

Chap. 101 AN ACT PLACING UNDER THE CIVIL SERVICE THE OFFICE OF CHIEF OF POLICE OF THE CITY OF BEVERLY.

Be it enacted, etc., as follows:

SECTION 1. The office of chief of police of the city of Beverly shall, upon the effective date of this act, become subject to the civil service laws and rules and regulations relating to permanent members of police departments of cities, and the term of office of any incumbent of said office shall be unlimited, except that he may be removed in accordance with such laws and rules and regulations; provided, however, that the present incumbent of said office may continue to serve therein without taking a civil service examination.

SECTION 2. This act shall be submitted for acceptance to the registered voters of the city of Beverly at the state election in the current year in the form of the following question which shall be placed upon the official ballot to be used in said city at said election: "Shall an act of the general court passed in the current year, entitled 'An Act placing under the Civil Service the Office of Chief of Police of the City of Beverly', be accepted?" If a majority of the voters voting thereon vote in the affirmative in answer to said question this act shall thereupon take effect, but not otherwise.

Approved March 19, 1934.

Chap. 102 AN ACT ESTABLISHING THE WHATELY FIRE AND WATER DISTRICT IN THE TOWN OF WHATELY.

Be it enacted, etc., as follows:

SECTION 1. The inhabitants of the town of Whately, liable to taxation in said town and residing within the territory comprised within the following boundary lines, to wit: —

Beginning at a stone post or marker set at the intersection of the easterly line of the town of Conway, the southerly line of the town of Deerfield, and the northerly line of the town of Whately being known as C. D. W. and described in the Commonwealth of Massachusetts Harbor and Land Commission Atlas of Boundaries as follows:

"The corner is situated on a ledge surrounded by woods, and is in an old fence a continuation of the wall from Conway-Whately #1, on the north side of Roaring Brook and about fifty (50) feet east of another branch brook.

The Corner Mark is a drab slate rock two and six tenths feet high and about five and one half by six and one half inches in section.

The letter C is cut on the south face, D on the west face and C-W on the north face, with numerous dates."

Thence proceeding south thirty degrees and fifty-five minutes east (S-30-55-E) twenty-three hundred and eighty feet (2,380); thence south twenty degrees and fifty-seven

minutes east (S-20-57-E) twenty-eight hundred and forty-nine feet (2,849); thence south ten degrees twenty-four minutes west (S-10-24-W) twenty-one hundred sixty feet (2,160); thence south sixteen degrees twenty-one minutes east (S-16-21-E) forty-nine hundred sixteen feet (4,916); thence south forty-six degrees two minutes east (S-46-02-E) twenty-three hundred seventy-one feet (2,371); thence south eighteen degrees thirty-one minutes west (S-18-31-W) forty-five hundred thirty-nine feet (4,539); thence north thirty-eight degrees eleven minutes west (N-38-11-W) thirty-nine hundred fifty-eight feet (3,958); thence south forty-eight degrees twenty-four minutes west (S-48-24-W) thirty-six hundred fifty-two feet (3,652); thence south seventy degrees fifty-five minutes east (S-70-55-E) forty-four hundred twenty-three feet (4,423); thence south ten degrees thirty-three minutes east (S-10-33-E) twenty-nine hundred and one feet (2,901); to a point on the line separating the towns of Hatfield and Whately, the same line being also the line separating the counties of Franklin and Hampshire.

Said point is located fifty-one hundred forty-nine feet (5,149) southwest from a stone marker which is known as the Hatfield-Whately marker #5 being described in the Commonwealth of Massachusetts Harbor and Land Commission Atlas of Boundaries as follows:

“The corner is an unmarked point in the West Brook on the westerly side of the county road being at right angles to the line 3-4 and sixty-six feet (66) distant therefrom, or the legal width of the roadway.”

From this point said district is bounded on the south by the line separating the towns of Hatfield and Whately, this line also being the line which separates the counties of Franklin and Hampshire; on the east by a line running in the center of the Connecticut river which is also the westerly line of the town of Sunderland, and on the north by the lines separating the towns of Deerfield and Whately between the Connecticut river and the point of beginning at the marker previously described and known as C. D. W., — shall constitute a fire and water district, and are hereby made a body corporate by the name of the Whately fire and water district of Whately, hereinafter called the district, for the purpose of supplying themselves with water for the extinguishment of fires and for domestic and other purposes, with power to establish fountains and hydrants and to relocate and discontinue the same, to regulate the use of such water and to fix and collect rates to be paid therefor, and for the purposes of assessing and raising taxes as provided herein for the payment of such services, and for defraying the necessary expenses of carrying on the business of said district, subject to all general laws now or hereafter in force relating to such districts, except as otherwise provided herein. The district shall have power to prosecute and defend all actions relating to its property and affairs.

