

LAWS
OF THE
STATE OF NEW YORK,
PASSED AT THE
ONE HUNDRED AND THIRTY-FIFTH SESSION
OF THE
LEGISLATURE,

BEGUN JANUARY THIRD, 1912, AND ENDED MARCH
TWENTY-NINTH, 1912,

AT THE CITY OF ALBANY,

AND ALSO OTHER MATTERS REQUIRED BY LAW TO
BE PUBLISHED WITH THE SESSION LAWS.

VOL. II.



ALBANY
J. B. LYON COMPANY, STATE PRINTERS
1912

minutes, when so taken and when certified by the stenographer and by the justice or magistrate who held such examination, shall be regarded as actually taken down in writing by said justice or magistrate and subscribed by the witness or witnesses at such examination and by the defendant, and as fully complying with the requirements of this chapter in reference to the taking and subscribing of such examination, depositions and statement.

§ 2. This act shall take effect immediately.

Chap. 391.

AN ACT to provide a water supply for the town of Waterford, Saratoga county, and its inhabitants.

Became a law April 15, 1912, with the approval of the Governor. Passed, three-fifths being present.

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

Section 1. Within thirty days after this act becomes a law or as soon thereafter as possible, the supervisor of the town of Waterford, Saratoga county, New York, shall appoint five men from the electors assessed on the last preceding assessment roll of said town to constitute a board of water commissioners in and for the town of Waterford, Saratoga county, New York, and they shall hold their office for the term of two years and until their successors are chosen.

Water commissioners, appointment and terms.

They are hereby empowered and directed when authorized by a special election as hereinafter provided to establish a system of water works for supplying said town and its inhabitants with water, or to purchase or acquire and improve the existing private system therein and to manage, operate and maintain the same.

Establishment of water works and acquisition of private system, authorized.

The said persons so appointed while acting as such commissioners shall hold no other town office in said town; they shall be a body corporate and shall be known as the "water commissioners of the town of Waterford," in which name they may sue and be sued in any court of competent jurisdiction.

Commissioners not to hold other office; to be body corporate.

§ 2. Each of said persons and their successors shall, within thirty days after the passage of this act, before entering upon the duties of his office take and file with the clerk of the town of Waterford, the constitutional oath of office required by law.¹

Oath of office.

¹ See constitution, art. 13, § 1; public officers law (L. 1909, ch. 51), § 10.

§ 3. **Vacancies and appointment of commissioners.** Death, resignation, refusal to act, failure to take and file the constitutional oath of office as above required or removal from said town of any member of said board shall constitute a vacancy in the office of such water commissioner. It shall be the duty of the secretary of said board on the occurrence of such vacancy to forthwith notify the supervisor of said town thereof. In case of the failure or neglect of the secretary so to do, the president thereof may give such notice. Such vacancy shall thereupon be filled by the appointment of a successor from the electors assessed on the last preceding assessment roll of said town by the supervisor within fifteen days after he shall receive notice thereof.

Within sixty days after the first meeting of the board of water commissioners they shall determine by lot the order in which they shall respectively retire from office and make a record thereof on their minutes and cause a copy thereof to be filed in the town clerk's office.

In the month of August in the year nineteen hundred and fourteen and of each year thereafter, the supervisor of the town of Waterford shall file in the town clerk's office of said town an appointment from the electors assessed on the last preceding assessment roll of said town of one water commissioner to hold his office for the term of five years from the first day of January next ensuing.

The commissioner so appointed whose term shall begin on the first day of January, nineteen hundred and fifteen, shall succeed the first retiring commissioner as herein provided. The commissioner so appointed whose term shall begin on the first day of January, nineteen hundred and sixteen, shall succeed the second retiring commissioner as herein provided. The commissioner so appointed whose term shall begin on the first day of January, nineteen hundred and seventeen, shall succeed the third retiring commissioner as herein provided. The commissioner so appointed whose term shall begin on the first day of January, nineteen hundred and eighteen, shall succeed the fourth retiring commissioner as herein provided, and the commissioner so appointed whose term shall begin on the first day of January, nineteen hundred and nineteen, shall succeed the fifth retiring commissioner as herein provided.

