

HOUSE No. 2673

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 23, 1951.

The committee on Water Supply to whom was referred the petition (accompanied by bill, House, No. 2567) of Joseph D. Ward (with the approval of the mayor and city council) that the city of Fitchburg be authorized to acquire waters and other property for the purpose of increasing its water supply, report the accompanying bill (House, No. 2673).

For the committee,

CHARLES T. KELLEHER.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-One.

AN ACT AUTHORIZING THE CITY OF FITCHBURG TO ACQUIRE
WATERS AND OTHER PROPERTY FOR THE PURPOSE OF
INCREASING 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. The city of Fitchburg, for the purpose
2 of increasing its water supply, is hereby authorized
3 to take, or acquire by purchase or otherwise, and hold,
4 divert and convey to and through said city the waters
5 of the area in the towns of Westminster and Hub-
6 bardston known as the Mare Meadow Reservoir Site,
7 and the area in the towns of Hubbardston and Prince-
8 ton known as the Bickford Pond Reservoir Site; and
9 to take, or acquire by purchase or otherwise, such land
10 as may be necessary for the purpose of flowage, and
11 such land around the margin of said sites, when said
12 margin is established by the erection of dams and
13 flowage as may be necessary for the preservation and
14 purity of the said waters: provided, however, that if
15 it shall be necessary to take any land within the limits
16 of any highway or town way in any of said towns, then
17 all damages, costs and expense resulting from the dis-
18 continuing of any part of such highway or town way,
19 or from the relocation or reconstruction of the same,
20 under legal proceedings, shall be assessed upon and

21 paid by said city, and to take, or acquire by purchase
22 or otherwise, and hold in like manner such lands, ease-
23 ments, waters and water rights as may be necessary
24 for erecting and maintaining dams and reservoirs, and
25 for laying and maintaining conduits, pipes, drains,
26 filter beds, poles and wires, and for draining swamps,
27 and other works for collecting, storing, conducting
28 and purifying water and for distributing water in said
29 city and for locating or relocating any highways or
30 town ways which may be necessary.

1 SECTION 2. Said city shall have the right to enter
2 upon any lands for the purpose of making surveys,
3 test pits and borings, and may take, or otherwise
4 acquire, the right temporarily to occupy any lands
5 necessary for the construction of any works, or for any
6 other purposes authorized by this act.

1 SECTION 3. Said city is authorized to lay and
2 maintain all necessary and proper aqueducts, pipes,
3 drains and wires over or under any water course, street,
4 railroad, railway, highway or other way in such man-
5 ner as not unnecessarily to impede travel thereon, and
6 may enter upon and dig up any such road, street or
7 way for the purpose of laying aqueducts, pipes or
8 wires beneath the surface thereof, and for maintaining
9 and replacing the same, but always in such manner as
10 not to render the roads, streets and ways unneces-
11 sarily unsafe or inconvenient for public travel. Said
12 city is further authorized to relocate, at its own ex-
13 pense, the highway in said towns of Hubbardston and
14 Westminster, that portion of which lies in the town of
15 Hubbardston being known as the Hubbardston-West-
16 minster road and that portion of which lies in the

17 town of Westminster being known as South street, and
18 such relocation shall be subject to the approval of the
19 selectmen of each of said towns and of the county com-
20 missioners of Worcester county. Said city, in per-
21 forming said work, shall be subject to such reasonable
22 regulations as to time, place and manner of digging up
23 streets or ways for the purpose aforesaid as shall be
24 made by the selectmen of the towns of Hubbardston,
25 Westminster and Princeton within the limits of their
26 respective towns. Said city may also take, or acquire
27 by purchase or otherwise, any lands situated in said
28 towns which may be necessary to protect the purity
29 of the water and water sources acquired by the city,
30 and may remove any buildings thereon or on lands
31 adjacent to its water supply, and may take or other-
32 wise acquire lands and easements for the relocation
33 of such buildings and may transfer such lands or ease-
34 ments to the town in which they are situated. Said
35 city may also take, or acquire by purchase or other-
36 wise, all the land situated in said town of Hubbardston
37 and on the easterly side of the following described
38 line: Commencing at the Hubbardston-Westminster
39 town line; thence by the easterly line of the West-
40 minster Road, so-called, southwesterly to the junction
41 of said road and Bickford Pond road; thence by the
42 westerly line of said Bickford Pond road southeasterly
43 to a point opposite the most westerly point of said
44 Bickford Pond shore line; thence southeasterly four
45 hundred feet, more or less, to said Bickford Pond
46 shore line; thence by the westerly shore line of said
47 pond to the Hubbardson-Princeton town line.

1 SECTION 4. Nothing in this act shall be construed
2 to prevent or restrict said towns of Hubbardston,

3 Westminster and Princeton, at any time hereafter,
4 from taking so much of the waters of said areas, and
5 the waters flowing into the same, as may be required
6 for the purpose of supplying their inhabitants with
7 pure water for domestic, fire protection and other
8 uses, having previously obtained legislative authority
9 for so doing, and the town of Westminster may take
10 water from Meetinghouse pond for the purpose of
11 supplying its inhabitants with pure water for domestic,
12 fire protection and other uses as provided by section
13 five of chapter sixty of the acts of eighteen ninety-
14 two, except that said town shall not be required to
15 pay any money to the city of Fitchburg as required
16 by said section five.

