House, No. 1443).

For the committee,

JOHN SAUTER.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-One.

An Act to establish the Charlemont Fire District and to provide for Supplying the Same with Water.

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 Charle-
2 mont, liable to taxation in said town and residing
3 within the territory enclosed by the following boundary
4 lines, to wit: — Beginning at a point on the Deerfield
5 river at the southeasterly corner of William L.
6 Warner's land; thence northerly to the northwest
7 corner of land of Homer Sherman; thence easterly
8 on said Sherman's land to his northeast corner; thence
9 easterly in a straight line to the southwest corner of
10 land of the Deerfield Valley Agricultural Society;
11 thence easterly along the southern boundary of said
12 society's land to its southeast corner; thence easterly
13 to the northwest corner of land of Olive Adella
14 Cooley; thence southerly by land of said Cooley
15 across the Mohawk Trail in a straight line to the
16 Deerfield river; and thence westerly on said river to
17 the place of beginning, — shall constitute a fire dis-
18 trict, and are hereby made a body corporate, by the
19 name of the Charlemont Fire District, hereinafter
20 called the district, for the purpose of supplying them-
21 selves with water for the extinguishment of fires

22 and for domestic and other purposes, with power to
23 establish fountains and hydrants and to relocate and
24 discontinue the same, for assessing and raising taxes
25 as provided herein for payment for such services, and
26 for defraying the necessary expenses of carrying on
27 the business of said district, subject to all general
28 laws now or hereafter in force relating to such dis-
29 tricts, except as otherwise provided herein.

1 SECTION 2. For the purposes aforesaid, said dis-
2 trict, acting by and through its board of water com-
3 missioners hereinafter provided for, may purchase
4 and hold the water, or any portion thereof, of any well,
5 pond, brook or stream within the limits of the town
6 of Charlemont and the water rights connected there-
7 with; and for said purposes may take, under chapter
8 seventy-nine of the General Laws, or acquire by
9 purchase or otherwise, and hold, all lands, rights of
10 way and other easements necessary for collecting,
11 storing, holding, purifying and preserving the purity
12 of the water and conveying the same to any part of
13 said district: provided, that no source of water sup-
14 ply or lands necessary for preserving the quality of
15 the water shall be so taken or used without first ob-
16 taining the advice and approval of the state depart-
17 ment of public health, and that the location of all
18 dams, reservoirs and wells to be used as sources of
19 water supply under this act shall be subject to the
20 approval of said department. Said district may con-
21 struct on the lands acquired and held under this act
22 proper dams, reservoirs, standpipes, tanks, buildings,
23 fixtures and other structures, and may make excava-
24 tions, procure and operate machinery and provide
25 such other means and appliances, and do such other

26 things as may be necessary for the establishment and
27 maintenance of complete and effective water works;
28 and for that purpose may construct wells and reser-
29 voirs and establish pumping works, and may con-
30 struct, lay and maintain aqueducts, conduits, pipes
31 and other works under or over any land, water
32 courses, railroads, railways and public or other ways,
33 and along such ways, in said town, in such manner
34 as not unnecessarily to obstruct the same; and for the
35 purposes of constructing, laying, maintaining, oper-
36 ating and repairing such conduits, pipes and other
37 works, and for all proper purposes of this act, said
38 district may dig up or raise and embank any such
39 lands, highways or other ways in such manner as to
40 cause the least hindrance to public travel on such
41 ways; provided, that all things done upon any such
42 way shall be subject to the direction of the selectmen
43 of the town of Charlemont. Said district shall not
44 enter upon, construct or lay any conduit, pipe or
45 other works within the location of any railroad corpo-
46 ration except at such time and in such manner as it
47 may agree upon with such corporation, or in case of
48 failure so to agree, as may be approved by the depart-
49 ment of public utilities.

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

1 SECTION 4. For the purpose of paying the neces-
2 sary expenses and liabilities incurred under the
3 provisions of this act, other than expenses of main-
4 tenance and operation, the said district may borrow
5 from time to time such sums as may be necessary,
6 not exceeding in the aggregate thirty thousand dol-
7 lars, and may issue bonds or notes therefor, which
8 shall bear on their face the words, Charlemont Fire
9 District Loan, Act of 1931. Each authorized issue
10 shall constitute a separate loan, and such loans shall
11 be payable in not more than thirty years from their
12 dates. Indebtedness incurred under this act shall be
13 subject to chapter forty-four of the General Laws.

1 SECTION 5. The said district shall, at the time of
2 authorizing the said loan or loans, provide for the
3 payment thereof in accordance with section four of
4 this act; and when a vote to that effect has been
5 passed, a sum which, with the income derived from
6 water rates, will be sufficient to pay the annual
7 expense of operating the water works and interest
8 as it accrues on bonds or notes issued as aforesaid,
9 and to make such payments on the principal as may
10 be required under this act, shall, without further
11 vote, be assessed upon the said district by the as-
12 sessors of the town of Charlemont annually thereafter
13 until the debt incurred by said loan or loans is extin-
14 guished.

