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**Chap. 371.** AN ACT ESTABLISHING THE CENTRAL PLYMOUTH COUNTY WATER DISTRICT AND AUTHORIZING THE CITY OF BROCKTON TO EXTEND ITS SOURCE OF WATER SUPPLY.

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is in part to establish immediately the Central Plymouth County Water District and to authorize immediately the city of Brockton to extend its source of water supply, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

SECTION 1. There is hereby established the Central Plymouth County Water District, hereinafter called the district, consisting of the city of Brockton and the towns of East Bridgewater, Halifax, Hanson, Kingston, Pembroke, Plympton and Whitman.

SECTION 2. There shall be in the district an advisory board consisting of a member of the board of selectmen or other person designated by the board of selectmen of each of the towns in the district, the mayor of the city of Brockton or his designee, and a member of the city council of said city to be appointed by the mayor. The advisory board shall serve without compensation and shall meet on the first Monday of the months of May and November or oftener as required. It shall elect annually a chairman and secretary from its membership and shall keep records of its deliberations and actions and its recommendations to the commission.

SECTION 3. The district shall be under the direction of a commission consisting of three commissioners, hereinafter called the commission, who shall be appointed by the advisory board. One of said commissioners shall be a resident of the city of Brockton. The initial appointment of said commissioners shall be as follows: one commissioner to be appointed for a term of one year, one for a term of two years, and one for a term of three years. Thereafter all appointments shall be for a term of three years except that an appointment to fill a vacancy shall be for the balance of the unexpired term. Said commissioners shall serve without compensation until such time as the city of Brockton cedes ownership in its water supply facilities to the district. A commissioner may be removed from office for cause and after a hearing by a vote of three-fourths of the membership of the advisory board. Any vacancy in the office of commissioner shall be filled by the advisory board within three months.

The commission shall meet no later than one month after all appointments have been made and said commission at its first meeting and annually thereafter, on or before the first Monday in May, shall elect one of its members to serve as chairman of the commission.

The commission shall, in co-operation with and with the advice of the state department of public health, the department of agriculture and the water resources commission, investigate available surface and sub-surface sources of water supply for the district and the allocation of said supplies within the district, and shall study the water supply needs and resources of Plymouth county and the adjacent portions of Norfolk county, with priority given to the study of Cleveland Pond in Abington, and to ground water in the city of Brockton and the towns of Hanson, Halifax, East Bridgewater and Whitman.

The commission shall also investigate all pertinent matters relating to the quantity of water required, the quantity of water to be obtained from available sources, its quality, the best method of protecting the purity of the water, the construction, operation and maintenance of the works for storing, conveying or purifying the water and the cost of the same, the damages to property and all other matters pertaining to the subject.

The commission may expend for engineering and other assistance and other expenses such sums as may be appropriated therefor.

The commission shall report fully with plans and estimates to the general court on or before the fourth Wednesday in January, nineteen hundred and sixty-six and shall append to its report drafts of legislation to carry its recommendations into effect.

SECTION 4. The city of Brockton, hereinafter called the city, for the purpose of increasing its water supply is hereby authorized to divert surplus flow as defined in section nine from Furnace Pond, situated in the town of Pembroke, and Monponsett Pond situated in the towns of Halifax and Hanson, into Silver Lake and thence to the city and the towns also supplied; provided that no diversion shall be made and no necessary lands shall be acquired under this act without first obtaining the advice and approval of the department of public health and that the location of all intake structures and treatment works hereunder shall be subject to the approval of said department. Before any property is taken or any construction is begun the city shall submit to the commission at least two copies of all construction plans, specifications, estimates, plans and descriptions of property to be taken, and of proposed easements, and the commission within sixty days after receipt of any such information, shall notify the city in writing of any recommendations it may have concerning the proposed work. The city shall study all such recommendations and whenever feasible the city shall adopt such recommendations. The city shall proceed forthwith with the design and construction of a suitable water filtration plant at Silver Lake having a capacity of not less than twenty million gallons per day, to purify all water supplied. Any rights granted under this section to the city or to the district to divert surplus flow from said Furnace Pond or said Monponsett Pond shall be revoked and cease to be of any effect if said water filtration plant is not constructed and actually in use on or before October first, nineteen hundred and sixty-eight. The commission may prohibit any diversions when the water level of Silver Lake is above elevation forty-six and one-half. United States Coast and Geodetic Sur-

vey base. All authority granted to the city by this act shall be vested in its board of water commissioners, hereinafter called the board.

