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I N T H E C I T Y O F A L B A N Y .



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1887.

Chap. 177.

AN ACT to provide for supplying the village of Sing Sing, with water, and authorizing the issue of bonds therefor and to create a board of water commissioners, for said village.

PASSED April 18, 1887; three-fifths being present; without the approval of the Governor.*

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Board of water commissioners.

Terms of office.

Future elections

Form of ballot at elections.

Vacancies, how filled.

Officers of board.

Drawing for terms. Annual meeting of board. Members to receive no pay, etc.

SECTION 1. The following named five persons, to wit, John P. Truesdell, Stephen M. Sherwood, Isaac B. Noxon, Franklin Brandreth and Isaac Secor are hereby designated and entitled the board of water commissioners of the village of Sing Sing. Said commissioners and their successors are hereby declared a body corporate by that name. Three of said commissioners shall hold their offices for three years, and two of them for two years, respectively, from the next annual election of village officers for said village, after the passage of this act, and until others shall be chosen to fill their places. The term of office of each of said commissioners shall be determined between them by casting lots as hereinafter provided. At the expiration of the terms so drawn, respectively, and at each annual election in said village thereafter, when the time of any commissioner or commissioners shall expire, commissioners shall be elected to fill the vacancies then existing, who shall hold their office for two years, and shall be residents and tax payers of the village of Sing Sing. It shall be the duty of the trustees of the village of Sing Sing at any election of water commissioners under the provisions of this act to provide a separate ballot box to be labelled "Water Commissioners" in which all ballots cast at any such election for water commissioners, shall be deposited, which ballots shall be endorsed "Water Commissioners," and shall be canvassed and the result declared, in the same manner as is provided by law for the canvass of the ballots for other elective officers of said village. If any vacancy shall occur in the office of commissioner, by death, resignation, removal from said village, or other cause (except expiration of term of office), the same shall be filled by appointment by the remaining members of the board of commissioners, and the person or persons so appointed shall hold said office for the residue of the term of the commissioner for whose vacancy such appointment shall be made.

§ 2. Within thirty days after the passage of this act, the board of water commissioners hereby designated shall organize by the election of a president, secretary and treasurer from among their number, who shall hold their offices for one year, and until their successors shall be duly elected, and shall at such meeting to organize, determine by ballots, marked "two" and "three," to be drawn by them, their respective terms of service. The annual meeting of said board shall be held on the Tuesday preceding the annual election in said village for village officers. No member of said board, unless he be secretary thereof, shall have any compensation, neither shall any member of said board be interested, directly or indirectly, in any contract made by said board. A majority of said board shall constitute a quorum.

* Not returned by the Governor within ten days after it was presented to him, and became a law without his signature. [Art. IV, Sec. 9, Constitution of the State of New York.]

§ 3. Said board of water commissioners shall have the exclusive right and power to make all necessary arrangements, regulations and contracts for supplying said village with water, and to construct all works needful for that purpose; and to that end they are hereby empowered to purchase, take and hold, in the corporate name of said board, any real estate, easements or other interests in real estate required for such purpose, and by themselves, their servants and agents, may, after agreement with such owner or owners, or just compensation ascertained and provided for, enter upon the lands of any person or persons, and may lay and construct any pipes, conduits, aqueducts, wells, dams, reservoirs, and all other works or machinery necessary or proper for the purposes aforesaid, upon any lands so entered upon, purchased, taken or held, or in or upon which such easements or interests shall be purchased or acquired. Said commissioners may enter upon any lands, streets, highways, alleys or public squares, excavate for, lay, construct, alter, repair and replace any pipes, conduits, aqueducts or other works necessary to furnish an ample supply of water whenever the same shall be required, and may put in as many hydrants in such places as they may deem proper.

Rights and powers of board.

May purchase and hold lands.

May enter upon lands to repair pipes, etc.

