

LAWS  
OF THE  
STATE OF NEW YORK,

PASSED AT THE  
ONE HUNDRED AND TWENTY-SIXTH SESSION

OF THE  
LEGISLATURE,  
BEGUN JANUARY FIRST, 1903, AND ENDED APRIL  
TWENTY-THIRD, 1903, IN THE CITY OF ALBANY.

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VOL. I.

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ALBANY:  
J. B. LYON COMPANY, PRINTERS,  
1903.

devisee or grantee, purchaser or creditor by judgment, mortgage or otherwise, in and to said premises or any part thereof; and none of the provisions of this act shall be construed so as to affect any right, title or interest which the New York Central and Hudson River railroad company shall or may have in and to any portion of the lands hereinbefore described.

§ 3. This act shall take effect immediately

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## Chap. 17.

AN ACT to authorize the city of Jamestown to acquire and maintain a water supply system

Accepted by the city.

Became a law, March 6, 1903, 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:*

Mayor and  
common  
council  
authorized  
to purchase  
water  
works.

Section 1. The city of Jamestown, for the purpose of providing a supply of water for said city, is hereby fully authorized and empowered, acting by its mayor and common council, to purchase the water supply plant and water system now owned by the Jamestown water supply company now supplying water to said city, and its property, franchises, contracts and rights pertaining thereto; also the stock of the Falconer water supply company, and to pay, as the consideration for such purchase, the sum of six hundred thousand dollars.

Acts of  
city  
officials  
and special  
election,  
legalized.

§ 2. All the acts of the board of public works, the common council and the mayor of said city, in relation to the acquisition of the water supply plant and water system of the Jamestown water supply company, the special election of the resident taxpayers of said city held on the fifteenth day of April, nineteen hundred and two, and the contract entered into between the Jamestown water supply company and the city of Jamestown for the sale of its water supply system to said city for six hundred thousand dollars, dated May twenty-eighth, nineteen hundred and two, and the bonds proposed to be issued are hereby, in all things ratified and legalized.

Bonds,  
issue of.

§ 3. For the purpose of providing for the supply of water to said city, it shall be the duty of the common council of said city to cause registered coupon bonds of said city, to the amount of six hundred

thousand dollars to be issued in the name and upon the faith and credit of said city. Said bonds shall be sealed by the city seal and signed by the mayor, city clerk, and city treasurer. Said bonds shall be issued in two series to be known respectively as Jamestown water bonds, series "A," and Jamestown water bonds series "B," and the bonds of each series shall respectively be numbered consecutively; shall be of one thousand dollars each, with coupons attached, bearing interest at the rate of not more than four per centum per annum, payable semi-annually on the first day of April and October of each year at a place to be therein mentioned. Series "A" of said bonds shall be issued prior to series "B," for a sum not exceeding three hundred thousand dollars, running for a period not exceeding forty years; but the amount for which the bonds of series "A" shall be issued shall in no event be such an amount as will make the then existing indebtedness of said city exceed ten per centum of the assessed valuation of the real estate of said city subject to taxation, as it appeared by the assessment-roll of said city on the last assessment for state and county taxes prior to the issuing of said bonds. Series "B" of said bonds shall be issued after the bonds of series "A" shall have been issued, for the sum of three hundred thousand dollars, or such further sum as will, added to the bonds issued as series "A," equal the sum of six hundred thousand dollars. The term of none of the bonds of series "B" shall exceed twenty years, and a sufficient number of said bonds shall be made to mature annually to enable the city annually to pay at least one-twentieth part of the amount for which bonds shall be issued as said series "B." All of said bonds of each series shall contain a recital that they are issued pursuant to and in conformity with the provisions of this act, which recital shall be conclusive evidence of their validity and of the regularity of their issue. Section five of the general municipal law shall not apply to the issuance of said bonds. The city treasurer shall, within a suitable time before the thirty-first day of March, nineteen hundred and three, properly advertise for proposals for the purchase of the bonds so authorized to be sold and shall sell them to the party or parties offering to pay the highest price therefor not less than par. The city treasurer shall keep a record of such bonds, the date, amount, rate of interest, when and where payable, and the purchaser thereof, and upon the sale of such bonds shall forthwith transmit to the board of water commissioners and the common council a statement showing the amount realized thereon, the expense of such sale, and the name of the purchaser or purchasers. The city treasurer shall, upon receiving the proceeds of such bonds, pay to

Interest,  
rate, and  
when  
payable.

