

CHAPTER 273.

**AN ACT Providing for a Public Water Supply in the
Town of Jamestown.**

S 934
Approved
June 21, 1968.

It is enacted by the General Assembly as follows:

Section 1. There is hereby established a board of water commissioners for the town of Jamestown consisting of three qualified electors of the town.

Board of
water commis-
sioners: Ap-
pointment.

Forthwith after the passage of this act, the town council shall elect three water commissioners, one to serve until March 1, 1969, one until March 1, 1971, and one until March 1, 1973, and thereafter until their successors are elected and qualified. Forthwith after the beginning of each calendar year in which any term expires, the town council shall elect a successor for a term of five years from March 1 of the year in which he is elected and thereafter until his successor is elected and qualified.

The board of water commissioners may act despite a vacancy on the board but, in the event of any vacancy, the town council shall elect a commissioner to serve for the unexpired term and thereafter until his successor is elected and qualified.

Vacancy.

Each election or removal by the town council shall be by vote of a majority of the whole number thereof, including vacancies therein.

Vote of town
council.

No employee of the town or holder of any other office of the town shall be eligible to serve as a member of the board of water commissioners.

Qualifications.

Bond.

The town council may require the members of the board of water commissioners to furnish bond for the faithful performance of their duties, in such amounts and with such sureties as the town council may deem desirable. Premiums on surety bonds shall be paid from funds of the board of water commissioners.

Conflict of interest.

No contract shall be made by the board of water commissioners with any member of the board or with the superintendent of the water works system (except his contract of employment) or with any member of their immediate families or with any firm or corporation in which the superintendent or any member of the board, together in either case with the members of his immediate family, owns more than one per cent of the total proprietary interest, unless such direct or indirect interest of the member or superintendent is set forth in the minutes of a meeting of the board prior to the making of such contract and the member or superintendent abstains from voting or acting for the district, as the case may be, in making such contract. A violation of this paragraph shall be grounds for avoiding, rescinding or cancelling the contract on such terms as the interests of the town and innocent third parties may require or for the recovery of damages from any party acting in violation of this paragraph.

Removal for cause.

Any member of the board may be removed for cause by the town council.

Officers.

Sec. 2. Forthwith after the election of the original board of water commissioners and after the election of a member upon the expiration of a term, the board shall elect a chairman from among the members of the

board and shall elect a secretary, who need not be a member of the board, or designate the town clerk as secretary. The chairman shall preside at meetings of the board and the secretary shall keep the records of the meetings of the board. The board may designate other officers and assistant officers with such powers and for such terms as the board may determine but the board may at any time remove any such other officers and assistant officers with or without cause, subject to any damages which may be payable for cancellation of a contract with the superintendent as authorized below. Same.

The board shall adopt by-laws or rules for the transaction of its affair. By-laws.

Sec. 3. The board of water commissioners may employ and fix the compensation of attorneys, engineers, surveyors, draftsmen, clerks and other employees and agents. The board may elect a superintendent of the water works system and each contract for his services shall not be more than five years. The board may require a surety bond of any of its agents and employees. The premiums shall be paid from funds of the board. Professional and other employees.

Each of the commissioners shall be compensated for his services at the rate of one hundred dollars per year. The secretary, if not a member of the board or the town clerk acting by designation, shall be compensated at the same rate. Compensation of members.

Sec. 4. The board of water commissioners shall be vested with the power and authority to acquire by purchase, subject to approval of a special or annual financial town meeting the assets of the Jamestown Powers of commission.

Same.

Water Company, and thereafter may construct, operate, maintain, extend and improve a water works system for the town and to provide an adequate supply of water for the town or any part thereof. The board is authorized, subject to the approval of the town council, to contract for periods not exceeding forty years with the state, any other municipal or quasi-municipal corporation or with the owners of any privately owned water systems for the purchase or sale of water or for the use of water facilities and the state, such other municipal or quasi-municipal corporations and the owners of privately owned water systems are authorized to enter into such contracts with the board.

Contracts involving more than \$1000.

Any contract of the board involving more than \$1,000. for construction or for the purchase of materials or equipment, not including contracts for the purchase of water, shall be publicly advertised.

Custody of funds.

All funds of the board shall be held in the custody of the town treasurer separate from other funds of the town and shall be expended by or under the direction of the board.

