

1885  
201  
LAWS

OF THE

STATE OF NEW YORK,

PASSED AT THE

ONE HUNDRED AND NINTH SESSION

OF THE

LEGISLATURE,

BEGUN JANUARY FIFTH, AND ENDED MAY TWENTIETH, 1886,  
IN THE CITY OF ALBANY.

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1886.

## Chap. 60.

AN ACT to provide for submitting to the people the question "Shall there be a convention to revise the Constitution and amend the same?"

PASSED March 17, 1886; three-fifths being present.

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

Question of holding constitutional convention to be voted on.

Form of ballot and poll-lists.

Election laws applicable.

Secretary of State to report result to Legislature, etc.

SECTION 1. At the general election to be held in this State on the Tuesday next after the first Monday of November, eighteen hundred and eighty-six, there shall be provided for the poll of each election district, and kept thereat by the inspectors of election of such district, a box marked "Convention," proper for the reception of ballots. Every person in such district qualified to vote at such election for members of the Legislature, may vote at such poll a ballot either written or printed, or partly written or partly printed, on which shall be inscribed the words, "For a convention to revise the Constitution and amend the same," or the words, "Against a convention to revise the Constitution and amend the same." Such ballot shall be indorsed "Convention," and shall be received by said inspectors of election, and shall be deposited in said ballot-box. The poll-lists for the said election shall be so prepared and kept that there shall be a column therein containing a mark or figure for each voter who shall vote one of such ballots, which column shall be headed "Convention." All the laws of this State regulating general elections, and providing for the registering of voters in the cities, towns and villages of this State, shall apply so far as the same are applicable to the election to be held under this act.

§ 2. The Secretary of State shall immediately after the assembling of the next Legislature, in the year eighteen hundred and eighty-seven, report thereto the result of the election herein provided for, stating the whole number of votes cast at such election "For a convention to revise the Constitution and amend the same" and the whole number of votes cast "Against a convention to revise the Constitution and amend the same," also stating the whole number of votes cast at said election for "Judge of the Court of Appeals," and the whole number of votes cast at said election for any other State officer that may be voted for at such election.

§ 3. This act shall take effect immediately.

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## Chap. 61.

AN ACT to establish and maintain a water department in and for the city of Syracuse.

PASSED March 17, 1886; three-fifths being present.

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

City may maintain water-works.

SECTION 1. The city of Syracuse shall have power to construct, acquire, maintain, operate and manage water-works to supply said city and its inhabitants with abundant pure and wholesome water, as well upon the high levels as all the other levels of said city; and for that

purpose may become the owner of lands, springs, streams, fountains, lake or river waters, reservoirs, dams, mains, pipes, conduits, hydrants, machinery and all other such real and personal estate as may become necessary, including the property, rights of property, and franchises owned or possessed by any existing corporation or company heretofore organized to supply said city and its people with water.

May own lands, streams, etc.

May acquire water-works.

May acquire property or franchise by condemnation.

§ 2. If the said city and any person or persons, corporation or corporations, shall fail to agree on the fair value to be paid for any property, right or franchise necessary for the purpose aforesaid, then and in such case the said city may acquire the same by condemnation and appropriation to public use through a valuation thereof to be made by three commissioners to be appointed by the supreme court, according to the provisions of the statute laws, now existing for the acquisition of property by railroad corporations in this State; and all proceedings for such acquisition as well after as before such appointment shall be conducted in the same manner and with the same effect as provided in the said existing laws; the laws now referred to being chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad companies and to regulate the same" and the various acts amendatory thereof and additional thereto.

Proceeding therefor.

§ 3. All the powers and authority mentioned or in any wise included in the preceding sections shall be vested in and exercised by a board of water commissioners to be known as "The Water Board of Syracuse" which shall first consist of six members. The following persons, residents and citizens of Syracuse shall constitute said board viz.: Henry L. Duguid, William Kirkpatrick, George Barnes, Riley V. Miller, William Kearney and Charles Schlosser, who shall hold their offices for the term of four years from and after the first day of May eighteen hundred and eighty-six.

Water board.