Maturity  
of bonds.

Advertise-  
ment for  
Proposals.

Record of  
bonds to  
be kept.

Disposition  
of pro-  
ceeds.

Vouchers,  
where filed.

Funds,  
transfer of.

Sinking  
fund  
created.

the Jamestown water supply company the aforesaid sum of six hundred thousand dollars on the thirty-first day of March, nineteen hundred and three, or as soon thereafter as may be, upon the execution and delivery by said Jamestown water supply company of proper deeds and instruments of conveyance to said city as provided in the aforesaid contract. The city treasurer shall credit the residue of the proceeds of said bonds to the fund known as the water fund and said treasurer shall, immediately upon receipt of the same, deposit such proceeds in such bank or banks, trust company or trust companies as shall be designated by the board of water commissioners, only to be paid out on warrants numbered consecutively as issued and signed by the president of the board of water commissioners and city clerk and countersigned by the city treasurer. No order or warrant for the payment of moneys from the water fund shall be issued except upon the resolution of the board of water commissioners, duly entered upon its minutes, a certified copy whereof shall be filed in the office of the city treasurer. The voucher or other paper document for which said order was issued shall be filed with the president of the board of water commissioners and shall bear the number corresponding with the number of warrant issued thereon. The board may, however, at any time, by resolution or order issued in the manner aforesaid, transfer any fund from any bank or trust company to any other bank or trust company, the funds so transferred and all interest accruing thereon shall be held and paid out by such bank or banks, trust company or trust companies only in the manner above provided. Any sum in excess of said six hundred thousand dollars that may be owing the Jamestown water supply company, pursuant to the terms of the aforesaid contract with said city, shall be paid so far as possible from said fund.

§ 4. The city shall create a sinking fund on the issuing of such of said bonds as mature in twenty years or less from their date of issue, for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of such bonds at their maturity, and said sinking fund shall be created and maintained as follows: namely: Out of the surplus earnings of the operation, of the water works system, after the payment of the cost of operation, management, maintenance, improvements and extensions of the water works system and the payment of the interest upon the outstanding water bonds issued by said city pursuant to this act, the board of water commissioners shall, upon the issuing of any such bonds authorized hereby, create a sinking fund for the payment of such bonds, principal and interest, at the

maturity thereof, by setting apart annually an amount sufficient to produce at the maturity of said bonds a sum equal to the principal and interest then to become due. If, and whenever the revenues as aforesaid from the water works shall be insufficient to enable the board of water commissioners to provide for the sinking fund requirement, and for the interest upon any of said water bonds, said board shall report the fact and the amount of the deficiency to the common council. It shall thereupon become the duty of the common council to provide for such deficiency and pay the same in the same manner as it may provide for the payment of the principal and interest on other bonded indebtedness of said city. Said city, in addition to the power which it now possesses to raise money for all other purposes by taxation, shall have power to raise by a general tax annually, and it shall be the duty of the common council to levy and raise annually, upon the real and personal property assessed for taxation in said city, and as a part of the general tax levy, such sum as may be necessary to provide for the payment of such bonds and interest as aforesaid. Said city may, if necessary, make a temporary loan or loans therefor, in anticipation of the tax levy. If the common council shall have raised and paid any sum as such deficiency arising from the insufficiency of the revenues of the water works as above provided, it shall be the duty of the board of water commissioners as soon as practicable, by exercising the powers conferred upon it by law, to increase the revenues of said water plant sufficiently to prevent a further deficiency; and also to raise the amount of the deficiency that shall have been paid by said common council, and said board of water commissioners shall pay the amount of such deficiency when raised into the general fund of said city. The sinking fund herein provided for and the money belonging thereto shall be kept by the city treasurer and deposited in such bank or banks, trust company or trust companies, or such savings bank or savings banks as shall be designated by the board of water commissioners, and at such rate of interest thereon as may be agreed upon between said bank or trust company respectively and the city treasurer, subject also to the approval of the board of water commissioners. No such deposit in any such bank or trust company, however, shall at any time be authorized in excess of fifty per centum of the capital stock of such bank or trust company. Each and every bank or trust company receiving such deposits, shall execute and give to the city a bond, with sufficient sureties, conditioned to save the city harmless in any event from any loss by reason of such deposits, such bond to be approved by the common council. All

Common council to provide for deficiency.