SECTION 2. For the purposes aforesaid, the district, act-

ing by and through its board of water commissioners hereinafter provided for, may contract with any other municipality, acting through its water department, or with any water company, or with any water district, for whatever water may be required, authority to furnish the same being hereby granted, and/or may take by eminent domain under chapter seventy-nine of the General Laws, or acquire by lease, purchase or otherwise, and hold, the waters, or any portion thereof, of any pond, spring or stream, or of any ground sources of supply by means of driven, artesian or other wells, within the town of Whately not already appropriated for the purposes of a public supply, and the water rights connected with any such water sources; and for said purposes may take as aforesaid, or acquire by purchase or otherwise, and hold, all lands, rights of way and other easements necessary for collecting, storing, holding, purifying and preserving the purity of the water and for conveying the same to any part of said district; provided, that no source of water supply or lands necessary for preserving the quality of the water shall be so taken or used without first obtaining the advice and approval of the department of public health, and that the location and arrangement of all dams, reservoirs, wells, pumping and filtration plants and such other works as may be necessary in carrying out the provisions of this act shall be subject to the approval of said department. Said district may construct and maintain on the lands acquired and held under this act proper dams, wells, reservoirs, standpipes, tanks, pumping plants, buildings, fixtures and other structures, including also the establishment and maintenance of filter beds and purification works or systems, and may make excavations, procure and operate machinery and provide such other means and appliances, and do such other things as may be necessary for the establishment and maintenance of complete and effective water works; and for that purpose may construct, lay and maintain aqueducts, conduits, pipes and other works under or over any land, water courses, railroads, railways and public or other ways, and along such ways, in said town, in such manner as not unnecessarily to obstruct the same; and for the purposes of constructing, laying, maintaining, operating and repairing such conduits, pipes and other works, and for all proper purposes of this act, the district may dig up or raise and embank any such lands, highways or other ways in such manner as to cause the least hindrance to public travel on such ways; provided, that all things done upon any such way shall be subject to the direction of the selectmen of the town of Whately. Said district shall not enter upon, construct or lay any conduit, pipe or other works within the location of any railroad corporation except at such time and in such manner as it may agree upon with such corporation, or, in case of failure so to agree, as may be approved by the department of public utilities.

SECTION 3. Any person sustaining damages in his property by any taking under this act or any other thing done

under authority thereof may recover such damages from the district under said chapter seventy-nine; but the right to damages for the taking of any water, water right or water source, or for any injury thereto, shall not vest until water is actually withdrawn or diverted under authority of this act.

SECTION 4. For the purposes of paying the necessary expenses and liabilities incurred under the provisions of this act, other than expenses of maintenance and operation, the district may borrow from time to time such sums as may be necessary, not exceeding, in the aggregate, one hundred thousand dollars, and may issue bonds or notes therefor, which shall bear on their face the words, Whately Fire and Water District Loan, Act of 1934. Each authorized issue shall constitute a separate loan, and such loans shall be payable in not more than thirty years from their dates. Indebtedness incurred under this act shall be subject to chapter forty-four of the General Laws.

SECTION 5. The district shall, at the time of authorizing said loan or loans, provide for the payment thereof in accordance with section four of this act; and when a vote to that effect has been passed a sum which, with the income derived from water rates, will be sufficient to pay the annual expense of operating its water works and the interest as it accrues on the bonds or notes issued as aforesaid by the district, and to make such payments on the principal as may be required under the provisions of this act, shall without further vote be assessed upon the district by the assessors of said town of Whately annually thereafter until the debt incurred by said loan or loans is extinguished.

SECTION 6. Any land taken or acquired under this act shall be managed, improved and controlled by the board of water commissioners hereinafter provided for, in such manner as they shall deem for the best interest of the district. All authority vested in said commissioners by this section shall be subject to the provisions of section nine.

SECTION 7. Whenever a tax is duly voted by the district for the purposes of this act, the clerk shall send a certified copy of the vote to the assessors of the town of Whately, who shall assess the same on the property within the district in the same manner in all respects in which town taxes are required by law to be assessed. The assessment shall be committed to the town collector, who shall collect said tax in the manner provided by law for the collection of town taxes, and shall deposit the proceeds thereof with the district treasurer for the use and benefit of the district. The district may collect interest on overdue taxes in the manner in which interest is authorized to be collected on town taxes.