§ 4. **Organization of board.** Within thirty days after passage of this act, the said commissioners shall meet in the town of Water-

ford and elect from their number a president and secretary and a treasurer. The water commissioners of the town of Waterford may appoint at their discretion a deputy treasurer from the electorate of the town of Waterford, Saratoga county, New York, who shall not be a member of such board, but who shall act as an assistant to the treasurer and who shall execute a bond in favor of the treasurer for the faithful discharge of his duties as such deputy treasurer and to account for all moneys coming to him as such deputy in such penal sum and form and with such surety as the said board of water commissioners shall direct and approve. The officers so elected shall all hold office during the pleasure of said board; and the treasurer shall execute a bond to the town of Waterford for the faithful discharge of his duties as such and to account for all moneys coming to him as such treasurer, in such penal sum and form and with such sureties as the said board of water commissioners shall direct and approve. The said commissioners shall not receive any compensation for their services as such, but the treasurer shall receive such compensation as may be fixed by the said commissioners, approved in writing by the supervisor of said town, a record of which shall be made upon the minutes of the said board by their secretary, unless a deputy is chosen as above provided, in which case the treasurer shall not receive any compensation, but the deputy shall receive such compensation as may be fixed by the said commissioners and approved in writing by the supervisor of said town, a record of which shall be made upon the minutes of the said board by their secretary. A meeting of the majority of said commissioners shall be necessary for the transaction of any business. All of said commissioners shall have due notice of meetings of such board. Such meetings shall be public and the secretary shall duly record all the proceedings thereof. Said commissioners shall adopt by-laws, not inconsistent with law, for their government and guidance, and shall at pleasure alter and amend the same.

§ 5. Said board of water commissioners may enter into and execute such proper and necessary undertaking or bonds of indemnity as shall be lawfully imposed or required of them in executing and carrying out the provisions of this act. Undertaking.

§ 6. **Special election for the adoption of a water works system.** Within six months after the passage of this act, and at any time thereafter, not to exceed twice in any one year said water commissioners shall certify in writing the nature of the water

works system they propose to adopt and the estimated cost thereof, which said certificate shall be filed in the office of the town clerk of said town. Within ten days after the said certificate shall be filed, the town clerk shall give notice of a special election to vote upon the question of adopting the plan so proposed by said commissioners. Said notice of such election shall be given by posting not less than twelve printed notices in conspicuous places in said town, not less than ten days nor more than twenty days prior to the time of holding the same and by publishing the same notice in all of the newspapers printed in the said town two or more times. In case such newspapers refuse to publish such notice then the same shall be published in one or more other newspapers published within the county of Saratoga. Said election shall be held in the town hall of said town, if available, and if not, at such other place in said town as shall be designated by the said town clerk in such notices, and the polls shall be open from twelve noon until four o'clock in the afternoon or longer if required to accommodate electors attending. At such election every person of full age residing in said town, who shall have been assessed for real or personal property upon the last preceding assessment-roll of said town and who is still the owner thereof, or who shall have subsequently acquired title to real estate in said town and if such real estate shall have been acquired by purchase, and the conveyance thereof shall have been duly recorded, shall be permitted or entitled to vote, except those whose property is exempt from taxation under this act. At such election the inspectors shall be the supervisor, town clerk and one of the justices of the peace of said town to be designated by said supervisor. In case the supervisor or town clerk, or both such supervisor and town clerk, shall fail to or be unable to attend such election, said supervisor may appoint one or more of the justices of the peace of said town to fill such vacancy or vacancies. The ballots to be voted at said election shall contain the words, "for the water works system proposed" or "against the water works system proposed." The said inspectors of such election shall certify the result thereof in writing and the same shall be entered at large in the records of said town by said town clerk and a copy of said record shall be delivered to said commissioners. In case the majority of the ballots cast shall contain the words "for the water works system proposed" the said commissioners shall be authorized to expend said money for said purpose and establish a sys-

tem of water works as empowered and directed in section one of this act and such money shall be obtained from the sale of the bonds of such town as hereinafter provided. Before calling the special election above provided for said commissioners shall hold a public hearing, on due notice, on the measure which they propose to submit to such special election.

§ 7. **Expenses and disbursements of commissioners.** All expenses and disbursements made and incurred by the commissioners in carrying out the provisions of the preceding sections, in making necessary plans and investigations and of any condemnation proceedings by them instituted, shall be a town charge when certified and approved by said commissioners. And there shall be levied and assessed by the supervisors of Saratoga county, upon the taxable property of the town of Waterford aforesaid (excepting therefrom lands not benefited as hereinafter exempted from taxation) and collected, such sums of money as the said water commissioners shall from time to time certify to the said board of supervisors to pay the expenses and disbursements so made and incurred and said moneys when collected shall be paid by the collector to the treasurer of said commissioners to be applied to the payment thereof.

