

HOUSE No. 344.

[Proposed by Mr. BOWMAN, of Somerville, as a substitute for House
No. 332.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Seventy-Five.

AN ACT

To Regulate and Limit Municipal Indebtedness.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

1 SECT. 1. The assessors of cities and towns
2 shall each year assess taxes to an amount (after
3 deducting any balance in the city or town treas-
4 ury which may lawfully be applied to the pay-
5 ment of the expenditure of the current year),
6 not less than the aggregate of all sums appro-
7 priated, granted or lawfully expended by their
8 respective cities or towns since the last preceding
9 annual assessment and not provided for therein;
10 and of all sums which are required by law to be

11 raised by taxation by the said cities or towns
12 during said year ; and of all sums which are neces-
13 sary to satisfy final judgments recovered against
14 the said cities or towns; but such assessments
15 shall not include sums for the payment of which
16 cities or towns have voted to contract debts accord-
17 ing to the provisions of the third section of this act;
18 and such assessments shall be made in the man-
19 ner provided by law for the assessment of taxes ;
20 and any assessor neglecting to make an assess-
21 ment required by this act shall be subject to the
22 penalties provided by law for neglecting to assess
23 taxes.

1 SECT. 2. No debts shall hereafter be incurred
2 by any city or town except for temporary loans in
3 anticipation of the taxes, and of sidewalk, sewer
4 and betterment assessments, of the current year
5 and of the year next ensuing and expressly made
6 payable therefrom by vote of the said city or town;
7 and except as hereinafter provided.

1 SECT. 3. Debts, other than those authorized
2 by the second section of this act, shall here-
3 after be incurred by a town, only by a vote of
4 two-thirds of the legal voters present and voting
5 at a legal meeting, and by a city, only by a vote
6 of two-thirds of all the members of each branch
7 of the city council, taken by yeas and nays,
8 and, in any city where the mayor has the veto
9 power, approved by the mayor; or, if he dis-
10 approve said vote, by another like vote taken
11 after notice of such disapproval, which notice shall
12 be given within ten days from the time in which

13 the vote of the city council shall have been laid
14 before the mayor; and if the mayor shall fail to
15 give such notice to the branch of the city council
16 in which said vote was first taken, he shall be
17 deemed to have approved said vote of the city
18 council.

1 SECT. 4. Any city or town contracting the
2 debts allowed by this act, shall annually raise by
3 taxation an amount which, with the other receipts
4 of such city or town shall be sufficient to pay the
5 interest thereon as it accrues, and sufficient to pay
6 the interest on all existing indebtedness.

1 SECT. 5. Any city or town may establish a
2 sinking fund, and any such town shall at the
3 time of commencing the same, elect in the manner
4 in which selectmen are by law required to be
5 elected, three or six suitable persons as commis-
6 sioners of its sinking funds, and any city estab-
7 lishing such a fund shall elect such commissioners
8 by a concurrent vote of both branches of the city
9 council. One-third of the number shall be elected
10 for one, two and three years respectively. And
11 annually thereafter, there shall be elected for a
12 term of three years, a number equal to the number
13 whose term of service then expires. Vacancies
14 occurring in the board of commissioners shall, in
15 towns, be filled by the remaining member or mem-
16 bers and the selectmen, by a majority of ballots of
17 the officers so entitled to vote at a meeting called
18 for the purpose, and in cities such vacancies shall
19 be filled by the city council in the manner above
20 provided for the election of the commissioners.
21 The remaining member or members shall in case

22 of a vacancy exercise the powers of the board
23 till the vacancy is filled. The treasurer, select-
24 men, mayor and aldermen, and members of the
25 common council, surveyors of highways, and
26 street and water commissioners, shall not be
27 eligible as commissioners of sinking funds, and
28 the acceptance of either of those offices by a
29 commissioner already elected, shall work a resig-
30 nation of the office of commissioner. But the
31 foregoing provisions as to the mode of electing
32 commissioners and filling vacancies, and the ineligi-
33 bility of certain officers shall not apply to boards
34 of sinking fund commissioners already established.

35 The board may choose a treasurer, who may
36 be the town or city treasurer, and if the town or
37 city treasurer shall be chosen, his bond shall ap-
38 ply to and include duties performed under this act.
39 If any other person shall be chosen as treasurer,
40 he shall give a bond, with sureties, to the satisfaction
41 of the board, for the proper discharge of the
42 duties of his office.