First commission-ers.

Term of office.

§ 4. On the Saturday next following the first Tuesday of May eighteen hundred and eighty-six, the said commissioners shall meet at the office of the clerk of said city at twelve o'clock noon, and then and there take the oath of office required by the Constitution of this State. The proceedings of such meeting shall be recorded by the clerk in the official records of the city kept by him. The said board of commissioners shall at the same or a subsequent meeting choose one of their number for chairman who shall act as president. They shall also appoint and have at all times a secretary, who shall keep the books, records and accounts of the said board, and shall hold his office at the pleasure of the board. They may employ a superintendent, an engineer and other officers and agents; and may regulate the compensation of such secretary, superintendent, engineer and other officers and agents, and of all other persons employed by them. The said commissioners shall receive no compensation for their services as such.

Organization of board.

Officers.

§ 5. The said six commissioners, at the expiration of their term on the first day of May eighteen hundred and ninety, shall be succeeded in office by four commissioners on whom, shall devolve all the duties and powers imposed and conferred by this act. They shall be chosen at the charter election in said city next preceding that day in the same manner as other municipal officers are elected for said city, except that in voting for such commissioners no person shall vote for more than two of the number. The four persons receiving the highest number of votes at such election shall be declared elected. Their term of office shall be four years from and after the said first day of May, eighteen hundred and ninety. In the same manner in all respects the said board

Future election of commissioners.

When and how voted for.

**Official term.** of commissioners shall be perpetuated by elections to be held quadrennially. Their official term to be in all cases four years, commencing on the expiration of the preceding term, and their election always to take place at the charter election next before the expiration of the current term.

**Vacancies, how filled.** § 6. Whenever any vacancy shall occur in the office of any commissioner by reason of death, non-residence, resignation or otherwise, such vacancy shall be filled for the residue of the unexpired term by vote by ballot of the remaining commissioners; but the person so selected shall be of the same political party as the commissioner whose place he is elected to fill. All commissioners before entering on their duties shall take the oath of office and file the same in the office of the clerk of said city.

**Oath of office.** § 7. The said board of commissioners may make ordinances, by-laws, rules and regulations as they may deem necessary in the establishment, maintenance and control of such water-works, and in the general conduct of their business, the chairman of the board shall have a vote as one of the commissioners, but no other vote.

**By laws, rules, etc.** § 8. The city treasurer shall be the treasurer of the said board of commissioners and shall keep the accounts, funds and moneys of said board or pertaining thereto, distinct from all other accounts, funds and moneys of said city. Such funds and moneys of the water department shall be subject to the control and disposition of said board.

**Treasurer.** § 9. The said commissioners shall have power in the name of the "Water Board of Syracuse" to make all contracts, necessary or incidental to the execution of the powers herein intrusted to them; but no contract requiring an expenditure of more than one hundred dollars for labor or materials shall be entered into without first advertising for proposals for at least two successive weeks in one or more of the daily newspapers published in said city, and all such contracts shall be let to the lowest bidder who shall furnish good and sufficient security to be approved by said board for the performance thereof. No commissioner shall have any interest in such contracts.

**Contracts, how entered into.** § 10. Nothing in this act contained shall be so construed as to allow the commissioners named in the third section to expend for any purposes thereof, nor to contract for the expenditure of any greater sum than shall be realized by them from the sale of the bonds herein authorized to be issued, nor to authorize any indebtedness which shall not be met and canceled by the proceeds of such bonds.

**Provision as to expenditures.** § 11. All suits and legal proceedings which may arise out of the contracts, acts and dealings of the said board of commissioners or connected therewith shall be brought by their authority in the name of the city of Syracuse as plaintiff or petitioner; and in case such suit or proceeding so arising is in favor of an adverse party or parties, the same shall be brought against the said city as defendant or respondent. But nothing in this section shall be deemed to prevent the said board of commissioners from enforcing in the name of their board the performance of any act or duty which, by this act, the said city is required to perform.

