

# HOUSE . . . . No. 2401

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## The Commonwealth of Massachusetts.

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HOUSE OF REPRESENTATIVES, April 29, 1913.

The committee on Water Supply, to whom was referred the petition (accompanied by bill, House, No. 1023) of the water commissioners of the town of Danvers for legislation to authorize said town to take water from Boston brook in the town of Middleton, report the accompanying bill.

For the committee,

FRANK MULVENY.

## The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Thirteen.

### AN ACT

To authorize the Town of Danvers to increase its Water Supply.

*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. Subject to rights already granted or to be granted  
2 in the future by the legislature, and subject to such regulations  
3 and obligations as may be hereafter prescribed or imposed by the  
4 legislature, or otherwise as provided in this and the following  
5 sections, the town of Danvers, for the purpose of increasing its  
6 water supply, may take or acquire by purchase or otherwise, and  
7 hold, use and divert the waters of Boston brook, so called, in the  
8 town of Middleton, and the tributaries of said brook and the water  
9 rights connected therewith, at a point in said town not less than  
10 one half mile from the intersection of said Boston brook with the  
11 Ipswich river, so called, reserving to the owners of mills on said  
12 brook or said river their rights as mill owners to use such waters  
13 as shall flow to said mills and the dams connected therewith, ex-  
14 cept so far as said town shall from time to time actually divert  
15 and use the same for the purposes named in this act: *provided,*  
16 that the town of Danvers shall not take water from the said Boston  
17 brook except when the daily flow of said brook at the point of  
18 taking shall exceed two million gallons, and then at such times  
19 said town may take the flow of said brook in excess of two million  
20 gallons and no more, and shall only exercise the right to take the

21 waters of said brook during the months of December, January,  
22 February, March, April and May; and for the purpose of build-  
23 ing and maintaining additional dams, reservoirs, pumping plants  
24 and pipe lines, and of collecting, storing, preserving and protect-  
25 ing the purity of the water taken under the provisions of this act,  
26 and conducting the same through Middleton pond or otherwise to  
27 the present water supply system of the town of Danvers; and for  
28 the purpose of extending, improving and enlarging the present  
29 sources of water supply of the town of Danvers, and preserving  
30 and protecting the purity of the same, said town may also take or  
31 acquire by purchase or otherwise all lands, buildings, rights of  
32 way and easements within the town of Middleton which may be  
33 necessary: *provided, however*, that no sources of water supply and  
34 no lands necessary for developing the supply or for preserving  
35 the quality of the water supply of the town of Danvers shall be  
36 taken or used without first obtaining the advice and approval of  
37 the state board of health, and that the location and arrangement  
38 of all dams, reservoirs, wells, pumping and filtration plants, and  
39 such other works as may be necessary in carrying out the provi-  
40 sions of this act, shall be subject to the approval of the state board  
41 of health; and *provided, further*, that in the manner of taking  
42 said water from said brook the said town shall conform to all  
43 reasonable regulations as may be established from time to time  
44 by said state board of health, and not herein otherwise specifically  
45 provided; shall install such measuring and recording devices as  
46 may in the opinion of said board be necessary to accurately and  
47 permanently record the amount of water flowing in said brook  
48 beyond said point of taking during all periods of pumping, and  
49 of the amount of water so diverted by said town; and all records  
50 so taken shall be kept on file by said board and shall be open at all  
51 times to inspection by the public.

1 SECTION 2. The said town of Danvers may construct on the  
2 land acquired and held under the provisions of this act proper



3 dams, reservoirs, standpipes, tanks, pumping plants, buildings,  
4 fixtures and other structures, including also the establishment  
5 and maintenance of filter beds and purification works or systems  
6 in said land; and for the aforesaid purposes may construct, lay  
7 and maintain aqueducts, conduits, pipes, pipe lines and other  
8 works under and over any land, water courses, railroads, street  
9 or electric railways in the towns mentioned in section one, and  
10 along and under private ways in the aforesaid towns, in such  
11 manner as not unnecessarily to obstruct the same; and for the  
12 purpose of constructing, laying, maintaining, operating and re-  
13 pairing such conduits, pipes and other works, and for all the  
14 purposes of this act, the said town of Danvers may dig up or  
15 raise and embank any such lands, highways or other ways in such  
16 manner as to cause the least hindrance to public travel on such  
17 ways; but all such things done upon any such ways shall be done  
18 under the direction of the selectmen of Middleton. The town  
19 of Danvers shall not enter upon, construct or lay any conduits,  
20 pipes or other works within the location of any railroad corpora-  
21 tion except at such times and in such manner as it may agree  
22 upon with such corporation, or in case of failure so to agree as  
23 may be approved by the board of railroad commissioners.

1 SECTION 3. The town of Danvers shall within ninety days  
2 after the taking of any lands, rights of way, water rights, water  
3 sources or easements as aforesaid, other than by purchase, file  
4 and cause to be recorded in the registry of deeds for the district  
5 and county in which the same are situated, a description thereof  
6 sufficiently accurate for identification, with a statement of the  
7 purpose for which the same were taken, signed by the board of  
8 water commissioners of the town of Danvers or their succes-  
9 sors. Upon the filing of said description and statement the title  
10 in fee simple to the lands, buildings, rights of way, water rights  
11 or easements so taken shall vest in the town of Danvers.