SECTION 5. The city for the purpose aforesaid, may take by eminent domain, acquire or hold by purchase or otherwise all land, rights-of-way and easements necessary for diverting and purifying such water from the aforesaid ponds and conveying same to Silver Lake. No land shall be taken at Furnace Pond except for necessary spillway and diversion structures near the outlet of Furnace Pond, and no land shall be taken at Monponsett Pond except for necessary spillway and diversion structures. The city shall obtain the advice of the commission with regard to the taking of land.

SECTION 6. The city may erect on lands taken or held under the provisions of this act, diversion works and other structures and may make excavations, procure and operate machinery and provide such other means and appliances and do such other things as may be necessary for the effective use of the aforesaid auxiliary supplies, and for that purpose may lay down and maintain aqueducts, conduits, pipes and other works, in, under, on or over any lands, water courses, or public or private ways, and along any such ways in said towns of Pembroke, Hanson, Halifax, and Plympton, in such manner as not unnecessarily to obstruct the same; and for the purpose of constructing, laying, maintaining, operating and repairing such conduits, pipes and other works, and for all proper purposes of this act, the city may dig up in such manner as to cause the least hindrance to public travel, and shall restore and keep in repair such ways where they have been dug up, to the satisfaction of the proper authority in the respective town in which such ways are situated. The city shall not enter upon the location of any railroad corporation or construct or lay any aqueducts, pipes, conduits or other works within such location except at such time and in such manner as it may agree upon with such railroad corporation, or, in case of failure so to agree, as may be approved by the department of public utilities.

SECTION 7. If any public way shall hereafter be laid out in whole or in part over said aqueducts, pipes or conduits such laying out shall not prejudice the right of the city to care for, alter or repair the aqueducts, pipes or conduits therein or thereunder. All such public ways shall as far as possible conform to the grade of such aqueducts, pipes or conduits, and their surfaces shall be no less than four feet above the top of such aqueducts, pipes or conduits, unless a different construction is agreed upon between the city and the town in which such ways are situated.

SECTION 8. If any person shall without the consent of the board and of the commission use any water taken after entry into the diversion system or obtained under this act, or shall wantonly or maliciously divert the water or any part thereof or corrupt the same or destroy or injure any intake structure, pipe, conduit or other property held, owned or used by the city under the authority of and for the purpose of this act, he shall forfeit and pay to the city three times the amount of damages assessed therefor, to be recovered in an action of tort; and on conviction of any of the wanton or malicious acts aforesaid may be punished by a fine not exceeding three hundred dollars or by imprisonment in a jail or house of correction for a term not exceeding one year.

Notwithstanding the provisions of sections one hundred and sixty

the General Laws, nothing in this act shall be construed as preventing the normal use of the aforesaid Furnace Pond and Monponsett Pond for bathing, boating, fishing and other purposes, nor shall the provisions of this act prevent the withdrawal of sufficient water for flooding or irrigation of cranberry bogs, nor shall the provisions of this act prevent the return flow of such flood waters from cranberry bogs to the aforesaid ponds. There shall be no diversion of water from Furnace Pond or from Monponsett Pond into Silver Lake, if, in the opinion of the department of public health, the diversion of such waters would endanger the public health.