**Suits at law, how brought, etc.** § 12. Whenever the board of commissioners shall deem it necessary that any bonds of the city of Syracuse shall be issued for the purposes of this act the said board, by resolution to be entered in its book of minutes, shall make a requisition on the mayor and common council of said city for such issue, and shall deliver a copy of said resolution to the city clerk, certified by the secretary of said board; and the city clerk shall record such requisition in the minutes kept by him of the

**Proviso.**

**Requisition on common council for issue of bonds, when necessary.**

official proceedings of said mayor and common council. The said mayor and common council shall thereupon cause such bonds to be prepared in the usual form with interest coupons attached; and the same shall be duly executed by the mayor under the corporate seal of the city of Syracuse, countersigned by the city clerk, and shall be delivered to the said board of commissioners to be disposed of by them. All requisitions for bonds authorized by this section shall state the amount required, the object thereof, the denomination or denominations of the same, the time or times and the place of payment and the rate of interest, payable semi-annually, which shall not exceed three and one-half per centum per annum. Such bonds shall not be sold at less than par in cash; and the proceeds thereof shall be sacredly devoted to the purposes of this act.

Bonds, how executed.

Not to be sold less than par.

§ 13. The total amount of bonds which may be issued under the provisions of this act shall not in any event exceed the sum of one million and five hundred thousand dollars; and the faith and credit of the city of Syracuse are hereby pledged for the payment of said bonds and the interest thereon. The proceeds of all bonds so issued shall be used and applied by said board of commissioners solely for the construction and acquisition of such water-works and in no case for the operation or management of the same or for any other purpose.

Limitation of expenditure.

Proceeds from bonds, how applied.

§ 14. The said commissioners shall fix and determine from time to time the water rates to be paid by all consumers of water, including a just annual rate to be paid by said city at large on account of the extinguishment of fires and all other public or municipal uses of water. On or before the first day of August in each year or at such other time as the mayor and common council of said city may require, the said commissioners shall prepare and deliver to said mayor and common council a statement which shall show:

Water rates, how fixed.

Annual statement to common council.

1. The total cost and expense, actual and estimated, of furnishing water to said city and its inhabitants during the current fiscal year of the city of Syracuse including the interest to be paid during such year on any bonds then issued under this act.

As to expense for fiscal year.

2. The total receipts, actual and estimated, during the same fiscal year from all consumers, including the sum determined upon as the annual rate chargeable to the city as aforesaid. If from such statement there shall appear to be a deficit in such total cost and expense, including interest, over such gross receipts, the amount of such deficit shall be collected and paid by taxation like other charges for such year against the city and placed to the credit of said board on the books of the city treasurer, to be drawn only by said commissioners or upon their order. It shall be the duty of said commissioners to so manage and control said water-works as to limit the expenses and obligations incurred by them including interest to the amount so received by them in each fiscal year. In case there shall be a surplus to the credit of said board at the end of any such fiscal year, the said board may in their discretion, use and apply such surplus not exceeding twenty thousand dollars during the next fiscal year for the extension and improvement of such water-works. Any portion of such surplus which, in the judgment of said commissioners shall not, in any fiscal year be needed for the extension and improvement of such water-works, together with all surplus over and above said sum of twenty thousand dollars shall be held, managed and invested by said commissioners as and for a sinking fund for the ultimate payment of the principal of any bonds which may be issued under the provisions of this act.

As to receipts.

Deficit, how collected.

Surplus, how applied.

§ 15. It shall be the duty of the said commissioners to make annual

Annual report,

what to contain.

reports to the mayor and common council of said city, which shall show fully and in detail the situation and condition of their department; its receipts from all sources and its disbursements during the year; and they shall furnish at all times such further information as to the business and affairs of their department as may be required of them by the said mayor and common council.

Special election authorized.

§ 16. On the fourth Tuesday in April next a special election shall be held in the city of Syracuse, at which the voters in said city qualified to vote and registered as voters at the last preceding municipal election may vote a written or printed ballot in the following form:

Question of establishing water department, to be submitted.

