

HOUSE No. 6

Accompanying the fifth recommendation of the Department of Agriculture (see House, No. 1). Agriculture. January 3.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Twenty-Three.

AN ACT

Providing for Financing Drainage Districts for the Improvement of Low Lands and Swamps.

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. Section seven of chapter two hundred and
2 fifty-two of the General Laws, as amended by section six
3 of chapter three hundred and forty-nine of the acts of
4 nineteen hundred and twenty-two, is hereby further
5 amended by striking out, in the third and sixth lines,
6 the word "shall", and inserting in place thereof the word:
7 — may, — so as to read as follows: — *Section 7.* The
8 commissioners, after the certificate of organization of such
9 district has been issued by the state secretary, may peti-
10 tion the county commissioners of the county where the
11 greater part of the land lies, annexing a certified copy of
12 the petition under section five and of the determination
13 of the board thereon, and may request the county com-

14 missioners to vote to pay in the first instance the total
15 expense involved in making the improvements found by
16 the board to be for the general advantage of the pro-
17 prietors, except that part of the expense determined by
18 the board to be for the public health which shall be paid
19 by the commonwealth, and the said county commissioners
20 may so vote. To defray any expense incurred by said
21 county commissioners under such vote, the county may
22 issue bonds to an amount not exceeding such expense,
23 payable in not more than twenty years from their date
24 of issue and bearing interest at a rate to be fixed by the
25 county treasurer with the approval of the county com-
26 missioners, payable semi-annually on the first days of
27 January and July.

1 SECTION 2. Said chapter two hundred and fifty-two is
2 hereby further amended by inserting after section seven
3 the following new section: — *Section 7A.* Instead of pro-
4 ceeding as provided in section seven, the commissioners
5 may request the proper officers of the drainage district to
6 call a legal meeting of the members for the purpose of
7 authorizing said district to incur debt to an amount not
8 exceeding the total expense involved in making the im-
9 provements found by the board to be for the general
10 advantage of the proprietors, not including that part of
11 the expense determined by the board to be for the public
12 health, which shall be paid by the commonwealth. If
13 the members at said meeting vote to authorize such debt
14 to be incurred, the district may issue bonds to an amount
15 not exceeding that authorized, and may sell such bonds
16 at not less than par, at public or private sale. Such
17 bonds shall recite the authorization under which they are
18 issued, shall be properly denominated on their face, shall
19 be signed by a majority of the commissioners and by the

20 treasurer of the district, and shall be approved by the
21 board. They shall be payable in not more than twenty
22 years from their date of issue, and shall bear such rates
23 of interest as the members of the district may vote or
24 the commissioners may deem proper and as the board
25 may approve. The district shall annually apply the
26 sums received under section thirteen from the town or
27 towns in which the land improved lies, to such annual
28 payments as will extinguish debts authorized under this
29 section at maturity.

1 SECTION 3. Said chapter two hundred and fifty-two, as
2 amended in section eight by section seven of chapter three
3 hundred and forty-nine of the acts of nineteen hundred
4 and twenty-two, is hereby further amended by striking
5 out said section eight and inserting in place thereof the
6 following: — *Section 8.* If sections one to six, inclusive,
7 have been complied with and payment of the expense
8 involved in making the improvements has been arranged
9 under section seven or section sevenA, the commis-
10 sioners shall carry out the improvement in a manner
11 approved by the board, and for that purpose may em-
12 ploy suitable persons to perform the work under their
13 direction. No work shall be commenced on such im-
14 provements if the commissioners proceed under section
15 sevenA until bonds have been sold under that section
16 equal in amount to at least half of the expense of the
17 proposed improvements. The commissioners may take
18 on behalf of the drainage district in the manner provided
19 by chapter seventy-nine, all lands, easements, and rights
20 in land within the drainage district, and may purchase
21 and convey real and personal property both within and
22 beyond the limits of the commonwealth, necessary to
23 effect the improvement, as approved by the board. Any

24 person damaged in his property by any such taking may
25 recover his damages in the manner provided by said
26 chapter from the county where the greater part of the
27 land improved lies, or from the district, as proceedings
28 may have been taken under section seven or section
29 sevenA. Such damages shall constitute a part of the
30 total expense of the improvement, and shall, if proceed-
31 ings have been taken under section seven, be repaid by
32 the district to the county in the same manner as other
33 expenses of said improvement are paid.

1 SECTION 4. Section thirteen of said chapter two hun-
2 dred and fifty-two is hereby amended by striking out the
3 last two sentences and inserting in place thereof the fol-
4 lowing:— If the commissioners have proceeded under
5 section seven, the board shall forthwith send to the
6 county commissioners of the county where the greater
7 part of the land lies, a copy of the award as finally
8 determined. If said commissioners have proceeded under
9 section sevenA the board shall send copies of said award
10 to the selectmen of the several towns in which the land
11 improved lies. The sum so ascertained to be due from
12 any such town shall be paid by the treasurer thereof to
13 said county or to the district drainage commissioners in
14 not more than twenty equal annual instalments to be
15 collected in the same manner as taxes,— so as to read
16 as follows:— *Section 13.* The commissioners shall, after
17 due notice and a hearing, determine what proportion of
18 the total expense of the improvement, of the cost of
19 maintenance of drains and ditches and of the payment
20 for works or structures taken or otherwise acquired in
21 connection therewith, except such as is to be paid by the
22 commonwealth, shall be paid by each town where any of
23 the land improved lies, and shall return their award to the

24 board, which shall, upon acceptance thereof, send a copy
25 thereof to each such town. Any such town aggrieved by
26 such award may, by petition joining all the other such
27 towns as party respondents, appeal to the superior court
28 for the county where the greater part of the land im-
29 proved lies; provided, that such petition is entered not
30 later than the next return day after the expiration of
31 thirty days from its receipt of said copy. Questions of
32 fact shall, upon motion of either party, be tried by jury
33 in such manner as the court orders. The court may
34 affirm, reverse or alter the award, and the decision of
35 the court shall take effect as an original award. If the
36 commissioners have proceeded under section seven, the
37 board shall forthwith send to the county commissioners
38 of the county where the greater part of the land lies, a
39 copy of the award as finally determined. If said com-
40 missioners have proceeded under section sevenA the
41 board shall send copies of said award to the selectmen
42 of the several towns in which the land improved lies.
43 The sum so ascertained to be due from any such town
44 shall be paid by the treasurer thereof to said county or
45 to the district drainage commissioners in not more than
46 twenty equal annual instalments to be collected in the
47 same manner as taxes.

