

By Mr. Dukakis of Brookline, petition of Paul C. Menton and other members of the House that cities and towns be authorized to borrow money for establishing, purchasing or enlarging municipal gas or electric plants. Local Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Eight.

AN ACT AUTHORIZING CITIES AND TOWNS TO BORROW MONEY FOR ESTABLISHING, PURCHASING, EXTENDING OR ENLARGING MUNICIPAL GAS AND ELECTRIC PLANTS, AND TO ISSUE REVENUE BONDS IN CONNECTION THEREWITH.

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. Any city or town which presently owns and
2 operates or has duly voted to acquire a municipal gas or
3 electric plant pursuant to the provisions of chapter one
4 hundred and sixty-four of the General Laws, and which has
5 accepted the provisions of this act in the manner provided by
6 section four of chapter four of the General Laws, may, in
7 addition to the powers granted by chapter forty-four and by
8 section forty of said chapter one hundred and sixty-four, and
9 notwithstanding the provisions of section forty-one of said
10 chapter one hundred and sixty-four, incur debt in the manner
11 provided herein for the purpose of establishing, purchasing,
12 reconstructing, remodeling, extending, enlarging, making
13 extraordinary repairs to, equipping or re-equipping the plant
14 within the limits of the territory within which such gas or
15 electric plant is authorized to distribute its products.

1 SECTION 2. Any city or town subject to this act is hereby
2 authorized and empowered to provide by a resolution passed
3 by a two-thirds vote of its governing body, upon written
4 recommendation by its municipal light board, at one time or
5 from time to time, for the issuance of gas or electric revenue
6 bonds of the city or town for the purpose of paying all or any

7 part of the cost of establishing, purchasing, reconstructing,
8 remodeling, extending, enlarging, making extraordinary
9 repairs to, equipping or re-equipping its gas or electric plant
10 or any part or parts thereof.

11 The principal of and the interest on such bonds shall be
12 payable solely from the revenues of the plant. No holder or
13 holders of any such bonds shall ever have the right to compel
14 any exercise of the taxing power of the city or town to pay
15 any such bonds or the interest thereon, nor to enforce
16 payment thereof against any property of the city or town, nor
17 shall any such bonds constitute a charge, lien or encum-
18 brance, legal or equitable, upon any property of the city or
19 town. Every bond issued under this act shall contain a recital
20 setting forth the substance of this paragraph.

21 The bonds shall mature within such period not exceeding
22 forty years from their date or dates as may be determined by
23 the provisions of the resolution authorizing their issuance,
24 and may be made redeemable before maturity, at the option
25 of the municipal light board, at such price or prices and under
26 such terms and conditions as may be fixed by the municipal
27 light board prior to the issuance of the bonds. The said
28 resolution shall either determine or be deemed to authorize
29 the municipal light boards to determine the date or dates, the
30 denomination or denominations, the rate or rates of interest,
31 which shall not exceed six per centum per annum, the place
32 or places of payment of principal and interest, which may be
33 at any bank or trust company within or without the com-
34 monwealth, the form and other details of the bonds, and the
35 form of any interest coupons to be attached thereto. The
36 bonds shall be signed by the treasurer of the city or town,
37 shall be countersigned by the mayor or city manager of a city
38 or by the majority of the selectmen of a town either manually
39 or by facsimile, and shall have the corporate seal of the city
40 or town affixed, impressed or reproduced thereon, and any
41 coupons attached thereto shall bear the facsimile signature of
42 the said treasurer.

43 In case any officer whose signature or a facsimile of whose
44 signature shall appear on any bonds or coupons shall cease to
45 be such officer before the delivery of such bonds, such
46 signature or such facsimile shall nevertheless be valid and
47 sufficient for all purposes, the same as if he had remained in

48 office until such delivery. All bonds issued under the provi-
49 sions of this act shall have and are hereby declared to have all
50 the qualities and incidents of Investment Securities under the
51 Uniform Commercial Code of the commonwealth. The bonds
52 may be issued in coupon or in registered form, or both, as
53 shall be determined by the provisions of the said resolution or
54 by the municipal light board, and provision may be made for
55 the registration of any coupon bonds as to principal alone
56 and also as to both principal and interest, for the conversion
57 or reconversion into coupon bonds of any bonds registered as
58 to both principal and interest and for the interchange of
59 registered and coupon bonds, all at the expense of the issuer.
60 The city or town may sell such bonds in such manner, either
61 at public or private sale, and for such price, as the officers
62 authorized to sign the same may determine to be for the best
63 interests of the city or town, but no such sale shall be made at
64 a price so high as to require the payment of interest on the
65 money received therefor at more than six per centum per
66 annum, computed with relation to the absolute maturity of
67 the bonds, excluding, however, from such computation, the
68 amount of any premium to be paid on redemption of any
69 bonds prior to maturity.

70 Prior to the preparation of definitive bonds, the city or
71 town may, under like restrictions, issue temporary bonds,
72 with or without coupons, exchangeable for definitive bonds
73 when such bonds have been executed and are available for
74 delivery. Bonds may be issued by the city or town under the
75 provisions of this act without obtaining the consent of any
76 department, division, commission, board, bureau or agency of
77 the commonwealth or the city or town, and without any
78 other proceedings or the happening of any other conditions
79 or things than those proceedings, conditions or things which
80 are specifically required by this act.

1 SECTION 3. the resolution or resolutions authorizing the
2 issuance of the bonds may provide for any of the following, or
3 may authorize the municipal light board in its discretion to
4 provide for any of the following, or may authorize a trust
5 agreement between the city or town and a corporate trustee
6 (which may be any trust company or bank having the power
7 of a trust company within or without the commonwealth)

33 town shall immediately be subject to the lien of such pledge
34 without any physical delivery thereof or further act, and the
35 lien of any such pledge shall be valid and binding as against
36 all parties having claims of any kind in tort, contract or
37 otherwise against the city or town, irrespective of whether
38 such parties have notice thereof.