§ 4. For the purpose of purchasing or otherwise acquiring the necessary lands, easements and other interests in real estate, paying damages to land owners for lands, water rights, easements or other interests in real estate taken or used by said commissioners under the provisions of this act, and for the erecting of buildings, for purchasing and putting up the required machinery, buying and laying the pipes, putting in hydrants, and for the materials, labor and all things necessary and proper to fully complete said water-works, said commissioners are hereby authorized to issue bonds in the name of the village of Sing Sing for an amount not to exceed one hundred and fifty thousand dollars, and payable in not to exceed thirty years from the date thereof, and which bonds shall bear interest not exceeding four per cent per annum, payable semi-annually, at such places as said board shall determine, which said bonds shall not be negotiated by said commissioners for less than the par value thereof, and shall not be paid to any contractor or contractors for services, nor negotiated except for cash. Said bonds shall be signed by the president and secretary of said board of commissioners, in pursuance of a resolution of said board, and shall bear the corporate seal of the said village, and be denominated "Water bonds of the village of Sing Sing, New York," and are hereby made a charge upon the real and personal property of said village.

Commissioners may issue bonds for lands, water works, etc.

Limitation.

Rate of interest, and when payable.

Bonds, how executed.

§ 5. The said board of water commissioners is hereby authorized and empowered to make such prudential rules, regulations and by-laws in relation to the use of said water, as they may from time to time deem to be necessary, and shall have the full and exclusive control of said works under this act, and the management of the finances connected therewith, and shall have full power to establish the rates and charges for the use of water and to stop the use thereof upon any premises, when the use of the same shall not have been paid for, or any of the rules or by-laws of said board have not been complied with, and to fix penalties or fines for violations of rules established by it. The said board shall have power to assess upon every building within the village of Sing Sing and the lot upon which the same shall stand, an amount which said board shall deem proper to be paid by the owner thereof for protection from fire, and said board shall have the power to exempt from such fire protection tax any building, which, from its location the said board shall not deem to be protected from fire by said water-

Commissioners may make by-laws and regulations.

Other powers as to water rates, etc.

Assessments upon buildings for fire protection. Exemptions.

works; but every such exemption so made shall be upon some general plan of exemption adopted by said board. In making such assessment for such fire protection, it shall be made pro rata, taking the valuation of the property from the last assessment-roll of the village of Sing Sing as a basis. Whenever a building shall be assessed on said village roll with a parcel of land greater than five acres, and it shall be deemed by the board of water commissioners to be a greater proportion than said premises should be assessed for, for fire protection purposes, said board may by resolution reduce said assessment to such sum as it may deem proper, and fix the bounds of the land upon which such valuation shall be assessed, but in every other instance such property shall be assessed at the same valuations, as the same is valued in said village assessment roll. It shall be the duty of the board of water commissioners, after completing said assessment-roll or charges made against the owners of buildings, and the lots upon which the same shall stand for fire protection, to cause a notice that such roll has been completed, and that the rates of charges have been fixed, to be published once in two or more of the newspapers published in said village, at least ten days before the first day of October in each year, which notice shall state a place within said village where said assessment-roll and rates of charges for the use of water can be examined, and the same shall be left at said place during said ten days and be open to inspection to all persons, during such time from ten o'clock in the forenoon, until four o'clock in the afternoon of each day, except Sundays and public holidays, which shall be the only notice required to be given by said water commissioners of the completion of said roll, and that the fire protection tax and water rates are due. In case any person shall feel aggrieved by any such assessment for fire protection, or charges for use of water, he may within ten days after said first day of October in each year appeal to said board by serving upon the president of said board of water commissioners a written statement as to his objections or grievances. It shall be the duty of the said board upon receiving any such statement, within such time to appoint a time and place which shall be within thirty days after serving such notice, for the hearing of such appeals as may have been made, and shall give five days' previous notice of the time and place of hearing such appeal, by causing a written or printed notice thereof to be served upon such person or persons as may have appealed, personally, or by leaving the same at the residence of each person so appealing, and if such person cannot be found, and has no residence in the village of Sing Sing, then such notice may be served by leaving the same with some person of mature age, residing or occupying the premises, and if there be no such person residing upon or occupying the premises, then by posting such notice in a conspicuous place on said premises, at least five days before the time mentioned therein, for the purpose of hearing such appeal. The said board shall at such time and place, and at such other times and places to which they may for that purpose adjourn, have power to alter the proportions of such assessment for fire protection, and rates or charges for the use of water, in such manner as it shall deem just. And from and after the tenth day of October in each year all assessments for fire protection and all charges for the use of water from which no appeal shall have been taken as aforesaid, and from and after the final determination of said board on such appeals, all assessments for fire protection and charges for the use of water shall be liens upon the real estate of the person against whom such assessments or charges may have been made and the amount therein set down shall be binding

Assessments, how made.