Expenditure of funds.

In addition to the funds hereinafter provided, the board is authorized to expend for the purposes of this act such sums as may be appropriated therefor by the town.

Acquisition of property.

In carrying out the purposes of this act, the board of water commissioners may lease property or acquire the same by purchase or gift or by eminent domain as hereinafter provided, may make contracts and shall have such further powers as shall be necessary or incidental to the purposes and powers set

forth in this act. Any lease, purchase or taking of real property shall be subject to the approval of the town council.

Sec. 5. For the purposes of this act the board of water commissioners may, subject to the approval of the town council, and of a special or annual financial town meeting called for the purpose acquire by eminent domain land or other real property, or any interest, estate or right therein, whether lying within or without the town, including the right to take water from any source. Condemnation.

Without limiting the generality of the foregoing, the board of water commissioners may, subject to the approval of the town council, and of a special or annual financial town meeting called for the purpose acquired by eminent domain all or any part of the real and personal property, or any interest, estate or right therein, belonging to the Jamestown Water Company, including the right of said company to take water from any source. Same: Property of Jamestown water company.

A taking under this section shall be substantially in the manner and subject to the provisions (so far as apt) set forth in chapter 1 of title 24 of the general laws as heretofore or hereafter amended, provided that a taking under the preceding paragraph shall not require the consent of the division of public utilities. Manner of taking.

Whenever the board shall dig up any public street or highway for laying or maintaining pipe, the board shall repair any damage cause thereby to such street or highway. Streets and highways.

Obligation
for damages.

Any damage which may be agreed upon or determined for any taking under this section, including any interest and other applicable charges, shall constitute a general obligation of the town, but such obligation shall not at any time be included in the debt of the town for the purpose of ascertaining its borrowing capacity for water or other purposes.

Payment in
lieu of taxes.

Sec. 6. The property acquired and held under this act shall not be subject to taxation or assessment by the town of Jamestown, but not exceeding ten thousand dollars per annum, as determined by the town council, shall be paid from funds of the board of water commissioners to the town in lieu of taxes.

Water rates.

Sec. 7. The board of water commissioners is authorized from time to time to fix water rates for the water furnished by the board, which may be based upon the quantity of water used or the number and kind of water connections made or the number and kind of plumbing fixtures installed on the estate or upon the number or average number of persons residing or working in or otherwise connected therewith or upon any other factor affecting the use of or the value of the water furnished or upon any combination of such factors.

The rates shall be fixed so as to be sufficient to meet the expense of operation and maintenance and the principal and interest coming due on bonds and serial notes issued by the town for the purposes of this act and to provide such reserves as the board may deem necessary.

Hydrant rentals shall be charged to the town for each year at such rates as the board may determine from time to time. The town shall also be subject to the water rates for other water consumed by the town. Same.

The rates shall be payable upon a date or dates fixed by the board and if not paid within thirty days thereafter they shall bear interest at the rate of eight per cent per annum from their due date until paid.

The board shall cause notice of the amount and due date to be mailed or otherwise sent or given to the owner of the real estate or the tenant or occupant, who shall be personally liable therefor.

A certificate of the collector of taxes of the town stating the amount of any delinquent rate and its due date and the name of the owner of the real estate and the name of the tenant or occupant if assessed to a tenant or occupant who is not the owner and an identification of the real estate shall be filed with the town clerk as a public record, and notice of such filing shall be mailed or sent or otherwise given to such owner. From the date of such filing until the same is paid in full, such delinquent rate together with any interest and charges accruing thereon shall constitute a lien upon the real estate on a parity with the lien for town taxes.

The collector of taxes shall have the same rights to enforce such liens and to collect the rates and interest and charges thereon as he has in the case of town taxes.

No irregularity in carrying out the provisions of this section shall excuse non-payment of any water rate as long as there is substantial compliance with the pro-

Same.

visions hereof and no deficiency in any notice to any party or in any filing with respect to any party shall excuse non-payment by any other party.

In the event a water rate is partially or wholly invalid or unenforceable in any respect, the board may impose a corrected rate to replace the invalid rate or portion or take such other curative action as may be appropriate.

