

HOUSE No. 1178.

Bill accompanying the petition of Herbert W. Field and others for legislation to authorize the town of North Andover to establish a sewerage system. Towns. April 9.

Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Six.

AN ACT

To authorize the Town of North Andover to establish a Sewerage System and to borrow Money therefor.

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 town of North Andover is hereby
2 authorized through a board of public works to lay out,
3 construct, maintain and operate a system or systems of
4 main drains and common sewers for a part or for the
5 whole of its territory, and such connections and other
6 works as may be required for a system of sewage dis-
7 posal, to be operated in connection with the main sewers
8 and other works; and said board, for the purpose of pro-
9 viding better drainage, guarding against pollution of
10 waters, and otherwise protecting the public health, may

11 lay, make and maintain such main drains as it deems
12 best; and may, within the limits of the town, deepen,
13 widen and clear of obstructions any brook, stream or
14 water course, and straighten or alter the channels or
15 divert the waters thereof, and may lay, make and main-
16 tain sub-drains, and discharge the water into any brook,
17 stream or water course within the town: *provided*, that
18 its action be approved by the state board of health.

1 SECTION 2. Said board of public works, acting in
2 behalf of the town, shall have full power to take by
3 purchase or otherwise any lands in fee and any water
4 rights, rights of way and easements in said town, public
5 or private, necessary for any of the purposes mentioned
6 in this act, and may construct within said town such
7 main drains, sewers, pipes and conduits under or over
8 any street, railroad, highway or other way, in such
9 manner as not unnecessarily to obstruct the same, and
10 may enter upon and dig up any private lands, street or
11 way, for the purpose of constructing said system, laying
12 said sewers and drains and system of sewage disposal,
13 and maintaining and repairing the same; and may do
14 any other things necessary or proper to carry out the
15 purposes of this act.

1 SECTION 3. The town shall, when it takes any lands,
2 water rights, rights of way, easements or other real
3 estate under the authority of this act, in any manner
4 other than by purchase, cause to be recorded in the
5 registry of deeds for the county and district in which
6 the same are situated such a description of the same as
7 is customary in a common conveyance of land, with a
8 statement signed by the board of public works that the
9 same have been taken under the authority of this act

10 and upon such recording the title to such lands water
11 rights, rights of way, easements and other real estate so
12 described shall vest in the town.

1 SECTION 4. The town shall pay all damages to prop-
2 erty sustained by any person or corporation by reason
3 of such taking, and if such person or corporation and the
4 town fail to agree as to the amount of damages sustained
5 they shall be determined by a jury of the superior court,
6 in the manner provided by law in the case of land taken
7 for highways; but in case of a taking no suit or petition
8 shall be brought after the expiration of two years from
9 the date of the recording of the taking as herein pro-
10 vided.

1 SECTION 5. The town, in the case of a petition for a
2 jury as aforesaid, may offer in court and consent in
3 writing that the sum therein specified may be awarded
4 as damages to the petitioner; and if the petitioner shall
5 not accept the sum offered, within thirty days after
6 notice of such offer, and shall not finally recover a
7 greater sum than the sum offered, not including interest,
8 the town shall be entitled to recover its costs after the
9 date of said offer, and the petitioner, if he recovers
10 damages, shall be entitled to his costs to the date of the
11 offer.

1 SECTION 6. The owners of estates benefited and
2 abutting on any streets or ways, public or private, in
3 which said sewers shall be laid under provisions of this
4 act, shall pay to said town towards defraying the costs
5 of said sewer system or systems of sewerage and sewage
6 disposal an assessment or betterment charge as follows:
7 three-tenths of one cent per square foot of area within

8 the depth of one hundred feet from the line of said street
9 or way. In case of corner estates abutting on more
10 than one sewered street the same area shall not be assessed
11 twice. No estate shall be deemed benefited unless or
12 until a sewer has been constructed into which it can be
13 drained. The remainder of the cost of said system or
14 systems shall be borne by the town. No particular or
15 other sewers from any estate or part of an estate not
16 already assessed or not liable to assessment as provided
17 above shall be entered into a common sewer, except upon
18 the payment of such an assessment and upon such other
19 terms and conditions as the board of public works shall
20 determine.