§ 8. Said board of water commissioners may at any special election herein provided for submit one or more propositions authorized by this act to be voted on. In case more than one proposition shall be so submitted the board may prescribe the form of ballot to be used and the manner of canvassing and declaring the vote thereon in accordance with law.

Submission
of proposi-
tions.

§ 9. **Skilled assistance.** The said board shall have authority to provide competent expert, engineering, superintending and inspecting skill in the work herein provided for and to employ counsel whenever necessary and to take all necessary legal proceedings to carry into effect all the provisions of this act. It shall be a misdemeanor punishable by fine or imprisonment, for any member of said commission, or for any employee, expert, engineer, superintendent or inspector employed by them to be in any way or manner interested, directly or indirectly, in furnishing any labor or material for the construction of the work herein provided for or for the operation thereof after completion or acquisition.

§ 10. **Purchase or acquisition of existing system.** The board of water commissioners may purchase the system of water works existing in the town of Waterford where authorized by a special

election as provided for in this act at a price not exceeding the present capital stock and bonded debt of the corporation owning the same and on terms to be mutually agreed upon. If the board cannot agree with the owners thereof for its purchase, the same may be acquired by condemnation in the manner provided by the condemnation law, limited in amount, however, as above provided, the costs and disbursements of such condemnation proceedings to be a charge against said town, excepting therefrom lands not benefited as hereinafter exempted from taxation. No such proceedings shall however be entered into or carried out until the water commissioners of the town of Waterford shall be authorized so to do by a special election as provided for in this act.

§ 11. **Establishment of new works.** If the existing system of water works cannot be so acquired, such board of water commissioners shall proceed forthwith to prepare plans for the construction of a system of water works. It shall prepare a map and plans showing the sources of water supply and a description of the lands, streams, water or water rights to be acquired therefor, and the mode of constructing the proposed water works, and the location thereof; including filtration plant, reservoirs, mains, distributing pipes, hydrants, et cetera.

The water commissioners, their agents, servants and employees, may enter upon any lands in the county of Saratoga for the purpose of preparing such map and plans. The map and plans shall be filed with the town clerk and a certified copy of such map shall also be filed in the county clerk's office of Saratoga county. The board of water commissioners may acquire, in the name of the town of Waterford, by purchase, if it can agree with the owners, or otherwise by condemnation, any land, stream, water or water rights necessary for such system. The board may amend or correct the map and plans at any time and such amended or corrected map shall be filed in the office of the town clerk and of the county clerk as above provided. No action shall be taken by said board toward executing said plans until authorized by a special election as provided for in this act.

The board when authorized by special election as provided in this act may construct such water system by contract or otherwise, and may appoint and at pleasure remove a superintendent to take charge of the system and may fix his compensation.

All property rights or easements acquired under the provisions of this act shall vest in and become the property of such town.

§ 12. **Moneys may be borrowed.** All moneys that may be required to carry out the provisions of this act, and including the expenses of the said commissioners in connection therewith, shall be borrowed upon the credit of the said town of Waterford upon the bonds thereof, and for that purpose the supervisor of said town shall, upon the requisition of the said water commissioners, issue bonds of said town, which shall be signed by him as such supervisor and countersigned by the town clerk and by the president of said commissioners, and deliver the same to the treasurer of said commissioners, from time to time, to the amount that shall be certified by said water commissioners that has become due for obligations incurred by them in pursuance of the provisions of this act and to the amount that it shall likewise be certified that contracts or obligations have been entered into to carry out the purposes and provisions of this act, but the amount to be borrowed by such town therefor shall not exceed at any time, in the aggregate the sum of two hundred thousand dollars, except by authority therefor given at a special election of said town called for the purpose.

The said commissioners shall sell the bonds received by the said treasurer at not less than the par value thereof and apply the proceeds thereof to the payment of obligations incurred by them under this act for the purposes herein provided for.

§ 13. **Rate of interest and when payable.** Bonds issued as aforesaid shall be in amounts not less than five hundred dollars each and shall bear interest not to exceed five per centum per annum. Each issue shall provide for the payment and extinguishing of at least three per centum of the total amount secured thereby annually in each and every year after the date of issue until fully paid. Such bonds shall provide for payment of interest semi-annually as directed by said commissioners. A record of all bonds so issued shall be kept by the town clerk of said town, in a book specially provided for that purpose, showing the number, date and amount of each bond, the rate of interest, and the date when same is due and payable, the amounts of principal and interest paid and unpaid thereon, and all details relating to the issue, sale and redemption thereof.