Tax levy.

Sinking fund, by whom kept and where deposited.

such deposits shall be made in accounts separate from other city funds and such account shall be designated as Jamestown water bonds sinking fund. No moneys shall be withdrawn from any such fund except upon the warrant of the city treasurer authorized by the resolution of the common council for the payment, redemption or purchase of the bonds, or some part thereof, for the payment of which said sinking fund was created, or for the transfer of such fund or some part thereof to another depository designated or approved therefor by the board of water commissioners. Any bond paid, redeemed or purchased, shall at once be cancelled and returned with the report thereof to the common council. The funds remaining in said sinking fund at any time, or any part thereof may, however, be invested by the city treasurer, upon resolution of the common council, approved by the mayor, in good, interest bearing obligations of the United States, or of any municipality of the state of New York, and the commissioners may at any time, having the funds for that purpose, purchase, at not more than par, any of the water bonds issued under this act and cancel and pay the same. The surplus earnings of the operation of the water works system, on hand at any time, after the payment of the cost of operation, management, maintenance, improvements, and extensions, and after the payment of the interest upon the outstanding water bonds issued by said city pursuant to this act, and the sinking fund requirements have been fully complied with and provided for, may be applied by the common council by and with the consent of the board of water commissioners, toward the payment of any bonded or other indebtedness of the city of Jamestown, now or hereafter contracted.

§ 5. A board of water commissioners is hereby created for the city of Jamestown. It shall be the duty of the mayor of said city, within thirty days after this act shall take effect, to appoint, subject to the confirmation of the common council, four members of the board of water commissioners who shall, with the mayor, constitute the board of water commissioners of said city. The mayor of said city shall be, ex officio, the president of said board and shall be entitled to vote on all questions. The term of one of said commissioners to be so appointed, shall be one year; the term of another of said commissioners shall be two years; the term of another of said commissioners shall be three years; and the term of the remaining commissioner shall be four years. The mayor shall designate in the appointment the term for which they are respectively appointed. The commissioners to be so appointed and their successors in office shall be resident taxpayers of said city. The term of office of the

Moneys,  
how with-  
drawn.

Bonds,  
cancellat-  
ion of.

Surplus,  
applicat-  
ion of.

Board of  
water com-  
missioners  
created.

Members  
of board,  
how  
appointed.

Terms of  
office.

successors of said commissioners appointed as above provided, except to fill vacancies, shall be four years, and they shall be appointed by the mayor, subject to the confirmation of the common council. In case of vacancy for any cause, the mayor, subject to the confirmation of the common council, shall appoint a commissioner for the unexpired term, which commissioner shall hold office until the appointment and qualification of his successor, except that the office of any commissioner shall become vacant by his death, resignation, removal from said city, removal from office, or refusal or neglect for three months to perform the duties of his office without being excused by the vote of the board. Resignation and removal from such board may be made as other city officers. No other city office except that of mayor shall be held by any such commissioner while he remains in office, and if any commissioner is elected mayor before the expiration of his term as such commissioner, his term as such commissioner shall thereupon be deemed to expire and he shall be a member of the board as such mayor, ex officio, and shall appoint a commissioner for his unexpired term. The majority of all the commissioners in office, including the mayor, shall constitute a quorum for the transaction of business. Each of the commissioners to be appointed under this act shall, before performing any of the duties of their office, take and file with the city clerk the constitutional oath of office, and shall give a bond in the usual form and penal sum to be approved by the common council, conditioned that they will faithfully and honestly discharge the duties of their office, and account for and pay over all moneys which shall come into their hands as such officers. No member of the board of water commissioners, or any of its employees or any officer of the city of Jamestown shall be, directly or indirectly, interested in any contract relating to labor done or material furnished to the board or city in the management of said water works system, and any violation of this provision shall be a misdemeanor.