1 SECTION 7. When in any street or way, or part of a
2 street or way, public or private, a sewer included in any
3 system now constructed or hereafter to be constructed
4 is finished and ready for use, the board of public works
5 shall file a certificate with the town treasurer designating
6 the street or way, or part thereof, in which the sewer
7 has been finished, and setting forth the names of the
8 owners of the estates abutting and benefited, and the
9 amount of the assessment and charge to be paid by each,
10 and referring to a plan on file in the board of public works'
11 office, which plan shall show the frontage, the name of
12 the owner, the amount of the assessment of each estate
13 abutting and benefited by the said sewer on said street
14 or way. The treasurer shall upon receipt of such cer-
15 tificate make a demand in writing for the payment of
16 such assessment or charge, and every owner shall within
17 three months after such demand is served upon him, or
18 on the occupant of such estate, or sent by mail to the
19 last address of the owner known to the treasurer, pay to
20 the town treasurer the sum so assessed or charged: *pro-*

21 *vided*, that said board shall, on the written request of
22 any owner, made within three months, apportion such
23 assessment or charge into such a number of equal parts
24 or instalments, not exceeding ten, as the owner shall
25 designate in such request, and they shall specify such
26 apportionment to the assessors. Interest from the date
27 of such apportionment at the rate of six per cent. per
28 annum shall be added to each of such assessments or
29 charges until they are paid, and one of such parts or in-
30 stalments shall be added by the assessors to the annual
31 tax of such estates for each year next ensuing, until all
32 such parts have so been added, unless paid before, as
33 hereinafter provided. Nothing herein shall be construed
34 to prevent the payment at any time in one payment, not-
35 withstanding its prior apportionment, of any remainder
36 of any assessment or charges then remaining unpaid, but
37 interest on such balance at the rate of six per cent. per
38 annum shall be paid to the date of such payment, and
39 thereupon the town treasurer shall receive the same and
40 certify such payment or payments to the assessors, who
41 shall preserve a record thereof.

1 SECTION 8. The assessment or charge aforesaid shall
2 constitute a lien upon the estate, which shall continue
3 for two years after such certificate is made and filed, and
4 after the demand aforesaid is made, or, in case of appor-
5 tionment, until the expiration of two years from the time
6 when the last instalment is committed to the collector.
7 Said assessment together with interest at the rate of six
8 per cent. per annum, with incidental costs and expenses,
9 may be levied by the sale of such estate or so much
10 thereof as shall be sufficient to discharge the assessment
11 and interest and intervening charges, if the assessment is
12 not paid within three months after the service of said

13 notice, or, if it has been apportioned, within three
14 months after any portion has become due. Such sale
15 and all proceedings connected therewith shall be con-
16 ducted in the same manner as sales for the non-payment
17 of taxes are conducted, and real estate so sold may be
18 redeemed in the same manner as if it were sold for the
19 non-payment of taxes. Such assessments or part thereof
20 may be collected also by an action of contract in the
21 name of the town of North Andover against the owner
22 of such real estate, brought at any time within two
23 years after the same has become due.

24 If any assessment for sewers heretofore made by the
25 selectmen or other board or officer, or hereafter made by
26 the said board of public works, is or shall be invalid for
27 any reason, and if such assessment has not been paid or
28 has been recovered back or has been enforced by an
29 invalid sale, a reassessment of the estate affected by such
30 original assessment may be made by the board of public
31 works to the just amount to which the said estate should
32 originally have been assessed, and the new assessment
33 thus made shall be payable and shall be collected and
34 enforced in the same manner as other assessments.

1 SECTION 9. Any person aggrieved by such assess-
2 ment may at any time within three months after the
3 service of the demand mentioned in section seven of this
4 act apply to the superior court for said county for a jury
5 to revise the same, but before making such application
6 he shall give to said board of public works fourteen days'
7 notice in writing and shall therein specify particularly
8 his objection to the assessment, to which specification he
9 shall be confined in his hearing before a jury.