1 SECTION 5. Fishing in the waters of said areas by
2 residents of the town wherein such waters lie and by
3 residents of the city of Fitchburg is hereby permitted
4 from the shores thereof, subject to the approval of the
5 state department of public health, and subject to such
6 reasonable rules and regulations relating to said fishing
7 as said department may make.

1 SECTION 6. Said city shall not enter upon, con-
2 struct or lay any conduits, pipes or other works within
3 the location of any railroad corporation, except at
4 such time and in such manner as it may agree upon
5 with such corporation or, in case of failure so to agree,
6 as may be approved by the department of public
7 utilities.

1 SECTION 7. The said city shall pay all damages to
2 property sustained by the metropolitan district com-
3 mission or by any person or corporation by anything

4 done by the city under authority of this act, and said
5 commission and any person or corporation, whether
6 within or without the commonwealth, entitled to
7 damages as aforesaid, and failing to agree with the
8 city as to the amount thereof, may, within two years
9 after the date of taking or other injury, file in the office
10 of the clerk of the superior court for the county in
11 which the property damaged or taken is situated a
12 petition for a jury to assess the damages. Owners of
13 property situated without the commonwealth which
14 is damaged by anything done by the city under author-
15 ity of this act may file their petitions for damages in
16 the office of the clerk of the superior court for the
17 county of Worcester. No assessment of damages
18 shall be made for the taking of any water, water right
19 or injury thereto, and the said two years shall not
20 begin to run, until the water is actually withdrawn or
21 diverted by said city under authority of this act.

1 SECTION 8. In determining the damages caused by
2 any change of grade, discontinuance or relocation of
3 any public way or injury to any property by the con-
4 struction or maintenance of any reservoir or pond,
5 there shall be taken into account any benefit to the
6 property of the owner asserting an injury received
7 from anything done under authority of this act.
8 Interest upon the damages awarded shall be com-
9 puted at a rate of not more than five per cent per
10 annum from the date when the property is taken or
11 damaged or the water withdrawn or diverted, as afore-
12 said. And the city of Fitchburg is hereby authorized
13 in all such cases to deposit with the clerk of courts such
14 sum as it may determine shall be fair compensation

15 to the injured party, and if such party shall not
16 recover a larger sum than is so deposited he shall not
17 recover any costs, but the city shall be entitled to
18 recover costs in such a proceeding.

1 SECTION 9. Said city may, for the purpose of pay-
2 ing the necessary expenses and liabilities incurred
3 under the provisions of this act, and for the purpose
4 of building such reservoirs and pipe lines and for
5 acquiring such lands as may be necessary, borrow
6 from time to time, within five years from the passage
7 of this act, such sums as may be necessary, not ex-
8 ceeding, in the aggregate, two million dollars, and may
9 issue bonds or notes therefor, which shall bear on
10 their face the words, Fitchburg Water Loan, Act of
11 1951. Each authorized issue shall constitute a sepa-
12 rate loan, and such loans shall be paid in not more
13 than thirty years from their dates. Indebtedness
14 incurred under this act shall be in excess of the statu-
15 tory limit, but shall, except as herein provided, be
16 subject to chapter forty-four of the General Laws.

1 SECTION 10. Notwithstanding any provision of law
2 to the contrary, property held by the city of Fitchburg
3 in the towns of Hubbardston, Westminster and Prince-
4 ton for water supply purposes as authorized by this
5 act, including property located in said towns and ac-
6 quired for water supply purposes by said city from
7 the metropolitan district commission, shall not be
8 liable to taxation therein, but said city shall, annually
9 on July first, pay to the town where the property lies
10 an amount equal to that which such town would re-
11 ceive for taxes upon the average of the assessed values

12 of the property for the three years last preceding the
13 acquisition thereof plus twenty-five per cent of said
14 amount.

1 SECTION 11. For the purpose of further reimburs-
2 ing the town of Westminster for loss of property and
3 taxes due to anything done by the city of Fitchburg
4 under authority of this act, said city shall pay to said
5 town, from the proceeds of the sale of bonds or notes
6 issued under authority of section eight, the sum of
7 twenty-five thousand dollars, which sum shall be in
8 full satisfaction for all such loss, and may be appro-
9 priated and expended by said town for any purposes
10 for which the town may borrow for a period of not
11 less than thirty years in accordance with sections seven
12 and eight of chapter forty-four of the General Laws,
13 and may be invested in bonds or notes which are legal
14 investments for savings banks.

1 SECTION 12. No source of water supply and no
2 lands necessary for preserving the quality of the water
3 shall be taken without first obtaining the advice and
4 approval of the state department of public health, and
5 the location of all dams and reservoirs to be used as
6 sources of water supply under this act shall be subject
7 to the approval of said department.

1 SECTION 13. Whoever wilfully or wantonly cor-
2 rupts, pollutes or diverts any water taken or held
3 under this act, or injures any structure, work or other
4 property owned, held or used by said city under au-
5 thority of this act, shall forfeit and pay to said city
6 three times the amount of damages assessed therefor,
7 to be recovered in an action of tort, and upon convic-

8 tion of any of the above wilful or wanton acts shall be
9 punished by fine not exceeding three hundred dollars,
10 or by imprisonment not exceeding one year.

1 SECTION 14. This act shall take effect upon its
2 passage.





