

quarter sessions, upon the petition of twenty qualified voters of the ward or township, as the case may be, in which the vacancy occurs, may appoint a qualified voter of the township to fill such vacancy. If such petition is not presented to the court within thirty days after such vacancy occurs, the board of township commissioners of the township may appoint a qualified voter of the township to fill the vacancy. In either event, the person so appointed shall hold office until the *first Monday of January succeeding the next municipal election occurring at least sixty days after the happening of such vacancy*, at which election a township commissioner shall be elected for the unexpired term of the person whose place he is elected to fill.

Term of office
when appointed.

Section 2. That section five hundred thirty-two of said act is hereby amended to read as follows:

Section 532
amended.

Section 532. Township Treasurer and Controller.—The board of township commissioners of townships may fill any vacancy occurring in the office of township treasurer or township controller by death, resignation, removal from the township, or otherwise. The person so appointed shall hold office until the *first Monday of January succeeding the next municipal election occurring at least sixty days after the happening of such vacancy*, at which election a treasurer or controller shall be elected for the unexpired term of the person whose place he is elected to fill.

Vacancy in the
offices of town-
ship treasurer
and controller.

Term of office
when appointed.

APPROVED—The 14th day of April, A. D. 1937.

GEORGE H. EARLE

No. 81

AN ACT

To provide for the leasing of land within the beds of streams, lakes, and other bodies of water, wholly or partly within, or forming part of, the boundary of this Commonwealth; conferring powers and imposing duties upon the Water and Power Resources Board; requiring lessees to establish an amortization fund for improvements placed or erected upon such land; granting certain preference and exemption rights to municipalities of the Commonwealth; and prescribing penalties.

Section 1. Be it enacted, &c., That the following words, when used in this act, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

Water re-
sources.
Definitions.

“Association” means a partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.

“Board” means the Water and Power Resources Board of this Commonwealth.

“Municipality” means a city, borough, town, township or county of this Commonwealth.

“Person” means a natural person, association, corporation or municipality. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term “person,” as applied to associations, shall mean the partners or members thereof, and, as applied to corporations, the officers thereof.

The singular shall include the plural, and the masculine shall include the feminine and neuter.

Must secure a lease in order to use the bed of any stream, lake, etc.

Section 2. On and after the effective date of this act, it shall be unlawful for any one to encroach upon or use any land, or to continue to occupy any land previously encroached upon, which is part of the bed of any stream, lake, or other body of water, wholly or partly within, or forming part of, the boundary of the Commonwealth, title to which is in the Commonwealth, without first obtaining from the board a lease for the use and occupancy of such land.

Must file an application for a lease.

Section 3. Any person desiring to use and occupy any such land shall file an application for a lease with the board. The application shall be made under oath or affirmation on a form prescribed, prepared, and furnished by the board, and shall set forth the name of the applicant, his business address, an accurate description of the land desired to be leased, the physical condition of the land, the purpose for which the land is to be used and occupied, and such additional information as the board may require, either by general rules and regulations, or by specific request. If the board is satisfied that the granting of the lease will not be against the public interest, it may grant a lease to the applicant upon the terms and conditions contained in this act. In granting leases under this act, the board shall give preference to applications therefor by municipalities.

Contents of the application.

Board to grant lease if not against public interest.

Term of lease.

Section 4. Leases granted by the board under this act shall be granted for a period not exceeding fifty years, except that municipalities may be granted leases for the term of their use and occupancy of the land. Each lease shall require the payment by every lessee, other than a municipality, of a rental, payable in advance, and reasonably commensurate with the value of the land for leasing purposes, which shall be fixed by the board. In the event the applicant desires to develop or place or erect improvements upon any land leased under this act, the board shall fix a time within which the development or placement or erection of improvements necessary for the use and occupancy of the land, shall be completed to an effective point; and, in every such case, the lease shall contain a provision that it shall become void unless the lessee effects such development or improvements within the time fixed by the board.

Board to fix time in which improvements must be completed.

Every lease may contain such other conditions as the board may deem necessary for the protection of the public interest. Any lease granted under this act may be revoked by the board for nonpayment of rentals, and for noncompliance with any of the terms of the lease, or any of the provisions of this act.

