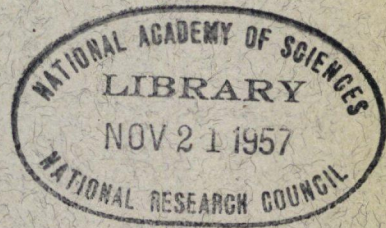


HIGHWAY RESEARCH BOARD

BULLETIN No. 7

AN ANALYSIS OF
STATE ENABLING LEGISLATION
OF SPECIAL AND LOCAL CHARACTER
DEALING WITH
AUTOMOBILE PARKING FACILITIES



1947

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**AN ANALYSIS OF STATE ENABLING LEGISLATION
OF SPECIAL AND LOCAL CHARACTER
DEALING WITH AUTOMOBILE PARKING FACILITIES**

Reported by

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Highway Access and Adjacent Areas, Highway Research Board**

**HIGHWAY RESEARCH BOARD
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Washington 25 D C July 1947

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FOREWORD

This analysis of state enabling legislation of a special and local character dealing with automobile parking facilities has been reviewed by the Committee on Land Acquisition and Control of Highway Access and Adjacent Areas, Department of Economics, Finance, and Administration, the Committee on Parking, Department of Traffic and Operations, both of the Highway Research Board, and others interested in the problem of automobile parking facilities. The comments submitted by these committees and individuals have been helpful in the preparation of this monograph.

It is the second of a series of studies of legislation dealing with the provision of automobile parking facilities. The first investigation concerned state general enabling authority of state-wide or area-wide application.¹ This second presentation includes state enabling legislation of a special and local character, applicable only to specific places or special projects. Both monographs should be reviewed together, in order that the interested reader may view the field of state parking legislation in integrated fashion.²

¹See AN ANALYSIS OF GENERAL STATE ENABLING LEGISLATION DEALING WITH AUTOMOBILE PARKING FACILITIES, Highway Research Board, Bulletin No. 2, Revised 1947.

²It should be noted that these studies include only State legislation that is specifically applicable to automobile parking facilities. Additionally, there may be some state legislation which is generally applicable to public improvements, and by administrative or judicial interpretation may relate to parking facilities. No attempt has been made to include this type of state legislation in either investigation.

**AN ANALYSIS OF STATE ENABLING LEGISLATION
OF SPECIAL AND LOCAL CHARACTER DEALING
WITH AUTOMOBILE PARKING FACILITIES**

Reported by

DAVID R LEVIN,³ *Public Roads Administration*

SUMMARY AND CONCLUSIONS

Investigation of state enabling legislation of a special and local character dealing with automobile parking facilities reveals that there are at least 32 such acts in 14 states and the District of Columbia. Unless the present trend is reversed, this body of legislation will attain formidable proportions in the very near future as the need for parking facilities becomes even more urgent

While some of the statutes examined are perhaps adequate to provide the off-street parking facilities needed in the places designated, most of the legislation is inadequate when measured in the light of present needs. Ordinarily, this type of statute is not designed to cope with parking difficulties as a whole, but rather to supply special facilities in connection with specific projects.

Though such special and local laws fulfill legitimate needs, widespread adoption should be discouraged, for a variety of reasons. Pre-occupation with special and local statutes renders it difficult for state legislators to give adequate attention to matters of state-wide concern. Localism is thereby accentuated in state law-making bodies. Log-rolling practices are fostered, and unsatisfactory legislation is oftentimes encouraged. Additionally, local politics is injected into the state political arena, which makes orderly and efficient government extremely difficult. Available evidence indicates that every aspect of the system of special and local legislation conspires to thwart local democracy.

Today, nearly all cities and counties, towns and villages have parking problems. Accordingly, it seems unwise to enact a law which restricts the authority to establish parking facilities to a single city or county in a given state, or to a special project therein. In the interest of efficiency, completeness, and clarity, authority to establish parking facilities should be granted broadly to designated

³Grateful acknowledgment is made of valuable assistance by Conya L. Hardy, Associate Highway Economist, Public Roads Administration

administrative agencies of the state, cities, counties, towns and villages, and other local units in a single state enabling act.

Whenever it becomes necessary to make legislative provision for off-street parking facilities in connection with special projects and for special purposes, it is desirable to lodge authority in the local administrative agency authorized under general state laws to deal with parking facilities. Any specialized matters could be included in brief subsections to such general laws.

UNDESIRABILITY OF STATE LEGISLATION OF SPECIAL AND LOCAL CHARACTER

The motor vehicle has now become a common means of transportation--efficient, preferred, and attractive in cost. It serves the farm and the home, factory and business establishment, and the recreational facility. Accordingly, today nearly all cities, counties, towns, and villages in the United States have parking problems. Moreover, the condition is not peculiar to any particular city or place. Wherever motor vehicles are concentrated, parking difficulties are encountered. Because of this, it is reasonable to suppose that a law that is helpful in one community in solving its parking problems would be likewise helpful in any other community afflicted with similar parking perplexities.

The general undesirability of special and local legislation is reflected in state organic acts. More than a century ago, state constitutional provisions first prohibited designated types of special and local legislation. Today, forty-two state constitutions contain prohibitions against local legislation where general laws will serve the same purpose.