Reductions in certain cases.

Notice of completion of roll of assessments and water rates, how published.

Review thereof.

Hearing of grievances and appeals thereon.

Service of notice.

Power of water board to alter assessments.

Assessments, when to become liens.

and conclusive upon all parties, unless the board of water commissioners shall unanimously vote that a clerical error has been made therein. If at the time of levying any fire protection tax, or tax for the use of water, any tax or assessment, or any proportion thereof levied upon any real estate in any previous year, or that has become due since the last annual roll for fire protection tax and water rates shall have been made, shall by reason of a defective description of such real estate, or for any other cause remain unpaid, the amount thereof, with one per cent. for each month the same has remained unpaid, may be added to such annual tax, and charged upon the real estate upon which it was originally assessed, or attempted to be assessed, and the same proceedings in all respects for the collection thereof may be had, with the like effect as in the case of the fire protection tax or assessments for use of water, on the same real estate for the then current year, but the year or years in which such tax or assessment was originally levied and the amount of the overdue tax or assessment shall be separately stated therein in a separate column in said roll for that purpose. In case any such assessment for fire protection or the use of water shall not be paid within three months from the first day of October of each year, it shall be lawful for said board to add four per centum to the amount so assessed or charged on the first day of January following and one per centum per month for each and every month thereafter, until the amount be paid. It shall be lawful for the said board to issue warrants for the collection of all amounts due and unpaid as may appear upon the assessment-roll for fire protection and the charges for use of water against the owner or owners of such property or real estate, so assessed for fire protection, and against the persons against whom such charges for the use of water shall be made, on or before the first day of June in each year; said warrants to be issued under the hand of the president of said board, and delivered to any constable of the town of Ossining or village of Sing Sing; the said constable after receiving the said warrants shall immediately levy and collect the amount, from any personal property of the persons against whose property or against whom said assessments for fire protection or charges for the use of water may be made, or from any personal property found upon the premises of said owner, and expose said personal property for sale at public auction, by giving the same notice of sale that is required by law on sales by constables on execution; and if no personal property be found to satisfy the claim (of which fact the constable's certificate shall be sufficient evidence) then it shall be lawful for the said board to bound the said pieces of property or real estate upon which said assessment for fire protection, or on account of which charges for the use of water remain unpaid, and the same, with a statement of the assessments and charges for the use of water so due and unpaid, shall be placed in the hands of the board of trustees of the village of Sing Sing, and the said board of trustees shall advertise and expose for sale the said bounded property or real estate aforesaid, forthwith in the same manner that bounded pieces of property are sold for unpaid taxes or assessments by the supervisor of the town of Ossining. And the time and mode of redemption thereof shall govern the sale of property for the payments of unpaid assessments for fire protection and the charges for the use of water, and it shall be the duty of the president or clerk of the village of Sing Sing to bid off said property in the name of said board of water commissioners at such sale of such property in the same manner as the supervisor of the town of Ossining is required to bid off property at the sale of land in said town for the non-payment of taxes, and all of the provi-

Reassessment of fire protection and water tax, etc.

Monthly percentage of addition, in case water tax is unpaid.

Warrants for collection.

Collection by distress and sale of personal property.

Sale of real estate in certain cases, to meet tax.

Notice of sale.

Provisions as to redemptions.

Who authorized to bid off property.

Village clerk, to make annual return of lands sold.

Water board to take leases of lands sold.

Use of water from water mains, to become a lien upon lands.

Water may be shut off, for default.

Appropriation of moneys from water tax.

To pay running expenses.

To pay interest on bonds, etc.

For extension of pipes.

Water board may borrow money to meet deficiencies.

Annual report, and how published.

Annual organization of board.

