

HOUSE No. 5990

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 3, 1980.

The committee on Bills in the third reading, to whom was referred the Bill establishing the Plum Island water district in the town of Newbury and city of Newburyport (House, No. 5732, changed), reports recommending that the same be amended by the substitution of the accompanying bill (House, No. 5990).

For the committee,

MICHAEL C. CREEDON

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT ESTABLISHING THE PLUM ISLAND WATER DISTRICT IN THE TOWN OF NEWBURY AND THE CITY OF NEWBURYPORT AND REDEFINING THE BOUNDARY LINES OF THE OLD TOWN WATER DISTRICT IN THE TOWN OF NEWBURY.

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 inhabitants of the town of Newbury and the
2 city of Newburyport, liable to taxation in said town and said city
3 and residing within the territory, bounded and described as fol-
4 lows: —

5 Beginning at a point at the center line of the Merrimac River at
6 its junction with Plum Island River; thence running southeasterly
7 along the center line of Plum Island River to the point where it
8 meets Broad Sound; thence southeasterly across Broad Sound to a
9 point at the low water line on the westerly shore of Plum Island at
10 the boundary line between the town of Newbury and the town of
11 Rowley; thence southeasterly and northwesterly by the Newbury
12 and Rowley boundary line to a point at the low water line on the
13 easterly shore of Plum Island; thence northwesterly by the low
14 water line along the easterly shore of Plum Island to the center line
15 of the Merrimac River; thence westerly along the center line of the
16 Merrimac River to the point of beginning; shall constitute a water
17 district and are hereby made a body corporate by the name of the
18 Plum Island Water District, hereinafter called the district, for the
19 purpose of supplying themselves with water for the extinguishment
20 of fires and for domestic and other purposes, with power to estab-
21 lish fountains and hydrants and to relocate and discontinue the
22 same, to regulate the use of such water and to fix and collect rates
23 to be paid therefor, and for the purposes of assessing and raising
24 taxes as provided herein for the payment of such services, and for
25 defraying the necessary expenses of carrying on the business of said

26 district, subject to all General Laws now or hereafter in force
27 relating to such districts, except as otherwise provided herein. The
28 district shall have power to prosecute and defend all actions relat-
29 ing to its property and affairs.

1 SECTION 2. For the purposes aforesaid, the district, acting by
2 and through its board of water commissioners hereinafter pro-
3 vided for, may contract with any municipality, acting through its
4 water department, or with any water company, or with any water
5 district, for whatever water may be required, authority to furnish
6 the same being hereby granted, and may take by eminent domain
7 under chapter seventy-nine of the General Laws, or acquire by
8 lease, purchase or otherwise, and hold, the waters, or any portion
9 thereof, of any pond, spring or stream, or of any ground sources of
10 supply by means of driven artesian or other wells, within the town
11 of Newbury and city of Newburyport not already appropriated for
12 the purposes of a public supply, and the water and flowage rights
13 connected with any such water sources; and for said purposes may
14 take as aforesaid, or acquire by purchase or otherwise, and hold, all
15 lands, rights of way and other easements necessary for collecting,
16 storing, holding, purifying and preserving the purity of the water
17 and for conveying the same to any part of said district; provided,
18 that no source of water supply or lands necessary for preserving the
19 quality of the water shall be so taken or used without first obtaining
20 the advice and approval of the department of public health, and
21 that the location and arrangement of all dams, reservoirs, springs,
22 wells, pumping, purification and filtration plants and such other
23 works as may be necessary in carrying out the provisions of this act
24 shall be subject to the approval of said department. The district
25 may construct and maintain on the lands acquired and held under
26 this act proper dams, wells, springs, reservoirs, standpipes, tanks,
27 pumping plants, buildings, fixtures and other structures including
28 also the establishment and maintenance of filter beds and purifica-
29 tion works or systems, and may make excavations, procure and
30 operate machinery and provide such other means and appliances,
31 and do such other things as may be necessary for the establishment
32 and maintenance of complete and effective water works; and for
33 that purpose may construct pipe lines, wells and reservoirs and

34 establish pumping works, and may construct, lay, acquire and
35 maintain aqueducts, conduits, pipes and other works under or over
36 any land, water courses, railroads, railways and public or other
37 ways, and along such ways, in said town, in such manner as not
38 unnecessarily to obstruct the same; and for the purpose of con-
39 structing, laying, maintaining, operating and repairing such aque-
40 ducts, conduits, pipes and other works, and for all proper purposes
41 of this act, the district may dig up or raise and embank any such
42 lands, highways or other ways in such manner as to cause the least
43 hindrance to public travel on such ways; provided, that the manner
44 in which all things are done upon and such way shall be subject to
45 the direction of the selectmen of the town of Newbury or the mayor
46 of the city of Newburyport. The district shall not enter upon, or
47 construct or lay any conduit, pipe or other works within, the loca-
48 tion of any railroad corporation except at such time and in such
49 manner as it may agree upon with such corporation, or, in case of
50 failure so to agree, as may be approved by the department of public
51 utilities. The district may enter upon any lands for the purpose of
52 making surveys, test wells or pits and borings, and may take or
53 otherwise acquire the right to occupy temporarily any lands neces-
54 sary for the construction of any work or for any other purpose
55 authorized by this act.