43 The board shall receive all sums contributed
44 to a sinking fund and invest and reinvest the
45 same, and the income thereof as it shall accrue, in
46 the name of the board, in any scrip, notes or bonds
47 of such city or town, or in the securities in which
48 by law the funds of savings banks may be in-
49 vested, except personal securities, although guar-
50 anteed by sureties; but no portion of the same
51 shall be loaned, directly or indirectly, to the town
52 or city except as aforesaid; and the board may
53 sell and reinvest such securities when required
54 in their judgment for the good management of the
55 fund. The board shall keep a record of their pro-

56 ceedings; and shall annually, at the time when
57 other municipal officers are required to make an
58 annual report, make a written report to the town or
59 city of the amount and condition of said funds and
60 the income thereof, for the then preceding financial
61 year. The record, and the securities belonging to
62 said funds, shall at all times be open to the inspec-
63 tion of the selectmen, mayor and aldermen, or any
64 committee of said town or city duly authorized for
65 the purpose. The necessary expenses of the board
66 shall be paid by said town or city; and the treas-
67 urer and secretary thereof shall receive such com-
68 pensation as shall be fixed by the town or city,
69 but no other member of the board shall receive
70 compensation for his services.

71 When any securities issued by the town or city
72 become a part of a sinking fund, a notice shall be
73 stamped or written on the face thereof that they
74 are a part of such sinking fund, and are not nego-
75 tiable; and the coupons thereof, as they become
76 due and are paid, shall be cancelled.

1 SECT. 6. No city or town except as hereinafter
2 provided shall become indebted in any manner or
3 for any purpose to an amount exceeding in the
4 aggregate over and above the amount of the
5 present existing indebtedness of such city or
6 town two per centum on the valuation of the
7 taxable property therein: *provided, however,* that
8 any city or town may incur liabilities, including
9 existing indebtedness to the amount in the aggre-
10 gate of three per centum on such valuation, all
11 such valuations to be ascertained by the last pre-
12 ceding valuation of the assessors of such city or

13 town. In determining the amount of indebtedness
14 under this act, the amount of the sinking funds
15 may be deducted from the gross indebtedness.

1 SECT. 7. Every city and town shall raise annu-
2 ally by taxation an amount not less than two per
3 cent. on its whole indebtedness, which amount
4 shall be applied to the reduction of such indebted-
5 ness, as it may mature or shall be contributed to
6 such sinking fund, if any such shall have been
7 established.

1 SECT. 8. No part of the sinking funds of the
2 Commonwealth shall hereafter, except for the
3 renewal of existing loans, be loaned to any town
4 or city the indebtedness of which shall exceed
5 five per centum of its valuation as aforesaid, or
6 which shall not comply with all the provisions of
7 this act; but the certificate of the treasurer of
8 any town or city as to the percentage of its in-
9 debtedness, and as to such compliance, may be
10 deemed satisfactory evidence thereof, for the justi-
11 fication of the treasurer of the Commonwealth in
12 making any such loan, unless he has reasonable
13 cause to suppose that the statements of such
14 certificate are not true.

1 SECT. 9. The restrictions of this act shall not
2 apply to temporary loans in anticipation of the taxes
3 assessed, or to be assessed for the current year, and
4 of sewer, sidewalk, betterment and other assess-
5 ments, laid in accordance with the provisions of
6 law, such temporary loans, at the date of creating
7 the same, not to exceed the amount of such taxes

8 and assessments remaining unpaid ; nor exempt
9 any town or city from its liability to pay debts
10 contracted for legal purposes ; nor, except as to
11 the limits fixed for municipal indebtedness apply
12 to cities whose powers and duties as to the con-
13 tracting of indebtedness and the mode of reduc-
14 ing and extinguishing the same, are now regulated
15 by their charters or by special laws ; and the
16 limits of municipal indebtedness herein prescribed
17 shall be exclusive of debts created by subscrip-
18 tions lawfully made to the capital stock or securi-
19 ties of railroad corporations, and for debts created
20 for supplying the inhabitants with pure water, and
21 of debts created for expenses incurred under the
22 orders of the county commissioners.

1 SECT. 10. The supreme judicial court may, upon
2 the suit or petition of the attorney-general, or of
3 one or more taxable inhabitants of any town or
4 city, or of any creditor to whom the said town or
5 city appears to said court indebted in an amount
6 not less than one thousand dollars, compel the
7 said town or city and its assessors, collectors,
8 treasurers, commissioners of sinking funds, and
9 other proper officers, to carry into effect the pro-
10 visions of this act by mandamus or other appro-
11 priate remedy, and hear and determine any cause
12 of complaint in equity, where such remedy is more
13 appropriate; and any justice of said court may in
14 term time or vacation issue injunctions and make
15 such orders and decrees as may be necessary or
16 proper to restrain or prevent any violation of the
17 provisions of this act, and to carry the same into
18 effect.