"Shall the city of Syracuse establish and maintain a water department and incur the necessary indebtedness for such purpose by the issuing of bonds therefor?" below which shall be written or printed on the same ballot the word "yes" or the word "no." The inspectors of such election shall be the persons who were the inspectors of the last preceding charter election and the polling places the same unless otherwise prescribed by said common council. Said inspectors shall

Duty of inspectors of election.

on the day or evening of such election and without adjournment; count and certify the number of affirmative and negative votes in the several election districts and file such certificates within twenty-four hours thereafter in the office of the clerk of Onondaga county, who shall thereupon and within twenty-four hours after the filing of such certificates ascertain the whole number of affirmative and negative votes given at said election; and a written statement and declaration thereof shall be recorded by him in the book or books in which other election canvasses are recorded. Except as herein provided all general laws regulating elections in cities shall be deemed applicable to the said election. The inspectors of election aforesaid shall sit as a board of registration in each of the election districts of said city, on Friday preceding such special election from nine o'clock in the morning until six o'clock in the evening of said day, and also on Saturday prior to such election from nine o'clock in the morning until nine o'clock in the evening of said day, and at such sittings shall proceed to make lists of persons entitled to vote at such election. As a basis for such lists they shall first copy the poll-lists of those who voted at the last charter election held in said city. Except as herein otherwise provided, all the provisions of law relating to the registration of voters at general and municipal elections shall so far as the same are applicable apply to the said election required to be held under this act.

Duty of county clerk.

Election and registry laws applicable.

City clerk to supply ballots.

§ 17. The city clerk of the city of Syracuse shall cause to be printed at least twenty-five thousand of each of said ballots, which shall be distributed to the inspectors of the several election districts of said city for use at said election proportionate to the vote of said ward at the general election next preceding such special election at least four days prior to the day of the election herein provided for, and it shall be the duty of said inspectors to have at least half of each kind of the said ballots so furnished them at the polls at such election for distribution on election day.

How distributed.

City clerk to notify election.

§ 18. The city clerk of the city of Syracuse shall cause a proper notice of said election herein provided for to be published once a day for at least two weeks prior to said election in each of the daily papers published in said city; and shall also cause three copies of said notice to be posted in conspicuous places in each election district of said city at least two weeks prior to said election.

Act to be applicable only

§ 19. This act shall take effect immediately; but none of the powers herein given to the said board of water commissioners or to the said

mayor and common council shall be exercised by them or either of them until or unless a majority of all the votes to be given at the election herein provided for shall be affirmative votes. In case the majority of all the votes given at the election herein provided for shall be negative votes, then said board, with all the powers and privileges herein bestowed shall cease.

in case of  
affirma-  
tive ma-  
jority.

## Chap. 62.

AN ACT to authorize the payment of certain moneys out of the State Treasury to the heirs at law and next of kin of Patrick Fox, deceased, or their assigns.

PASSED March 19, 1886 ; three-fifths being present.

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

SECTION 1. The sum of three thousand and thirty-nine dollars and eighty-nine cents is hereby appropriated to pay the amount adjudged by the Supreme Court, pursuant to section two thousand seven hundred and forty-seven of the Code of Civil Procedure, to Daniel Evans, heir at law and next of kin to Patrick Fox, or to the duly authorized attorney of said Evans or his assigns, after deducting any expense incurred by the State with respect thereto ; said amount and payment being affirmed by the Court of Appeals March tenth eighteen hundred and eighty-six.

§ 2. This act shall take effect immediately.

## Chap. 63.

AN ACT to amend chapter four hundred and eighty-two of the laws of eighteen hundred and seventy-five, entitled "An act to confer on boards of supervisors further powers of local legislation and administration, and to regulate the compensation of supervisors," as amended by chapter ninety-seven of the laws of eighteen hundred and eighty-one, and chapter fifty-eight, of the laws of eighteen hundred and eighty-two.

PASSED March 19, 1886 ; three-fifths being present.

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

SECTION 1. Section eight of chapter four hundred and eighty-two of the laws of eighteen hundred and seventy-five, entitled "An act to confer on boards of supervisors further powers of local legislation and administration, and to regulate the compensation of supervisors," as amended by chapter ninety-seven of the laws of eighteen hundred and