56 The district is empowered and authorized to sell and distribute
57 water to any adjacent town, district or any part thereof on such
58 terms and conditions and for such consideration as the commis-
59 sioners may determine.

1 SECTION 3. Any person sustaining damages in his property by
2 any taking under this act or any other thing done under authority
3 thereof may recover such damages from the district under said
4 chapter seventy-nine, but the right to damages for the taking of any
5 water, water right or water source, or for any injury thereto, shall
6 not vest until water is actually withdrawn or diverted under author-
7 ity of this act.

1 SECTION 4. For the purpose of paying the necessary expenses
2 and liabilities incurred under this act, other than expenses of
3 maintenance and operation, the district may borrow from time to

4 time such sums as may be necessary, not exceeding, in the aggre-
5 gate, one million dollars, and may issue bonds or notes therefor,
6 which shall bear on their face the words, Plum Island Water
7 District Loan, Act of 1980. Each authorized issue shall constitute a
8 separate loan, and such loans shall be payable in not more than
9 thirty years from their date. Indebtedness incurred under this act
10 shall be subject to the provisions of chapter forty-four of the
11 General Laws pertaining to such districts.

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

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

1 SECTION 7. Whenever a tax is duly voted by the district for
2 the purposes of this act, the clerk shall send a certified copy of the
3 vote to the assessors of said town and city, who shall assess the
4 same on property within the district in the same manner in all
5 respects in which town taxes and city taxes are required by law to
6 be assessed; provided, that no estate shall be subject to any tax
7 assessed on account of the system of water supply under this act if,
8 in the judgment of the board of water commissioners hereinafter
9 provided for, after a hearing, due notice whereof shall have been
10 given, such estate is so situated that it can receive no aid in the
11 extinguishment of fire from the said system of water supply, or if

12 such estate is so situated that the buildings thereon, or the buildings
13 that might be constructed thereon, could not be supplied with
14 water from said system in any ordinary or reasonable manner; but
15 all other estates in the district shall be deemed to be benefited and
16 shall be subject to such tax. A certified list of the estates exempt
17 from taxation under the provisions of this section shall annually be
18 sent by said board of water commissioners to said assessors, at the
19 same time at which the clerk shall send a certified copy of the vote
20 as aforesaid. The assessment shall be committed to the town collec-
21 tor and city treasurer, who shall collect said tax in the manner
22 provided by law for the collection of town taxes and city taxes, and
23 shall deposit the proceeds thereof with the district treasurer for the
24 use and benefit of the district. The district may collect interest on
25 overdue taxes in the manner in which interest is authorized to be
26 collected on town taxes and city taxes.

1 SECTION 8. Any meeting of the voters of the territory in-
2 cluded within the boundaries set forth in section one to be held
3 prior to the acceptance of this act, and any meeting of the voters of
4 the district to be held prior to the qualification of a majority of the
5 water commissioners, shall be called, on petition of twenty-five or
6 more legal votes therein, by a warrant from the selectmen of said
7 town, mayor of said city, or from a justice of the peace, directed to
8 one of the petitioners, requiring him to give notice of the meeting
9 by posting copies of the warrant in two or more public places in the
10 district fourteen days at least before the time of the meeting. Such
11 justice of the peace, or one of the selectmen, or mayor shall preside
12 at such meeting until a clerk is chosen and sworn, and the clerk
13 shall preside until a moderator is chosen. At any meeting held
14 hereunder prior to the acceptance of this act, after the choice of a
15 moderator for the meeting the question of the acceptance of this act
16 shall be submitted to the voters, and if it is accepted by a majority
17 of the voters present and voting thereon it shall thereupon take
18 effect, and the meeting may then proceed to act on the other articles
19 in the warrant. After the qualification of a majority of the water
20 commissioners, meetings of the district shall be called by warrant
21 under their hands, unless some other method be provided by
22 by-law or vote of the district.