SECTION 8. The first meeting of the voters of the territory included within the district by section one of this act shall be called, on petition of ten or more legal voters therein, by a warrant from the selectmen of the town of Whately or from a justice of the peace, directed to one of the petitioners, requiring him to give notice of the meeting by posting copies of the

warrant in two or more public places in the district seven days at least before the time of the meeting. Such justice of the peace, or one of the selectmen, shall preside at such meeting until a clerk is chosen and sworn, and the clerk shall preside until a moderator is chosen. After the choice of a moderator for the meeting, the question of the acceptance of this act shall be submitted to the voters, and, if it is accepted by a majority of the voters present and voting thereon, it shall take effect, and the meeting may then proceed to act on the other articles in the warrant.

SECTION 9. The district shall elect by ballot, either at the same meeting at which this act is accepted or at a later meeting called for the purpose, three persons to hold office, one until the expiration of three years, one until the expiration of two years, and one until the expiration of one year, from the day of the next succeeding annual district meeting, to constitute a board of water commissioners; and at every annual meeting thereafter one such commissioner shall be elected by ballot for the term of three years. All the authority granted to the district by this act, except sections four and five, and not otherwise specifically provided for, shall be vested in said board of water commissioners, who shall be subject, however, to such instructions, rules and regulations as the district may by vote impose. At the meeting at which said commissioners are first elected and at each annual district meeting, the district shall elect by ballot a treasurer of the district, who shall be other than a commissioner, and who shall give bond to the district in such an amount as may be fixed by the commissioners and with a surety company authorized to transact business in the commonwealth as surety. A majority of the commissioners shall constitute a quorum for the transaction of business. Any vacancy occurring in said board from any cause may be filled for the remainder of the unexpired term by the district at any legal meeting called for the purpose. No money shall be drawn from the treasury of the district on account of the water works except upon a written order of said commissioners or a majority of them.

SECTION 10. Said commissioners shall fix just and equitable prices and rates for the use of water, and shall prescribe the time and manner of payment. The income of the water works shall be appropriated to defray all operating expenses, interest charges and payments on the principal as they shall accrue upon any bonds or notes issued under authority of this act. If there should be a net surplus remaining after providing for the aforesaid charges, it may be appropriated for such new construction as said commissioners may recommend, and in case a surplus should remain after payment for such new construction the water rates shall be reduced proportionately. Said commissioners shall annually, and as often as the district may require, render a report upon the condition of the works under their charge, and an account of their doings, including an account of receipts and expenditures.

SECTION 11. The district may adopt by-laws prescribing

by whom and how meetings may be called, notified, and conducted; and, upon the application of ten or more legal voters in the district, meetings may also be called by warrant as provided in section eight. The district may also establish rules and regulations for the management of its water works, not inconsistent with this act or with any other provision of law, and may choose such other officers not provided for in this act as it may deem necessary or proper. The district shall have all the rights and privileges conferred by law upon water districts and fire districts, so far as applicable.

SECTION 12. Whoever wilfully or wantonly corrupts, pollutes or diverts any water obtained or supplied under this act, or wilfully or wantonly injures any reservoir, well, stand-pipe, aqueduct, pipe or other property owned or used by the district for any of the purposes of this act, shall forfeit and pay to the district three times the amount of damages assessed therefor, to be recovered in an action of tort, and upon conviction of any of the above wilful or wanton acts shall be punished by a fine of not more than one hundred dollars or by imprisonment in jail for not more than six months.

SECTION 13. Upon a petition in writing addressed to said commissioners requesting that certain real estate, accurately described therein, located in said town and abutting on said district be included within the limits thereof, and signed by the owners of such real estate, or a major portion thereof, said commissioners shall cause a duly warned meeting of the district to be called, at which meeting the voters may vote on the question of including said real estate within the district. If a majority of the voters present and voting thereon vote in the affirmative the district clerk shall within ten days file with the town clerk of said town and with the state secretary an attested copy of said petition and vote; and thereupon said real estate shall become and be part of the district and shall be holden under this act in the same manner and to the same extent as the real estate described in section one.

SECTION 14. This act shall take full effect upon its acceptance by a majority vote of the voters of the district present and voting thereon at a district meeting called, in accordance with the provisions of section eight, within three years after its passage; but the number of meetings so called in any one year shall not exceed three.

Approved March 19, 1934.

AN ACT RELATIVE TO SPECIAL RESTRICTIONS IN LICENSES TO
OPERATE MOTOR VEHICLES.

Chap. 103

Be it enacted, etc., as follows:

Section eight of chapter ninety of the General Laws, as appearing in the Tercentenary Edition thereof, is hereby amended by striking out, in the ninth, tenth and eleventh lines, the words "concerning the type of motor, horse power, design and other features of the motor vehicles which the

G. L. (Ter.
Ed.), 90, §8.
amended.