SECTION 9. The city shall construct facilities at or near the present outlets of the aforesaid Furnace and Monponsett ponds in such a manner as to allow a minimum daily flow of three hundred thousand gallons from Furnace Pond, a minimum daily flow of nine hundred thousand gallons from Monponsett Pond to pass downstream at all times when water is being diverted except in case of emergency when less water may be discharged downstream if ordered by the department of public health and approved by said commission and this flow shall be measured and recorded and such records maintained by said city. Notwithstanding the aforesaid minimum flow, sufficient water shall be allowed to pass downstream, at all times when water is being diverted to allow herring to travel upstream and downstream. During the months of October to May, inclusive, all flows in excess of the aforementioned minimum flows may be diverted into Silver Lake but no diversion shall be made from Furnace Pond when the water level of Furnace Pond is below elevation fifty-six, United States Coast and Geodetic Survey base. During the months of June through September, inclusive, no flow may be diverted, from said ponds except when, in the opinion of said commission, an emergency exists due to imminent flooding. At such times of emergency, for the purpose of preventing flooding and damage to property in the vicinity of said pond, the commission may, subject to the approval of the department of public health, authorize the diversion of excess waters at stated times during said months but, in no case, may the ponds be drawn down below the minimum elevations established in this section. Control works shall be constructed by the city to prevent diversion from Furnace Pond when the water level in Furnace Pond is below elevation fifty-six, United States Coast and Geodetic Survey base. Control works shall be constructed to prevent diversions from Monponsett Pond when the water level in Monponsett Pond is below elevation fifty-two and one-half United States Coast and Geodetic Survey base. Notwithstanding the provisions of section forty of chapter forty of the General Laws, water shall not be drawn from Furnace Pond below elevation fifty-six nor from Monponsett Pond below elevation fifty-two and one-half, United States Coast and Geodetic Survey base. It shall be the sole responsibility of the city to assume all costs of water filtration or purification required by the department of public health because of the public use of Furnace, Oldham and Monponsett ponds, as provided in section eight in order that they may be permanently usable by the public for the purposes described therein.

SECTION 10. The board shall, upon application by the selectmen of any town herein named and with the approval of the commission, supply such town with a public water supply. In case a town not herein named

the department of public health and from the commission an opinion in writing to the effect that one or more of the aforesaid Furnace and Monponsett ponds, is a natural and proper source of supply for the town and upon presentation of such an opinion the said board shall furnish water to said town by delivering the same in a main water pipe, reservoir or tank to the town, under the head or pressure required and maintained by the city, unless it be delivered in some other manner by agreement between the parties interested. The board shall have the direction and control of all connections made between the city and town system, but the cost of such connections shall be paid by the town for which they are made.

SECTION 11. The price to be paid by any town for water delivered to it, or by any person, corporation or water company taking said water under authority of the selectmen of such town, if not determined by mutual agreement, shall be determined by three commissioners to be appointed by the supreme judicial court, upon application of either party and notice to the other; and the award of said commissioners when accepted by the court shall be binding upon both parties for a period to be designated by the court.

SECTION 12. Nothing in this act shall interfere with the right granted to the town of Pembroke by chapter two hundred and eighty of the acts of nineteen hundred and thirty, nor prevent the town of Plympton, Hanson or Halifax from taking an independent supply of water from said ponds, provided, that satisfactory arrangements cannot be made with said city therefor; and provided, further, that whenever said water is taken by any town as an independent source of supply it shall be taken under the advice and with the approval of the commission and the department of public health, and subject to the restrictions which said department may impose; and provided, further, that each town taking an independent supply of water shall pay its proportionate part of the damages which the city may be called upon to pay for any improvements to said auxiliary supplies required due to the taking of an independent supply by said towns.

SECTION 13. Nothing in this act shall interfere with rights granted to the towns of Abington, Rockland and Whitman by chapter two hundred and six of the acts of eighteen hundred and eighty-five, relating to the taking of a water supply from Great Sandy Bottom Pond, or by chapter six hundred and eighteen of the acts of nineteen hundred and forty-five authorizing the aforesaid towns to take water by means of wells or filter galleries on their property near Furnace Pond.

*Approved May 11, 1964.*