sions of law with reference to purchasers at sales by such supervisor for unpaid taxes or assessments in said town of Ossining shall apply to purchasers at sales made by said board of trustees under the provisions of this act. The clerk of the village of Sing Sing shall, on or before the fifteenth day of November following such sales, make a true and correct return to said board of water commissioners, of all the bounded pieces of property placed in his hands for sale, and pay over to the treasurer of said board of water commissioners the amounts received from the sale of each piece or parcel of property or real estate so sold by said board of trustees, after deducting the expenses of sales, and shall, also, within the same time, make and deliver to the president of said board a certificate of such purchases as shall have been made in the name of said water commissioners. The said board of water commissioners is hereby authorized to take leases of all such lots or parcels of land as may be bid off by such village officers in the name of said board, and which shall not be redeemed as provided by law with reference to sales by said supervisor of the town of Ossining for unpaid taxes or assessments in said town and said president and clerk of said village shall execute to said board a lease or leases therefor in the same manner as provided by law with reference to leases made by the supervisor of the town of Ossining, and said board may sell, assign and dispose of any such leases in such manner as such board may deem proper. Any water used from pipes running from the water-mains upon any private premises, upon the same being charged upon the books of said board of water commissioners to the owner or occupant of the premises upon which said pipe leads, shall be and become a lien upon said real estate, and the owner thereof shall be liable to pay for the same up to such time as he shall serve a written notice upon the president of the board of water commissioners to shut off the water from said premises, and upon his serving said notice said water shall be shut off from said premises.

§ 6. It shall be the duty of said board of water commissioners to appropriate all money received for the use of the water furnished by said commissioners :

1. To pay all necessary expenses connected with the running and repairing of said works, machinery, pipes or other things connected therewith, and the actual expenses of the board of commissioners.

2. To pay the interest on the bonds issued under the provisions of this act, and apply the balance of such money then remaining toward the payment of the principal of said bonds when due ; or to extending the necessary pipe throughout said village, or both, as said board may determine.

3. To meet any deficiency in the payment of the semi-annual interest on the bonds issued under the provisions of this act, the said board of water commissioners is hereby authorized, after first applying all the money in its treasury applicable to that purpose, to borrow an amount sufficient to meet such deficiency and to pay such interest. At each annual meeting of said board of water commissioners a detailed report shall be made by them of all moneys received and expended, and the same published in one issue of two or more of the village newspapers, published in said village, before the first day of May of each year. It shall be the duty of the water commissioners to meet on the second Thursday evening after each annual village election, and organize themselves into a board, by electing a president, secretary and treasurer, and to appoint a superintendent,

§ 7. The trustees of the village of Sing Sing are hereby required and empowered to include in the amount of taxes to be raised annually in said village, a sum not exceeding in any one year two thousand dollars, and cause the same to be collected, which, when so collected, shall be paid over by the treasurer of said village to said board of water commissioners, and applied by them to the payment of the principal of said bonds, as the same may become due.

Annual tax to meet payment of principal of bonds.

§ 8. Should the commissioners be unable, for any reason, to agree with the owner or owners of any land or water rights which, or the easements or other interests in which, it may be necessary for them to take or use, in order to carry out the objects of this act, the title to the same may be acquired in the same manner, and by the like special proceedings, as are authorized and provided for obtaining title to real estate required for the purpose of a railroad corporation, under and in pursuance of the provisions of the act entitled "An act to authorize the formation of railroad corporations and to regulate the same," passed April twentieth, eighteen hundred and fifty, and any act or acts amendatory thereof or supplementary thereto.

Proceedings to acquire title to lands, by water board.

§ 9. Any person who shall maliciously or willfully destroy or injure any of the buildings, pipe, machinery, or other property or things belonging to said water works, or who shall maliciously or willfully commit any act which shall injuriously affect or tend thus to affect the water, or the streams or fountains, from which said water shall be supplied to said village, shall be guilty of a misdemeanor, and may be punished by a fine not exceeding fifty dollars, or imprisonment, or both, in the discretion of the court, and shall also forfeit and pay to said water commissioners treble the damages sustained thereby, to be recovered in the corporate name of said commissioners, in any court having cognizance thereof, with costs. And if any of the commissioners appointed by this act, or any who may be elected to fill their places, shall willfully violate any of the provisions of this act, he or they shall be deemed guilty of a misdemeanor, and may be punished by fine or imprisonment, or both, in the discretion of the court.

Willful injury of water-works, etc., how punished.

§ 10. Before any of the commissioners appointed or elected under or in pursuance of this act shall qualify or enter upon his duties as such commissioner, he shall execute to the trustees of the village of Sing Sing a bond, in the penalty of thirty thousand dollars, conditioned for the faithful performance of his duty as such commissioner, with sufficient sureties to be approved by said trustees, which sureties shall together justify in double the penalty of said bond, which bond shall be filed with the clerk of said village.

By commissioners, how punished.

Official bonds of water commissioners.

How approved and filed.

§ 11. This act shall take effect immediately.