In case of non-payment of any water rates or charges or interest thereon with respect to any house, building, tenement or estate, the board of water commissioners is authorized, by its agents and employees, to shut off the water and for this purpose to enter such house, building, tenement or estate, and need not supply water again thereto until the water rates and charges or interest thereon have been paid in full.

Application
of receipts.

Sec. 8. The receipts from water rates, including any net earnings or profits realized from the deposit or investment thereof, shall be deemed appropriated to the board for the purposes set forth in section 4 and for the payment of the principal and interest on obligations incurred by the town for the purposes of this act.

The town treasurer, with the approval of the town council, is authorized to advance moneys to the board of water commissioners from the general funds of the town in amounts not exceeding the sums to be realized from water rates within the next six months as estimated by the board of water commissioners. Such advances shall be repaid without interest from such water rates.

Sec. 9. The town of Jamestown is hereby authorized, in addition to authority previously granted, to issue bonds from time to time under its corporate name and seal or a facsimile of such seal to such amount as will not cause the principal amount of bonds outstanding hereunder to exceed ten per cent of the last assessed valuation of the taxable property of the town. The principal of the bonds and interest thereon shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts. The bonds of each issue shall mature in equal or diminishing annual installments of principal, the first installment to be not later than three years and the last installment not later than twenty-five years after the date of the bonds.

Bonds au-
thorized.

Sec. 10. The bonds shall be signed by the town treasurer and by the manual or facsimile signature of the president of the town council and shall be issued and sold at not less than par and accrued interest in such amounts as the town council may determine. The manner of sale, denominations, maturities, interest rates and other terms, conditions and details of any bonds or notes issued under this act may be fixed by the resolution of the town council authorizing the issue or by separate resolution of the town council or, to the extent provisions for these matters are not so made, they may be fixed by the officers authorized to sign the bonds or notes. The bonds of each issue shall bear interest at a rate or rates not exceeding six per cent per annum. Coupons shall bear the facsimile signature of the town treasurer. The proceeds derived from the sale of the bonds shall be delivered to the town treasurer, and such proceeds exclusive of premiums and

Bonds, how
executed.

Interest.

Proceeds.

Same.

accrued interest shall be expended (a) for the purposes set forth in section 4, excluding current operating and maintenance expenses but including extraordinary repairs, or (b) in payment of the principal of or interest on temporary notes issued under section 11 of this act or (c) in repayment of advances under section 12 of this act. No purchaser of any bonds or notes under this act, however, shall be in any way responsible for the proper application of the proceeds derived from the sale thereof. The proceeds of bonds or notes issued under this act, any applicable federal assistance and the other moneys referred to in this act shall be deemed appropriated for the purposes of this act without further action than that required by this act.

Temporary notes.

Sec. 11. The town council of the town of Jamestown may authorize the issue from time to time of interest bearing or discounted notes in anticipation of the authorization or issue of bonds under section 10 of this act or in anticipation of the receipt of federal aid for the purposes of this act. The amount of original notes issued in anticipation of bonds may not exceed the amount of bonds voted under section 19 and the amount of original notes issued in anticipation of federal aid may not exceed the amount of available federal aid as estimated by the town treasurer. Temporary notes issued hereunder shall be signed by the town treasurer and by the president of the town council and shall be payable within three years from their respective dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid from time to time by the issue of other notes hereunder, provided the period from the date of an original

note to the maturity of any note issued to renew or pay the same debt or the interest thereon shall not exceed three years.

Sec. 12. The town treasurer, with the approval of the town council, may advance moneys to the board of water commissioners from the general funds of the town in anticipation of the authorization or issue of bonds under section 10 or in anticipation of the receipt of federal aid. Any advances in anticipation of bonds may not exceed the amount of bonds voted under section 19 and any advance in anticipation of federal aid may not exceed the amount of available federal aid as estimated by the town treasurer. In addition, any appropriation by the financial town meeting for the purposes of clause (a) of section 10 shall be treated as an advance under this section if so voted by the financial town meeting. An advance under this section shall be repaid without interest from the proceeds of bonds or notes subsequently issued or from the proceeds of applicable federal assistance or from other available funds.

Advances
from general
funds of
town.