§ 6. Within fifteen days after their appointment and confirmation, said commissioners shall meet at the mayor's office in the city hall and organize. The city clerk shall, at all times, without additional compensation, act as secretary to said board and it shall be his duty to keep a record of its proceedings in a book kept for that purpose, and do all such clerical work as said board shall from time to time prescribe. No member of the board shall receive any compensation for his services; but this shall not be deemed to deprive the mayor of his salary as mayor. The said board may make and from time to time alter or amend by-laws, rules and regulations, not in con-

Vacancies.

Commissioners to hold no other city office.

Quorum.

Oath of office.

Official bond.

Meeting of commission.

City clerk shall act as secretary.

By-laws, rules and regulations.

flict with law for the transaction of its business and prescribing times and places for regular meetings and the method of holding and calling special meetings and prescribing the character of business that may be transacted thereat.

§ 7. The system of water works, when acquired as hereinbefore provided, shall be under the control and supervision of the board of water commissioners. Neither the common council of said city, nor the board of water commissioners shall have power or authority to sell or lease said water supply system to any person or persons, corporation or corporations except when authorized by a vote of the resident taxpayers of the city at a special election. The board shall keep it in repair, and may from time to time improve the same and may extend the mains and distributing pipes within said city and within the village of Falconer, or village of Celoron, or elsewhere in the town of Ellicott. The surplus earnings of the water works system, after the cost of operation, management, maintenance, and ordinary improvements have been paid and the payment of accrued interest upon outstanding water bonds issued by said city pursuant to this act, and after the requirements of the sinking fund have been fully met, may, in the discretion of the board of water commissioners be applied towards improving and extending said water plant. If such surplus earnings of the water plant are insufficient to make such improvements and extensions, then said board of water commissioners shall not expend during any year for such improvements and extensions more than five thousand dollars. If the sum to be expended exceeds the surplus earnings by more than the sum of five thousand dollars such expenditure can only be made when authorized by a vote of the resident taxpayers of the city at a special election. Upon the recommendation in writing of the board of water commissioners approved by the common council, and when authorized by a vote of the resident taxpayers of the city at a special election, bonds of the city may be issued from time to time for extending said water supply system. After a system of water works has been acquired or established, the board of public works shall have no powers or duties in relation thereto, or in relation to additions thereto or extensions thereof; but the board of water commissioners shall have the control of the construction of all improvements and additions thereto or extensions thereof. Said board shall have the power to make all contracts necessary or incidental to the execution of the powers conferred by this act. Any work or construction exceeding in cost two thousand dollars shall, before any contract is let or work done, be advertised by said board for bids, with the power to reject

Water works, supervision of.

Surplus earnings, application of.

Board of water commissioners, power of.

Advertisement for bids.

any and all bids received. A copy of each bid received and any contract entered into by the board shall be filed with the city clerk and be deemed public records. Said board of water commissioners shall have power to appoint and employ a superintendent of water works, who shall perform such duties and receive such salary as the board may by resolution prescribe; and also to appoint and employ all servants necessary for the performance of the work done under the direction of the board including laborers and to fix the compensation of such servants and laborers so employed. The superintendent and all employees handling moneys belonging to the city shall give a bond in the form usual for city officers, in the penal sum prescribed by the common council. The employees of the water plant shall be residents of the city of Jamestown, or of the town of Ellicott, Chautauqua county, New York. All persons who shall be in the employ of the Jamestown water supply company on the thirty-first day of March, nineteen hundred and three, may be retained in their respective positions, or promoted, by the board of water commissioners, without civil service examinations. The superintendent shall be deemed the head of a department.

Superintendent, appointment of, duties and salary.

Official bond.

Employees, retention of

§ 8. Said board of water commissioners shall have full control of said system of water works and everything pertaining thereto and shall exercise the powers and fulfill the duties connected with the management and regulation thereof and of the use of the water and may enforce the observance thereof by cutting off the supply of water or by the imposition of penalties. They shall establish a scale of rents to be called water rents to be paid, at such times as the board may prescribe, by the consumers of water and may, from time to time either modify, increase or diminish such rents; and said commissioners and their employees shall be authorized at all times to enter into any building or buildings where water is used from supply pipes to examine as to the water, quantity of water used and manner of using it. Said water rents shall be paid at the times and places and to the officers or persons designated by the board of water commissioners. All water rents shall be liens upon the real property upon which the water is used. The water rents when collected shall be kept in a separate fund to be known as the water rent fund and shall be paid out by the city treasurer to the respective parties entitled thereto upon the warrant of the said board of water commissioners. Said water rents may be based on actual consumption as determined by meter or apportioned to the different class of buildings and consumers in said city or town of Ellicott, or elsewhere,

Board of water commissioners, further powers of.