1 SECTION 4. The town of Danvers shall pay all damages to

2 property sustained by any person or corporation by the taking  
3 of any land, right of way, water, water source, water right or  
4 easement, or by anything done by said town under authority of  
5 this act. Any person or corporation sustaining damages as afore-  
6 said, and failing to agree with said town as to the amount thereof,  
7 may have the same determined in the manner provided by law  
8 in the case of land taken for the laying out of highways, on ap-  
9 plication, at any time within the period of two years after the  
10 taking of such land and other property, or the doing of other  
11 injury under authority of this act; but no such application shall  
12 be made after the expiration of the said two years; and no ap-  
13 plication for the assessment of damages shall be made for the  
14 taking of any water, water right or any injury thereto until the  
15 water is actually withdrawn or diverted by said town under au-  
16 thority of this act. The town may by vote from time to time  
17 determine what amount of water it proposes to take and appro-  
18 priate under this act, in which case any damages caused by such  
19 taking shall be based upon the said amount or quantity set forth  
20 in the description filed and recorded in accordance with section  
21 three of this act, until the same shall be increased by vote of  
22 an additional taking; and in the event of such subsequent taking  
23 or takings the town shall in each case be further liable only for  
24 the additional damages caused by the same.

1 SECTION 5. If said town of Danvers shall under authority  
2 of this act construct any reservoir in such manner as to flow any  
3 existing public way, it shall raise the way to such grade as will  
4 make it reasonably safe and convenient for travel, or shall build  
5 in place of any part of said way so flowed another suitable way  
6 which shall thereafter be a public way, with all necessary fences  
7 and culverts.

1 SECTION 6. The town of Danvers may for the purpose of  
2 transmitting electricity for lighting, heat and power purposes  
3 from its central station in Danvers to any pumping plant and

4 buildings erected by the town of Danvers under the provisions  
5 of this act in the town of Middleton, construct lines over the  
6 land of any person and upon, along and under the public ways  
7 and over water courses and bridges in the towns of Danvers,  
8 Topsfield and Middleton, and may erect poles, piers, abutments  
9 and other fixtures, excepting bridges, which may be necessary  
10 to sustain the wires of its lines, and may connect said lines with  
11 the system of the town of Danvers for the distribution of elec-  
12 tricity, and with its central station may transmit electricity for  
13 lighting, heat and power purposes for the sole use of said town  
14 through said lines in said aforementioned towns, and may take  
15 or acquire by purchase or otherwise all lands, rights of way and  
16 easements which may be necessary.

1 SECTION 7. The town of Danvers, for the purposes aforesaid,  
2 may issue from time to time bonds, notes or scrip to an amount  
3 not exceeding two hundred thousand dollars, this amount to be  
4 in addition to the amount heretofore authorized by law to be  
5 issued by the town for the purposes named in this act. Such  
6 bonds, notes or scrip shall bear on their face the words "Town of  
7 Danvers Water Loan, Act of 1913;" shall be payable by such  
8 annual payments, beginning not more than one year after the  
9 date thereof, as will extinguish each loan within thirty years from  
10 its date; but the amount of such annual payment of any loan in  
11 any year shall not be less than the amount of the principal of  
12 said loan payable in any subsequent year. Each authorized issue  
13 of bonds or notes shall constitute a separate loan. Said bonds or  
14 notes shall bear interest at a rate not exceeding five per cent per  
15 annum, payable semi-annually; shall be signed by the treasurer  
16 of the town and countersigned by a majority of the selectmen.  
17 The town may sell such bonds or notes at public or private sale,  
18 upon such terms and conditions as it may deem proper, but they  
19 shall not be sold for less than their par value, and the proceeds  
20 shall be used only for the purposes herein specified.



1 SECTION 8. Said town shall at the time of authorizing said  
2 loan or loans provide for the payment thereof in accordance with  
3 section seven of this act; and when a vote to that effect has been  
4 passed, a sum which with the income derived from water rates  
5 will be sufficient to pay the annual expense of operating its water  
6 works and the interest as it accrues on the bonds or notes issued  
7 as aforesaid by the town, and to make such payments on the prin-  
8 cipal as may be required under provisions of this act, shall with-  
9 out further vote be assessed by the assessors of the town annually  
10 thereafter, in the same manner in which other taxes are assessed,  
11 until the debt incurred by said loan or loans is extinguished.

1 SECTION 9. Whoever willfully or wantonly corrupts, pollutes  
2 or diverts any water taken or held under this act, or injures any  
3 structure, work or other property owned, held or used by said  
4 town under authority of this act, shall forfeit and pay to the  
5 town three times the amount of the damages assessed therefor, to  
6 be recovered in an action of tort; and upon being convicted of  
7 any of the above willful or wanton acts shall be punished by a  
8 fine not exceeding three hundred dollars or by imprisonment in  
9 jail for a term not exceeding one year.

1 SECTION 10. The board of water commissioners of the town  
2 of Danvers shall manage, improve and control the land and other  
3 property purchased or acquired in any way under the provisions  
4 of this act and shall execute, superintend and direct the perform-  
5 ance of all the works, matters and things mentioned in this act,  
6 unless it is otherwise provided herein.

1 SECTION 11. Nothing contained in this act shall prevent any  
2 municipality whose territory borders upon Boston brook from  
3 taking from said brook a supply of water for similar purposes  
4 whenever authorized by the legislature so to do.

1 SECTION 12. This act shall take effect upon its passage.