1 SECTION 10. The town of North Andover, for the

2 purpose of paying the necessary expenses and liabilities
3 incurred under this act, may incur indebtedness to an
4 amount not exceeding fifty thousand dollars, and may
5 issue from time to time therefor bonds, notes or scrip;
6 and the said indebtedness shall not be reckoned in de-
7 termining the statutory limit of indebtedness of the
8 town. Such bonds, notes or scrip shall bear on their
9 face the words "North Andover Sewerage Loan, Act
10 of 1906," shall be payable within periods not exceeding
11 twenty-five years from the dates of issue, and shall bear
12 interest payable semiannually at a rate not exceeding
13 four per cent. per annum. They shall be signed by the
14 treasurer of the town and countersigned by the board
15 of public works. The town may from time to time sell
16 such securities, or any part thereof, at public or private
17 sale, or pledge the same for money borrowed for the
18 purposes of this act: *provided*, that they shall not be
19 sold or pledged for less than the par value thereof. The
20 proceeds thereof shall be retained in the treasury, and
21 the treasurer shall upon the order of said board of public
22 works pay therefrom the expenses incurred for the pur-
23 poses aforesaid.

1 SECTION 11. Said town shall, at the time of author-
2 izing the said loan, provide for the payment thereof in
3 such annual proportionate payments as will extinguish
4 the same within the time prescribed in this act; and
5 when a vote to that effect has been passed the amount
6 required thereby, less the amount that may be appro-
7 priated therefor as provided in the following section,
8 shall without further vote be assessed by the assessors
9 of the town in each year thereafter, in the same manner
10 as other taxes are assessed under the provisions of sec-
11 tion thirty-four of chapter eleven of the Public Statutes,
12 until the debt incurred by the town is extinguished.

1 SECTION 12. The receipts from assessments and pay-
2 ments made in lieu thereof under this act, after deduct-
3 ing all charges and expenses for and incident to the
4 maintenance and operation of said systems of sewerage,
5 shall be applied first to the payment of the interest upon
6 the bonds, notes or scrip issued under authority of this
7 act, not otherwise provided for, and the balance shall
8 be set apart for the payment or redemption of such
9 bonds, notes or scrip, or for payment of the further ex-
10 tension of the system or systems of sewerage herein
11 authorized to be constructed by said town, as the said
12 town shall vote, and shall be used for no other purpose.
13 If the receipts from said assessments and from payments
14 made in lieu thereof in any year, not apportioned for
15 the construction and maintenance of sewers as aforesaid,
16 shall be insufficient to pay the interest on said bonds,
17 notes or scrip, and the principal as it falls due, then in
18 such cases the town shall raise forthwith by taxation, in
19 the same manner as money is raised and appropriated
20 for other town purposes, such sums as will meet the said
21 requirements. The sinking fund of any loan of the town
22 may be invested in such bonds, notes or scrip.

1 SECTION 13. All contracts made by said board of
2 public works shall be made in the name of the town and
3 shall be signed by the board; but no contracts shall be
4 made or obligations incurred by the board of public
5 works for any purpose in excess of the amount of money
6 appropriated by the town therefor.

1 SECTION 14. The said board of public works may
2 from time to time prescribe rules and regulations for
3 connecting estates and buildings with main drains and
4 sewers, and for the inspection of materials, the construc-

5 tion, alteration and use of all connections and drains
6 entering into such main drains and sewers, and may
7 impose penalties not exceeding twenty dollars for each
8 violation of any rule or regulation. Such rules or regu-
9 lations shall be published not less than once a week for
10 three successive weeks in some newspaper published in
11 the town of North Andover, if there be any, otherwise
12 in some newspaper published in the county of Essex,
13 and shall not take effect until such publication has been
14 made.

1 SECTION 15. No act shall be done under the author-
2 ity of the preceding sections until the plans for said
3 system of sewerage have been approved by the state
4 board of health. Upon application to said board for
5 such approval the board shall give a hearing, after due
6 notice to the public; and at such hearing plans showing
7 in detail all work to be done in constructing said system
8 of sewerage shall be submitted.

1 SECTION 16. This act shall take effect upon its pas-
2 sage, but no expenditure shall be made nor any liability
3 incurred thereunder until this act has been accepted by
4 vote of the majority of the voters of said town voting
5 thereon at a legal meeting called for the purpose within
6 three years after the passage hereof.