§ 14. **Annual tax.** There shall be annually levied and assessed upon the taxable property of the said town, by the board of supervisors of the county of Saratoga, and collected in the same manner that other town charges are levied, assessed and collected, such sums of money as may be necessary to pay the interest on the said

bonds and the principal thereof, as the same becomes due, and said moneys when collected shall be paid by the receiver of taxes or collector of said town to the supervisor thereof and by said supervisor applied to the payment of the interest due on said bonds and principal thereof as the same becomes due; and the said supervisor shall at the time of making his annual account to the town auditors of said town make a true and full account of all moneys received by him for the purpose aforesaid, and deliver to said board of auditors vouchers for all moneys expended by him for the payment of the principal and interest of the aforesaid bonds, and a copy of the said report of the said supervisor shall be entered at length upon the records of the town clerk thereof. And there shall be annually levied and assessed by the said board of supervisors, upon the taxable property aforesaid, and collected, such sums of money, not exceeding one-half of one per centum of the assessed valuation of the property subject to such taxation, as the said water commissioners shall certify to the said board of supervisors to be necessary to operate, properly care for and maintain the water works system by this act provided for and to make the improvements and extensions thereto (except when the money therefor shall be provided by the issuance of bonds), and said moneys when collected shall be paid by the said receiver of taxes or collector to the treasurer of said commissioners, to be applied for said purposes.

The lands in said town known as Peebles Island shall be exempt from taxation and assessment under this or any other section of this act until the benefits of such water works system shall be extended thereto.

The said water commissioners shall in the certificate to the board of supervisors in this section provided for, also certify all agricultural lands in said town, used exclusively for farming purposes, that in the opinion of said commissioners, derive no benefits from said water works system and the lands so certified shall be exempt from the above assessment and taxation. All property within six hundred feet of any water main of such water works system shall be deemed to derive a benefit therefrom, unless specially excepted under this act. The extension of such system for other purposes than the furnishing of water to premises adjacent to such extension that may be deemed necessary by said commissioners shall not be construed as being a water main to the extent of making liable to assessment all the property within six hundred feet of such extension.

§ 15. **Securing wholesome water.** Any system of water works purchased, acquired or constructed under authority of this act, must be equipped by said commissioners, so as to secure clean, clear, pure and wholesome water.

§ 16. **Extent and limitation of system.** The water works system so provided shall cover the village of Waterford, the North-side fire district, the Riverside fire district and all other portions of said town now served by the existing private system of water works, together with such additional territory in said town as such board of commissioners shall determine, and shall provide a sufficient supply therein for private use, fire protection and all other public purposes required and under good and sufficient pressure to be at all times ample and sufficient.

Such system shall not be extended into Peebles Island, except on request of the owners thereof; nor along highways bounded by land used exclusively for farming purposes, except on petition to said commissioners executed and acknowledged by property owners owning more than one-half in value of the property bounded on the highway for the distance proposed to be extended. This, however, shall not prohibit the extension of such system in highways for other purposes deemed necessary by said commissioners other than the furnishing of water to premises adjacent to such extension.

Said commissioners shall have power to connect said system when established with that of any other municipality in the vicinity and to arrange terms for exchange of service.

§ 17. **Extensions and improvements.** Said commissioners shall have the power in their discretion to expend five thousand dollars annually in improving such water works system and in extending the same after the operation thereof has begun; and such further sum as shall be authorized by a special election of said town to be called and held in the manner hereinbefore provided. Such extensions, however, shall be made only when an annual revenue of five per centum of the estimated outlay therefor shall be guaranteed by the parties to be benefited thereby, unless it be necessary to make such extensions for the proper working or necessary requirements of the system.

§ 18. **Emergency supply.** Said water commissioners after operation of the water works system hereby provided for shall begin, may in case of break down or emergency contract in the name of said town, with an individual or corporation for temporary supply of water for such system.

§ 19. **Connection with mains.** Supply pipes connecting with mains and used by private or public owners or occupants shall be laid and kept in repair at their expense. Such pipes can only be connected with the mains by the permission and under the direction of the board of water commissioners. A member of the board or its authorized agent may at any reasonable time enter a building or upon premises where water is used from supply pipes and make necessary examinations.