Sec. 13. Any proceeds of bonds or notes issued hereunder or of any applicable federal assistance or of any water rates, pending their expenditure, may be deposited or invested by the town treasurer in demand deposits, time deposits or savings deposits in banks which are members of the Federal Deposit Insurance Corporation or in obligations issued or guaranteed by the United States of America or by any agency or instrumentality thereof or by the state of Rhode Island or as may be provided in any other applicable law of the state of Rhode Island.

Investment of
proceeds pend-
ing expendi-
ture.

Application
of accrued in-
terest pre-
miums and
profits.

Sec. 14. Any accrued interest received upon the sale of bonds or notes hereunder shall be applied to the payment of the first interest due thereon. Any premiums arising from the sale of bonds or notes hereunder, any net earnings or profits realized from the deposit or investment of bond or note proceeds or federal assistance hereunder and any balance of bond or note proceeds remaining after completion of the applicable project or projects shall, in the discretion of the town treasurer, be applied to the cost of preparing, issuing and marketing bonds or notes hereunder to the extent not otherwise provided, to the payment of the cost of the project or projects or the cost of other work for which bonds or notes could be issued hereunder, to the payment of the principal of or interest on bonds or notes issued hereunder or to any one or more of the foregoing. The cost of preparing, issuing and marketing bonds or notes hereunder may also, in the discretion of the town treasurer, be met from bond or note proceeds exclusive of premium and accrued interest or from other moneys available therefor. In exercising any discretion under this section, the town treasurer shall be governed by any instructions adopted by the town council.

Obligations of
town.

Sec. 15. All bonds and notes issued under this act and the debts evidenced thereby shall be obligatory on the town of Jamestown in the same manner and to the same extent as other debts lawfully contracted by it and shall be excepted from the operation of section 45-12-2 of the general laws. No such obligation shall at any time be included in the debt of the town for the purpose of ascertaining its borrowing capacity under any other law. The town shall annually appro-

Exception.

appropriate a sum sufficient to pay the principal and interest coming due within the year on bonds and notes issued hereunder to the extent that moneys therefor are not otherwise provided. In order to provide such sum in each year and notwithstanding any provision of law to the contrary, all taxable property in the town shall be subject to ad valorem taxation by the town without limitation as to rate or amount, except that the rate of taxation on intangibles shall be limited as provided in section 44-5-6 of the general laws.

Amortization.

Sec. 16. Any bonds or notes issued under the provisions of this act and coupons on any bonds, if properly executed by officers of the town in office on the date of execution, shall be valid and binding according to their terms notwithstanding that before the delivery thereof and payment therefor any or all of such officers shall for any reason have ceased to hold office.

Validity of bonds not affected by change in office.

Sec. 17. The town of Jamestown, acting by its board of water commissioners, is authorized to apply for, contract for and expend any federal survey or planning advances or other grants or assistance which may be available for the purposes of this act, and any such expenditures may be in addition to other moneys provided in this act. To the extent of any inconsistency between any law of this state and any applicable federal law or regulation, the latter shall prevail. Federal survey or planning advances, with interest where applicable, whether contracted for prior to or after the effective date of this act, may be repaid as a cost of a project or projects under section 10 of this act.

Federal assistance.

Sec. 18. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary

Constitutional requirements.

to meet constitutional requirements whether or not such steps are required by statute. The validity of bonds and notes issued hereunder shall in no way depend upon the validity or occurrence of any action not specifically required herein for the issue of such bonds or notes.

Vote of tax-payers required for each issue.

Sec. 19. Notwithstanding the foregoing provisions of this act, no bonds shall be issued in excess of amounts approved from time to time by vote of a majority of the electors present and voting on the question at an annual or special financial town meeting. A vote not to approve an amount of bonds hereunder shall not preclude any later vote to approve the same or a different amount.

P.L. 1933, ch. 2066 repealed.

Sec. 20. Chapter 2066 of the public laws of 1933 is hereby repealed.

Referendum.

Sec. 21. The question of the approval of this act shall be submitted to the electors of the town of James-town qualified to vote upon a proposition to impose a tax or for the expenditure of money at a special financial town meeting the warning for which shall contain notice of the proposal to accept this act.

Act effective, when.

Sec. 22. This section and section 21 hereof shall take effect upon passage. The remainder of this act shall take effect upon the approval of this act by a majority of those voting on the question as prescribed in section 21 hereof.