

SENATE No. 394

The Commonwealth of Massachusetts.

SENATE, March 29, 1916.

The committee on Bills in the Third Reading to whom was referred the bill to authorize cities to establish boards of survey (Senate, No. 371), report recommending that the same be amended by the substitution of a new draft herewith submitted, and that when so amended, the same will be correctly drawn.

For the committee,

RICHARD KNOWLES.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Sixteen.

AN ACT

To authorize Cities to establish Boards of Survey.

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 mayor of any city, with the
2 approval of the council or of the board of alder-
3 men, as the case may be, may, in the month of
4 January in any year, appoint three citizens, who
5 shall constitute a board of survey for the city.
6 Such initial appointees shall serve for one, two
7 and three years, respectively, as the mayor shall
8 designate, and in every subsequent month of
9 January a member shall in like manner be ap-
10 pointed for a term of three years. In all cases
11 a member shall hold office until the qualification
12 of his successor, and save appointees to fill
13 vacancies, which the mayor shall make as the
14 same occur, the term of office shall begin on the
15 first Monday of February, following the appoint-
16 ment. The city engineer shall act as clerk of the
17 board. The compensation of the members of
18 said board shall be fixed by the city council,
19 subject to the mayor's approval.

1 SECTION 2. Any person or corporation pro-
2 posing to lay out, locate, relocate or construct
3 any street or way in a city after the establish-
4 ment therein of a board of survey under the pro-
5 visions hereof shall, before beginning such con-
6 struction, submit to said board suitable plans
7 and profiles of such street or way, so prepared as
8 to show also the method of drainage of the con-
9 tiguous territory, all in accordance with such
10 rules and regulations as the board may prescribe.
11 Upon the receipt of such plans, with a petition
12 for their approval, the board shall give a public
13 hearing thereon after giving notice of the same
14 by publication once in each of two successive
15 weeks in a newspaper published in said city, the
16 last publication to be at least two days before the
17 hearing; and after the hearing, the board may
18 alter such plans and may determine where such
19 streets or ways shall be located and the width
20 and grades thereof, and shall so designate on
21 said plans. The plans, as approved or modified
22 by the board, shall then be signed by the mem-
23 bers of the board, or by a majority of them, and
24 filed in the office of the city engineer who shall
25 attest thereon the date of filing; and thereafter
26 no street or way in the territory to which the
27 plans relate shall be laid out or constructed
28 except in accordance therewith, or with such
29 further plans as may subsequently be approved
30 by the board.

1 SECTION 3. The board of survey may from

2 time to time cause to be made by the city en-
3 gineer, under its direction, plans of such territory
4 or sections of lands in said city as the board may
5 deem necessary, showing thereon the location of
6 such streets or ways whether already laid out or
7 not, as in the opinion of the board the interest
8 of the public may or will require in such terri-
9 tory, showing clearly the directions, widths and
10 grades of each street or way, and plan of drainage,
11 and said board may incur such expenses as it
12 may deem necessary therefor, not exceeding the
13 amount of money appropriated by the city for
14 the purpose. Before causing such plans to be
15 made the board shall give a public hearing as to
16 said plans, which shall be advertised in the same
17 manner as the hearing required in section two,
18 and shall, after the making of any such plan,
19 give a hearing thereon advertised in like manner
20 and keep the plan open to public inspection for
21 one month after the first advertisement of the
22 hearing. After the hearing, and after any altera-
23 tions deemed necessary by said board have been
24 made therein, the same shall be approved, signed,
25 marked, filed and attested as provided in respect
26 to the plans mentioned in section two of this
27 act.

1 SECTION 4. The board of survey may from
2 time to time make a new plan or plans to take
3 the place of any plans that may be filed in ac-
4 cordance with the provisions of sections two and
5 three of this act, or may make changes on any

6 plan or plans so filed: *provided, however*, that any
7 action involving new plans or changes in plans
8 already duly attested and filed shall be made
9 only after the same notice and hearing, and in
10 all other respects, in the manner specified in
11 section two; and the last plan so made, or the
12 plan with the changes last made thereon and
13 duly attested and filed, shall be the official plan
14 governing the future development of the terri-
15 tory affected.

1 SECTION 5. The powers of the city govern-
2 ment in regard to highways shall not be abridged
3 by this act in any manner, except as provided in
4 this section, and the powers conferred by this act
5 shall be in addition to the powers now possessed
6 by them. No street or way in said city, shown
7 on any plan filed as aforesaid, shall hereafter be
8 laid out, located anew, altered or widened, and
9 no such street or way whether already or here-
10 after laid out, shall be constructed by any public
11 authority except in accordance with any plan
12 that may have been duly attested and recorded
13 under the provisions of this act. If any person
14 or corporation shall hereafter open for public
15 travel any private way, the location, direction,
16 width, grades and plan of drainage of which
17 have not previously been approved in writing by
18 the board of survey in the manner provided in
19 this act, then neither the city nor any other
20 public authority shall place any public sewer,
21 drain, water pipe or light in, or do any public

22 construction work of any kind, or make repairs,
23 on such private way: *provided, however,* that
24 such provisions shall not prevent the laying of a
25 trunk sewer, drain, water or gas main if the same
26 be required by engineering necessities for the
27 accommodation of other territory.

1 SECTION 6. The city may from time to time
2 appropriate sums of money to be expended by
3 the board of survey for carrying out the provi-
4 sions of this act; but no expenditures shall be
5 made in excess of such appropriations.

1 SECTION 7. Said board of survey, its officers
2 and agents, may, so far as they deem it necessary
3 in carrying out the provisions of this act, enter
4 upon any lands and there make examinations
5 and surveys and place and maintain monu-
6 ments and marks; and any person whose prop-
7 erty is thereby injured and who fails to agree
8 with the city as to the amount of his damages,
9 may have them assessed and determined in the
10 manner provided by law in the case of land taken
11 for the laying out of highways in said city, on
12 application at any time within one year after
13 such entry or act complained of.

1 SECTION 8. This act shall not be construed to
2 authorize any taking or condemnation of land, or
3 to render a city liable for damages of any kind
4 except such as may be authorized by section
5 seven, or to authorize a city to lay out or con-

6 struct any way located on any of said plans,
7 until such way has been laid out as a highway
8 under such other provisions of law as may be
9 applicable.

1 SECTION 9. This act shall take effect in any
2 city upon its acceptance by the affirmative vote
3 of a majority of the members of the city council
4 or the board of aldermen, as the case may be,
5 present and voting thereon. But so much thereof
6 as authorizes its submission to said city council
7 or board of aldermen shall take effect upon its
8 passage.