39 The balance of such revenues not needed for such sinking
40 fund requirements shall first be applied to the creation of
41 such special reserve funds or accounts for such bonds as may
42 be required and any revenues remaining thereafter may be
43 applied to the redemption or purchase of bonds or to the
44 payment of the cost of such remodeling, extending, enlarging,
45 reconstructing, making extraordinary repairs to, equipping,
46 or re-equipping of the plant as may be authorized by the
47 municipal light board.

48 Neither the resolution nor any trust agreement by which a
49 pledge is created need be filed or recorded except in the
50 records of the city or town. The use and disposition of monies
51 to the credit of such sinking fund and reserve funds shall be
52 subject to the provisions of the resolutions authorizing the
53 issuance of such bonds or of such trust agreement. Except as
54 may otherwise be provided in such resolution or such trust
55 agreement, such sinking fund shall be a fund for all such
56 bonds without distinction or priority of one over another.

1 SECTION 5. All monies received pursuant to the authority
2 of this act, whether as proceeds from the sale of bonds or as
3 revenues, shall be deemed to be trust funds to be held and
4 applied solely as provided in this act. The resolution autho-
5 rizing the bonds or the trust agreement securing such bonds
6 shall name the officer or officers with whom, or the bank or
7 trust company with which, such monies shall be deposited
8 and shall provide that such officer or officers, bank or trust
9 company shall act as trustee of such monies and shall hold
10 and apply the same for the purposes hereof, subject to such
11 regulations as this act and such resolution or trust agreement
12 may provide.

1 SECTION 6. Any holder of bonds issued under the provisions
2 of this act or any of the coupons appertaining thereto, and
3 the trustee under any trust agreement, except to the extent

4 the rights herein given may be restricted by such trust
5 agreement, may, either at law or in equity, by suit, action,
6 mandamus or other proceeding, protect and enforce any and
7 all rights under the laws of the commonwealth or granted
8 hereunder or under such trust agreement or resolution autho-
9 rizing the issuance of such bonds, and may enforce and
10 compel the performance of all duties required by this act or
11 by such trust agreement or resolution to be performed by the
12 city or town or by any officer. The Superior Court for the
13 county in which the plant is located shall have jurisdiction to
14 appoint a receiver in accordance with the provisions of such
15 trust agreement or resolution.

1 SECTION 7. The bonds issued under the provisions of this
2 act, their transfer and the income therefrom, including any
3 profit made on the sale thereof, shall at all times be free from
4 taxation within the commonwealth.

1 SECTION 8. Bonds issued under the provisions of this act
2 are hereby made securities in which all public officers and
3 public bodies of the commonwealth and its political sub-
4 divisions, all insurance companies, trust companies in their
5 commercial departments, banking associations, investment
6 companies, executors, trustees and other fiduciaries, and all
7 other persons whatsoever who are now or may hereafter be
8 authorized to invest in bonds or other obligations of the
9 commonwealth may properly and legally invest funds, includ-
10 ing capital in their control or belonging to them, and such
11 bonds are hereby made obligations which may properly and
12 legally be made eligible for the investment of savings deposits
13 and the income thereof in the manner provided by section
14 fifty of chapter one hundred and sixty-eight of the General
15 Laws. Such bonds are hereby made securities which may
16 properly and legally be deposited with and received by any
17 state or municipal officer or any agency or political sub-
18 division of the commonwealth for any purpose for which the
19 deposit of bonds or obligations of the commonwealth now is
20 or may hereafter be authorized by law.

1 SECTION 9. Except as expressly provided herein, nothing in
2 this act shall be construed as affecting or altering in any way

3 the powers or duties of the manager of municipal lighting,
4 the municipal light board, the auditor or officer having
5 similar duties, the city council, town meeting, selectmen or
6 treasurer of any city or town subject to this act, as those
7 powers and duties are defined in chapter one hundred and
8 sixty-four of the General Laws, nor as affecting or altering
9 the powers or duties of the department of public utilities as
10 defined in said chapter one hundred and sixty-four.

1 SECTION 10. The following words and phrases as used in
2 this act shall, unless the context otherwise requires, have the
3 following meanings:

4 "Two-thirds vote of its governing body", as applied to
5 towns, the vote of two thirds of the voters present and voting
6 at a meeting duly called, and, as applied to cities, the vote
7 taken by yeas and nays of two thirds of all the members of
8 each branch of the city government where there are two
9 branches or of all the members where there is a single branch
10 of the city government, or two thirds of the commissioners
11 where the city government consists of a commission; and in
12 every case subject to the approval of the mayor, where such
13 approval is required by the charter of the city.

14 "Municipal light board", the municipal light board, mu-
15 nicipal gas and electric commission or similar body in a city
16 or town having a municipal light board, gas and electric
17 commission or similar body; the mayor of a city having no
18 municipal light board, municipal gas and electric commission
19 or similar body; or the selectmen of a town having no
20 municipal light board, municipal gas and electric commission,
21 or similar body.

22 "Manager", the manager of municipal lighting of the city
23 or town.

24 "Plant", the municipal light plant or the municipal gas
25 plant or the municipal gas and electric plant of the city or
26 town, provided however, that this act shall not be construed
27 to permit the use or pledge of revenues of a gas plant for
28 purposes of any improvements to an electric plant, nor to
29 permit the use or pledge of revenues of an electric plant for
30 purposes of any improvements to a gas plant.