1 SECTION 9. The district shall, after the acceptance of this act
2 as aforesaid, elect by ballot, either at the same meeting at which this
3 act shall have been accepted, or thereafter at an annual meeting or
4 at a special meeting called for the purpose, five persons, inhabit-
5 ants of and voters in said district, to hold office, one at large until
6 the expiration of three years, one from the town of Newbury until
7 the expiration of two years, one from the city of Newburyport until
8 the expiration of two years, and one from the town of Newbury
9 until the expiration of one year, from the date of the next succeed-
10 ing annual district meeting, to constitute a board of water commis-
11 sioners; and at every annual district meeting following such
12 next succeeding annual district meeting one such commissioner
13 shall be elected by ballot for the term of three years. The date of the
14 next annual meeting shall be fixed by by-law or by vote of the
15 board of water commissioners, but in no event shall it be later than
16 fifteen months subsequent to the date on which the water commis-
17 sioners were first elected. All the authority granted to said district
18 by this act, except sections four and five, and not otherwise specifi-
19 cally provided for, shall be vested in said board of water commis-
20 sioners, who shall be subject, however, to such instructions, rules
21 and regulations as the district may by vote impose. At the meeting
22 at which said water commissioners are first elected and at each
23 annual district meeting held thereafter, the district shall elect by
24 ballot, each for a term of one year, a clerk and a treasurer of the
25 district. The treasurer shall not be a water commissioner, and shall
26 give bond to the district in such an amount as may be approved by
27 said water commissioners and with a surety company authorized to
28 transact business in the commonwealth as surety. A majority of
29 said water commissioners shall constitute a quorum for the tran-
30 saction of business. Any vacancy occurring in said board from any
31 cause may be filled for the remainder of the unexpired term by said
32 district at any legal meeting called for the purpose. No money shall
33 be drawn from the treasury of the district on account of its water
34 works except upon a written order of said water commissioners or
35 a majority of them.

1 SECTION 10. Said board of water commissioners shall fix just
2 and equitable prices and rates for the use of water, and shall

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

1 SECTION 11. The district may adopt by-laws, prescribing by
2 whom and how meetings of the district may be called, notified, and
3 conducted; and, upon the application of ten or more legal voters in
4 the district, meetings may also be called by warrant as provided in
5 section eight. The district may also establish rules and regulations
6 for the management of its water works, not inconsistent with this
7 act or with any other provision of law, and may choose such other
8 officers not provided for in this act as it may deem necessary or
9 proper.

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

1 SECTION 13. Upon a petition in writing addressed to said
2 board of water commissioners requesting that certain real estate,
3 accurately described therein, located in said town or said city and
4 abutting on said district and not otherwise served by a public water

5 supply be included within the limits thereof, and signed by the
6 owners of such real estate, or a major portion of such real estate,
7 said water commissioners shall cause a duly warned meeting of the
8 district to be called, at which meeting the voters may vote on the
9 question of including said real estate within the district. If a majori-
10 ty of the voters present and voting thereon vote in the affirmative
11 the district clerk shall within ten days file with the town clerk of
12 said town, city clerk of said city and with the state secretary an
13 attested copy of said petition and vote; and thereupon said real
14 estate shall become and be part of the district and shall be holden
15 under this act in the same manner and to the same extent as the real
16 estate described in section one.

1 SECTION 14. Chapter 808 of the acts of 1972 of the General
2 Laws is hereby amended by striking out section 1 and inserting in
3 place thereof the following section:—

4 *Section 1.* The inhabitants of the town of Newbury, liable to
5 taxation in said town and residing within the territory, bounded
6 and described as follows:—

7 Beginning at a point where the town boundary of Newbury, East
8 Newbury and Newburyport meet at the southeast corner of West
9 Newbury; thence southeasterly in a straight line to a point in the
10 westerly line of Newbury Street (state highway) at the center line of
11 Parker River; thence easterly and southerly along the center line of
12 Parker River to its intersection of Mill Creek to a point; thence
13 southeasterly along the center line of Mill Creek to a point at the
14 center line of Broad Sound; thence northwesterly along the center
15 line of Broad Sound to the point where it meets Plum Island River;
16 thence northwesterly along the center line of Plum Island River to
17 a point where it meets the Newbury and Newburyport boundary;
18 thence westerly by the Newbury and Newburyport boundary to the
19 point of beginning; shall constitute a water district and are hereby
20 made a body corporate by the name of the Oldtown Water District,
21 hereinafter called the district, for the purpose of supplying them-
22 selves with water for the extinguishment of fires and for domestic
23 and other purposes, with power to establish fountains and hy-
24 drants and to relocate and discontinue the same, to regulate the use
25 of such water and to fix and collect rates to be paid therefor, and

26 for the purposes of assessing and raising taxes as provided herein
27 for the payment of such services, and for defraying the necessary
28 expenses of carrying on the business of said district, subject to all
29 general laws now or hereafter in force relating to such districts,
30 except as otherwise provided herein. The district shall have power
31 to prosecute and defend all actions relating to its property and
32 affairs.

1 SECTION 15. This act shall take full effect upon its acceptance
2 by a majority vote of the voters of the territory included within said
3 district by section one of this act present and voting thereon, by the
4 use of a check list, at a district meeting called, in accordance with
5 section eight, within four years after its passage.

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SECTION 1

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SECTION 2

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SECTION 3

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