§ 20. **Payment by commissioners.** The moneys received from the sale of bonds shall be applied by said commissioners only to the purchase and establishment of the system hereby provided for and expenses incidental thereto.

All bills, claims and obligations contracted and incurred by such commissioners in pursuance of this act shall be presented to said commissioners by the several claimants, duly verified, and the said commissioners shall determine the amount due each of such claimants and direct the payment thereof out of the proper fund.

Revenues from water rents and moneys received from taxation shall be applied by said commissioners to paying the cost and expenses of operation, maintenance and repair of said system, interest and bonded debt and other purposes hereby directed. Any moneys raised for special purposes shall be applied to such purposes only.

§ 21. **Control and management of system.** A system of water works acquired or established under the provisions of this act shall be operated and managed under the control and supervision of the board of water commissioners. The board shall keep it in sufficient order and repair, and may from time to time repair, renew and improve such plant and system and extend the same and shall have power to make contracts and to employ and remove necessary agents and servants and fix their compensation.

The board of water commissioners may adopt ordinances for the collection of water rents and regulating the use of water, and may enforce observance thereof by cutting off the supply of water or by the imposition of penalties.

§ 22. **Water rates.** The board of water commissioners shall establish and at pleasure alter and amend rules and rates for the use of water and the service of the system to be called "water rents" and to be paid at such times as the board may prescribe. Such rents shall be a lien on the real property upon which the water is used. Said board shall also establish and from time to

time amend such rules or rates for all manner of public use and service including fire protection. All water rents and revenues from the system shall be payable to the treasurer of said board of water commissioners and applied to the uses, expenses and purposes of the system. Revenues in excess of such requirements, if any, shall be paid over to said supervisor to be by him applied on principal and interest of the bonds by this act authorized.

§ 23. After the water works system so provided for shall become operative said board of water commissioners shall furnish the several municipal corporations within the town of Waterford with water for fire purposes, street sprinkling and flushing of sewers (but not municipal buildings) without charge. The location and number of such hydrants shall be determined by said commissioners, who shall also have the power to establish and maintain such other and additional fire hydrants within the town of Waterford as they shall deem best.

§ 24. **Annual report.** On or before the first day of November in each year, the board of water commissioners shall file with the town clerk a report containing a statement for the year terminating on the first day of September next preceding, of the following facts:

The amount of money on hand at the beginning of the preceding year and the receipts from all sources during each year.

2. An itemized statement of the amount paid out during such year and the balance on hand.

3. The outstanding indebtedness, created by their authority, either bonded or otherwise, separately stated.

4. The estimated amount necessary to pay principal or interest or expenses of the board during the next ensuing year after applying thereto the probable amount of water rents or other income to be received.

5. The improvements and extensions made during such preceding year and the general condition of the water works.

6. Such other facts as the board may deem important together with such recommendations as may be deemed proper.

§ 25. Said commissioners shall not make or create obligations in excess of amounts by this act authorized and in case they do so, they shall be personally liable for such excess. Amount of obligations limited.

§ 26. When a water works system shall be provided by said board of water commissioners, under the authority of this act, and becomes operative, said board shall notify the several municipal corporations and bodies within the town of Waterford and thereafter said municipal corporations and bodies shall contract with no other party for furnishing water for fire protection or other public purposes. This act shall not be construed as abridging, abolishing or restricting any other power or duty of such municipal corporation or bodies or as repealing any act or part of an act under which they derive their powers.

§ 27. This act shall take effect immediately.

Chap. 392.

AN ACT authorizing the city of Albany to improve its river front.

Became a law April 15, 1912, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

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

Section 1. It shall be lawful for the common council of the city of Albany to enact ordinances for the improvement of the river front from the north bounds of the city to the south bounds thereof. Such ordinances may provide for the acquisition of any lands which may be necessary; for entering into agreements for the sale of lands and the exchange of lands owned by the city with the owners of other lands; for the acquisition of dock walls and dock rights; for the fixing of rates of toll or rentals to be paid to the city for dock rights; for the construction of street railway terminals and the necessary connections therewith; for the granting of rights of way over the city streets and extensions to railroad corporations now operating railroads; for closing streets, making parks and parkways, and such other matters as shall be necessary to the proper carrying out of a comprehensive plan for river front improvement. Provided, however, that nothing in this act contained shall be construed as repealing or modifying any provision of law requiring the consent of any other person than the city to any act authorized by such common council.

Municipal corporations of town of Waterford not to contract with other parties for water.

Saving clause.

Ordinances for improvement of river front.