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 the
7 provisions of section 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 the town of Charlemont, who shall assess the same on
5 said district in the same manner in all respects in
6 which town taxes are required by law to be assessed.
7 The assessment shall be committed to the town col-
8 lector who shall collect the tax in the manner provided
9 for the collection of town taxes, and shall deposit
10 the proceeds with the district treasurer for the use
11 and benefit of the district. The district may collect
12 interest on overdue taxes in the same manner in
13 which interest is authorized to be collected on town
14 taxes.

1 SECTION 8. A meeting of the voters of the territory
2 included within the boundaries set forth in section
3 one shall be called, on petition of ten or more legal
4 voters therein, by a warrant from the selectmen of
5 the town of Charlemont, or from a justice of the peace,
6 directed to one of the petitioners, requiring him to
7 give notice of the meeting by posting copies of the
8 warrant in two or more public places in the district
9 seven days at least before the time of the meeting.
10 One of the petitioners shall preside at the meeting
11 until a clerk is chosen and sworn, and the clerk shall
12 preside until a moderator is chosen. After the choice
13 of a moderator, the question of the acceptance of
14 this act shall be submitted to the voters, and if it
15 shall be accepted by a majority of the voters present
16 and voting thereon it shall take full effect, and the

17 meeting may then proceed to act upon the other
18 articles contained in the warrant.

1 SECTION 9. Said district shall, at the same meet-
2 ing at which this act is accepted and after such accept-
3 ance, elect by ballot a district clerk and a district
4 treasurer, who may be the same person, to hold office
5 until the expiration of one year from the next succeed-
6 ing annual meeting, and at each annual meeting after
7 the first, their successors shall be elected by ballot for
8 one year; and there shall also be elected by ballot three
9 persons to hold office, one until the expiration of three
10 years, one until the expiration of two years, and one
11 until the expiration of one year, from the next succeed-
12 ing annual meeting, to constitute a board of water
13 commissioners. At each annual meeting after the first,
14 one such commissioner shall be elected by ballot for
15 three years. All officers of the district shall hold office
16 until their successors are elected and qualified. All the
17 authority granted to said district by this act, except
18 sections four and five and except as otherwise specially
19 provided, shall be vested in the said board of water
20 commissioners, who shall be subject, however, to such
21 instructions, rules and regulations as the district may
22 impose by its vote. Any vacancy occurring in said
23 board from any cause may be filled for the remainder
24 of the unexpired term by the district at any legal
25 meeting called for the purpose. No money shall be
26 drawn from the district treasury except upon the
27 written order of a majority of the said board.

1 SECTION 10. Said commissioners shall fix just and
2 equitable prices and rates for the use of water, and shall
3 prescribe the time and manner of payment. The

4 income of the water works shall be appropriated to de-
5 fray all operating expenses, interest charges and pay-
6 ments on the principal as they accrue upon any bonds
7 or notes issued under authority of this act. If there
8 should be a net surplus remaining after providing for
9 the aforesaid charges, it may be appropriated for such
10 new construction as said commissioners may recom-
11 mend, and in case a surplus should remain after pay-
12 ment for such new construction the water rates shall
13 be reduced proportionately. Said commissioners shall
14 annually, and as often as said district may require,
15 render a report upon the condition of the works under
16 their charge, and an account of their doings, including
17 an account of receipts and expenditures.

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

1 SECTION 12. Whoever wilfully or wantonly cor-
2 rupts, pollutes or diverts any water obtained or sup-
3 plied under this act, or wilfully or wantonly injures
4 any reservoir, standpipe, aqueduct, pipe or other
5 property, owned or used by said district for the pur-
6 poses of this act, shall forfeit and pay to the district

7 three times the amount of damages assessed therefor,
8 to be recovered in an action of tort; and upon con-
9 viction of any of the above wilful or wanton acts shall
10 be punished by a fine of not more than one hundred
11 dollars or by imprisonment for not more than six
12 months.

1 SECTION 13. Said district with the advice and
2 approval of the department of public health may sell
3 at public or private sale or may exchange any real
4 property or any easements, whether taken by emi-
5 nent domain or otherwise, no longer needed for works
6 under its charge, or may from time to time lease any
7 property not then so needed, and may at its dis-
8 cretion by lease, license or other agreement permit the
9 construction and maintenance on any land under its
10 control of towers, poles, wires and other structures
11 for the purpose of transmitting electric power over
12 lands and water of said district held for water supply
13 purposes under this act; provided, that in the opinion
14 of the said department such lease, license or agree-
15 ment will not affect or interfere with the water sup-
16 ply; and provided, further, that said district may
17 revoke said lease, license or agreement for cause to
18 be determined by it with the approval of said depart-
19 ment.

1 SECTION 14. This act shall take effect upon its
2 acceptance by a majority of the voters of the district
3 described in section *one, present and voting thereon
4 at a meeting called for the purpose within three years
5 after its passage; but the number of meetings so called
6 in any one year shall not exceed three; and for the
7 purpose of being submitted to the voters as aforesaid,
8 this act shall take effect upon its passage.