Water rents.

with reference to their ordinary use for dwellings, stores, shops, factories, stables or other places, number of families or occupants, sprinkling of lawns, fire protection, or consumption of water, as near as practicable. The said board of water commissioners shall also assess annually the rate or sum which shall be paid annually by the city of Jamestown for fire protection, for water used by it for street and sewer purposes, water troughs and in city buildings. Such rate shall not exceed annually twelve thousand dollars. The common council shall annually levy and raise the amount of money so estimated by said board of water commissioners and the amount so to be raised shall be levied and collected at the same time and in the same manner as other general taxes of said city are levied and raised, and in addition thereto, and shall be paid by the city treasurer into the water rent fund.

Rate for  
fire pur-  
poses.

Tax levy.

§ 9. If the mains are or shall be laid into or through a town or village the board of water commissioners may contract with the town board on behalf of the town or with the trustees of the village to furnish water for the extinguishment of fires and for sanitary and other public purposes, and with any person or persons for domestic consumption.

Books to be  
kept.

§ 10. Said board of water commissioners shall keep books showing in detail the costs of the maintenance of said water works system and of extending the same, and all its collections, rents, expenditures, and proceedings, and shall furnish whenever required by the common council such information in writing as to the business and affairs of the board or said water works as may be required by the mayor and common council. All the books, records, vouchers, contracts and all other papers kept by said board of water commissioners, or in their possession or under their control shall be deemed to be public records.

§ 11. Said board shall, at least ten days before the annual election in each year, make and file with the common council a statement of the following facts:

First.—The amount of money on hand at the beginning of the preceding fiscal year and the receipts thereof realized during said year.

Second.—An itemized statement of the amount paid out during the said year and the balance on hand.

Third.—The outstanding indebtedness of the department, either bonded or otherwise, separately stated.

Fourth.—The estimated deficiency, if any, in the amount, necessary to be paid, principal or interest, or the expense of the department during the next fiscal year after applying thereto the probable

amount of rents or other income to be received, and any amount from the sinking fund.

Fifth.—The amount of extensions made during the last preceding year and the general condition of the system.

Sixth.—Such other facts as the board deems important for the information of the city, together with such recommendations concerning the department as may be deemed proper.

§ 12. Any unlawful act whereby the said water works, or any property, apparatus or belongings, pertaining thereto shall be injured or the supply of water obstructed, impaired or made less pure, shall be deemed a misdemeanor, and the person or persons convicted thereof shall be punished accordingly. Penalty for unlawful acts.

§ 13. This act shall take effect immediately.

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## Chap. 18.

AN ACT giving authority to the commissioners of the land office to grant and convey to the United States of America certain lands under water in the harbor of New York, at Governor's island, and to cede to the United States jurisdiction over the same.

Became a law, March 6, 1903, with the approval of the Governor. Passed by a two-thirds vote.

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

Section 1. Whenever the United States, by any agent authorized under the hand and seal of an executive department of the government of the United States, shall petition to the commissioners of the land office asking that a grant of land under water be made in accordance with the provisions of this act, setting forth the objects for which the grant is desired, and upon filing in the office of the secretary of state of the state of New York a map on tracing cloth showing the lands herein described, the commissioners of the land office may grant, and they are hereby authorized in their discretion to grant and convey to the United States of America, for a nominal consideration, the lands under water in the harbor of New York, described as follows: Beginning at a point on the exterior line or boundary of land under water in New York harbor, at Governors island, granted to the United States of America by a patent dated March seventh, nineteen hundred and one, issued by the commissioners of the land office of the state of New York, approved Feb-

Commissioners of the land office authorized to grant and convey lands to the United States.

Description of lands.