

SENATE No. 662

To accompany the petition of Francis Prescott and another for the incorporation of the Auburn Water Company. Water Supply.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Nineteen.

AN ACT

To incorporate the Auburn Water Company.

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. Josiah H. Whitaker, Oscar P.
2 Pond, Everett W. Stone, Arthur W. Warren,
3 George M. Duvall, Thomas J. Healey, Frank W.
4 Pierce, Charles E. Prouty and L. Adelard Breault,
5 their associates and successors, are hereby made
6 a corporation by the name of Auburn Water
7 Company for the purpose of supplying the in-
8 habitants of the town of Auburn with water for
9 the extinguishment of fires and for domestic and
10 other purposes; with all the powers and privi-
11 leges and subject to all the duties, restrictions
12 and liabilities set forth in all general laws now or
13 hereafter in force applicable to such corpora-
14 tions.

1 SECTION 2. The said corporation, for the pur-
2 poses aforesaid, may take, or acquire by purchase
3 or otherwise the water of any wells, springs, or
4 streams within the town of Auburn as may be
5 approved by the state department of health;
6 and may take, or acquire by purchase or other-
7 wise, any real estate within said territory neces-
8 sary for holding and preserving the water or for
9 conveying the same to any part of the said
10 town; and may erect on the land thus acquired
11 proper dams, buildings, fixtures and other struc-
12 tures, and may make excavations, procure and
13 operate machinery, and provide such other means
14 and appliances as may be necessary for the
15 establishment and maintenance of complete and
16 effective water works; and may construct and
17 lay down conduits, pipes and other works, under
18 or over any lands, water courses, railroads,
19 railways or public or private ways and along
20 such ways in such manner as not unnecessarily
21 to obstruct the same; and for the purpose of
22 constructing, maintaining and repairing such
23 conduits, pipes and other works, and for all proper
24 purposes of this act, said corporation may dig up
25 any such lands, and, under the direction of the
26 selectmen of the town in which said ways are
27 situated, may enter upon and dig up the same in
28 such manner as to cause the least hindrance to
29 public travel. The said corporation shall not
30 enter upon, construct, or lay any pipes, conduits
31 or other works within the location of any railroad
32 corporation, except at such time and in such

33 manner as it may agree upon with such corpora-
34 tion, or, in case of failure so to agree, as may be
35 approved by the public service commission.

1 SECTION 3. The said corporation shall, within
2 sixty days after the taking of any land, rights of
3 way, water rights, water sources or easements as
4 aforesaid, file and cause *to be recorded in the
5 registry of deeds for the county and district
6 within which such land or other property is situ-
7 ated, a description thereof sufficiently specific
8 for identification, with a statement of the purpose
9 for which the same was taken, signed by the
10 president of the corporation.

1 SECTION 4. The said corporation shall pay all
2 damages to property sustained by any person or
3 corporation by the taking of any land, right of
4 way, water, water source, water right or ease-
5 ment, or by any other thing done by said corpora-
6 tion under the authority of this act. Any person
7 or corporation sustaining damages as aforesaid,
8 who fails to agree with said corporation as to the
9 amount thereof, may have the same determined
10 in the manner provided by law in the case of land
11 taken for the laying out of highways, on appli-
12 cation at any time within the period of two years
13 after the taking of such land or other property
14 or the doing of other injury under the authority
15 of this act; but no such application shall be made
16 after the expiration of said two years. No assess-

17 ment of damages shall be made for the taking of
18 any water, water right, or for any injury thereto,
19 and said period of two years shall not begin to
20 run, until the water is actually withdrawn or
21 diverted by said corporation under the authority
22 of this act.

1 SECTION 5. The said corporation may dis-
2 tribute water through the town of Auburn, may
3 regulate the use of said water and fix and collect
4 rates to be paid for the use of the same; and
5 may make such contracts with any individual or
6 corporation to supply water for the extinguish-
7 ment of fires, or for other purposes, as may be
8 agreed upon by any individual or corporation and
9 said corporation.

1 SECTION 6. The said corporation may, for
2 the purposes set forth in this act, hold real estate
3 not exceeding in value thousand
4 dollars; and the whole capital stock of said
5 corporation shall not exceed fifty thousand dol-
6 lars, to be divided into shares of one hundred
7 dollars each.

1 SECTION 7. The said corporation may issue
2 bonds and secure the same by a mortgage of its
3 franchise and other property to an amount not
4 exceeding its capital stock actually paid in and
5 applied to the purposes of its incorporation.

1 SECTION 8. The town of Auburn shall have

2 the right at any time to take or purchase the
3 franchise, corporate property, and all rights and
4 privileges of said corporation, on payment to
5 said corporation of the total cost of its franchise,
6 works and property of any kind, held under the
7 provisions of this act, including interest on each
8 expenditure from its date to the date of taking
9 or purchase, as hereinafter provided, at the rate
10 of five per cent per annum. In case the town shall
11 desire to exercise the rights given hereunder and
12 shall be unable to agree with said corporation
13 upon the amount of the total cost of the franchise,
14 corporate property, rights and privileges of said
15 corporation as aforesaid, the supreme judicial
16 court shall have jurisdiction in equity to ascertain
17 and fix such total cost under the foregoing pro-
18 visions, and to enforce the rights of said town to
19 take possession of said franchise, corporate
20 property, rights and privileges, as aforesaid,
21 upon payment of the cost to said corporation.
22 The authority to take the said property is granted
23 on condition that the taking shall first be assented
24 to by the said town by a two thirds vote of the
25 voters present and voting thereon at an annual
26 town meeting, or at a meeting legally called for
27 the purpose.

1 SECTION 9. This act shall take effect upon its
2 passage, but shall become void unless said cor-
3 poration shall have begun to distribute water
4 through its pipes to consumers in said town within
5 three years after the date of its passage.