Board may insert conditions in the lease.

Section 5. After the twentieth year of any lease, if it shall so long continue in force, every lessee, except a municipality, shall set aside an amortization fund, based upon the actual legitimate cost of permanent improvements placed or erected upon the land by the lessee, at a rate to be approved by the board. For such purposes, the board is hereby authorized and directed to determine for each lease the actual legitimate original cost of all permanent improvements placed or erected on lands leased under the provisions of this act, and of all additions to and betterments thereof.

After 20th year of the lease, every lessee, except a municipality, shall set aside an amortization fund.

Section 6. Upon the expiration of the term of a lease, whether fifty years or less, the board may grant a lease for the same land to the same lessee, or any other applicant. In every such case, the board shall give preference to applications by municipalities. If the lease of such land is not granted to the same lessee, the new lessee shall pay to the former lessee an amount equal to the actual legitimate investment in the development of, or the improvements placed or erected on, such leased land, less an amount for depreciation, and less the amount of the amortization reserve, as of the date of the termination of the lease. Whether the lease shall be granted anew to the former lessee or to some other applicant, the annual rental fixed by the board shall be based on the same kind of value as for the original lease, plus the amount of such amortization reserve, and the setting aside of the amortization reserve shall be continued until it, together with proper depreciation reserves, shall absorb the entire cost of the development of, or the improvements placed or erected on, the leased land.

After expiration of the lease, board may renew lease or lease property to another person.

Improvements.

Rental.

Section 7. No voluntary transfer of any lease, or of the rights granted thereunder, shall be made by any lessee without the written approval of the board, and any successor or assignee of the rights of any lessee shall be subject to all the conditions of the lease.

No assignment of lease without the consent of board.

Section 8. The board is hereby empowered to hold hearings, subpoena witnesses, perform any and all acts, make and enforce such rules and regulations, and issue such orders not inconsistent with this act, as it may deem necessary and proper for carrying out the purposes of this act. The board is also empowered to require all lessees under this act to make such reports, keep such accounts, and give such information at any time, as the board may deem proper for carrying out the provisions and purposes of this act.

Board is empowered to hold hearings, etc.

Act not to abrogate title or right of State in any stream bed.

Not to abrogate power of department of wharves, docks and ferries of cities of the first class.

Rentals to be paid into State Treasury.

Penal provision.

When effective.

Section 9. Nothing in this act shall be construed to abrogate in any way whatsoever any title, right or interest the Commonwealth may have in any part of the bed of any stream, lake or other body of water, wholly or partly within or forming part of the boundary of this Commonwealth, which was encroached upon by any person prior to the effective date of this act, and which is now used and occupied by such person. Nothing in this act contained shall be construed to vest in the said board any power or authority heretofore vested by law in the department of wharves, docks and ferries of cities of the first class, or in the Board of Commissioners of Navigation for the river Delaware and its navigable tributaries, except in so far as they relate to the leasing and occupancy of State-owned land, as provided in this act.

Section 10. All rentals and other moneys collected or received by the board under the provisions of this act shall be paid into the State Treasury, through the Department of Revenue, and credited to the General Fund.

Section 11. Any person who shall hereafter encroach upon or occupy or continue to occupy any land previously encroached upon which forms part of the bed of any stream, lake or other body of water, wholly or partly within or forming part of the boundary of this Commonwealth, and which is owned by the Commonwealth, without obtaining a lease for the use and occupancy of such land as required by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than five hundred dollars (\$500) or not more than one thousand dollars (\$1,000), or to undergo imprisonment for a term of one year, or both, in the discretion of the court.

Section 12. This act shall become effective immediately upon its final enactment.

APPROVED—The 14th day of April, A. D. 1937.

GEORGE H. EARLE

No. 82

AN ACT

To amend sections one, two, and four, section five as amended, and section seven of the act, approved the twenty-seventh day of April, one thousand nine hundred and twenty-seven (Pamphlet Laws, four hundred thirty-seven), entitled "An act for the protection of the public health by regulating the conduct and operation of public eating and drinking places within this Commonwealth; imposing certain duties on the Department of Health of this Commonwealth and on the local health au-