These constitutional controls, however, have been ineffective in their application, largely because

of judicial interpretation. If a legislative classification is "reasonable", the courts will ordinarily sustain it, even though only a particular city or county is empowered to exercise the authority granted. Yet some beneficial results have been derived from constitutional restrictions against special and local legislation.

It follows that it is ordinarily unwise to enact a law which restricts the authority to establish parking facilities to a specific city or county in a given state, or to a special project therein. Legislation should grant authority broadly to designated administrative agencies of the state, cities, counties, towns, villages and other local units in a single state enabling act.⁴

Inquiry into the State legislative process of formulating and enacting special and local legislation indicates that this statutory species is undesirable in most instances. Let us see why this is so.

It cannot be gainsaid that special and local acts in large part fulfill legitimate needs. However, the burden of formulating, investigating, and enacting special and local legislation is formidable, very often making undue demands upon the time and energy of state legislators. Yet to place the complete burden for making decisions

⁴For a comprehensive discussion of desirable features of such legislation and suggested model laws, see AN ANALYSIS OF GENERAL STATE ENABLING LEGISLATION DEALING WITH AUTOMOBILE PARKING FACILITIES, Bulletin No. 2, Revised, Highway Research Board, 1947.

of a local character upon state legislatures, as is done so often today, is to prejudice both the state as a whole and the localities as well. The magnitude of local legislation in some States is well illustrated by experience in Maryland, where the 1939 legislature passed no fewer than 509 acts relating to individual counties, towns, or cities. These constituted approximately two-thirds of the total number of laws enacted.

One such local act of the Maryland State legislature reduced from \$5.00 to \$2.00 the annual license fee of unpaid female dogs in Frederick County.⁵

Since legislative sessions are limited in duration, by constitutional provision or otherwise, the adequate consideration of general legislation of state-wide importance is more than a full-time task. Preoccupation with special and local statutes makes it difficult for legislators to give matters of general interest the attention they justly deserve.

Moreover, an extensive amount of special legislation accentuates "localism" in state law-making bodies, detracting from a State-consciousness that should exist. Log-rolling practices are fostered, for it is customary for a legislator to approve, without much scrutiny, bills presented by a fellow member applicable to the latter's constituency; a like courtesy is anticipated in return. Careless legislation may be encouraged, for only superficial examination can be made of a huge bulk of proposed special and local bills.

Additionally, the use of special and local legislation has the undesirable result of injecting local affairs into State politics and vice versa. As a consequence,

orderly State and local government is jeopardized.

Perhaps most significant of all, the practice in effect deprives the local citizenry of control over their own local affairs. Under such a system of law making, the State legislature frequently imposes a form of administration of local public affairs without consultation with the local residents. Moreover, the unnecessary delay inherent in the process is a formidable impediment to effective local government.

In short, every aspect of the system of special and local legislation conspires to thwart local democracy. Available evidence reveals that this outmoded legislative process should be abandoned to the largest possible extent. Its use with respect to the provision of automobile parking facilities by municipalities is accordingly to be discouraged.

EXTENT OF SPECIAL PARKING LEGISLATION

As of December 31, 1945, there were 32 special laws dealing with automobile parking facilities in 14 states and the District of Columbia, as indicated in Table 1.

TABLE 1

NUMBER OF STATE ENABLING STATUTES OF SPECIAL AND LOCAL CHARACTER DEALING WITH PARKING FACILITIES BY STATES

State	Number of Parking Statutes
California	2
Connecticut	3
Delaware	1
District of Columbia	1
Florida	4

⁵See STATE-LOCAL RELATIONS, Report of the Committee on State-Local Relations, The Council of State Governments, 1946.

State	Number of Parking Statutes
Idaho	1
Maine	2
Maryland	3
Massachusetts	5
New Hampshire	1
New York	4
North Carolina	1
Rhode Island	2
Texas	1
Virginia	<u>1</u>
TOTAL	32

The Commonwealth of Massachusetts enacted five separate enabling statutes for particular purposes, over approximately a 12-year period beginning in 1933. Similarly, Florida provided four such laws of special application within the last six years. New York enacted four statutes in the period 1938-1940. Maryland and Connecticut each enacted three, and the remaining jurisdictions, two or one each (See Table 2).

As is also characteristic of general enactments, the great majority of state special enabling statutes were enacted in the five-year period beginning in 1941, the last prewar year. Legislative activity tapered off during the greater part of the war period, spurting upwards again in 1945, when restrictions on normal travel by motor vehicle were removed (See Fig. 1).

Suggested Policy. It is evident, therefore, that a formidable body of state legislation of a special and local character already exists in the United States. Moreover, unless the present trend is reversed, more and more laws of this type will be enacted in the coming years, when the need for parking facilities will become even more urgent.

Because the use of special and

TABLE 2

DATE OF ORIGINAL ENACTMENT OF STATE ENABLING LEGISLATION OF SPECIAL AND LOCAL CHARACTER DEALING WITH PARKING FACILITIES

Year	Locality and State
1929	Dover, Delaware
1931	San Francisco, California
1933	Salisbury Beach, Massachusetts Town of Clinton, Massachusetts
1935	Portland, Maine
1937	Town of Scituate, Massachusetts
1938	New York City, New York
1939	Jones Beach Island, New York Long Island, New York City of Newport, Rhode Island Town of Narragansett, Rhode Island
1940	District of Columbia Westchester County, New York New York City, New York
1941	Town of Greenwich, Connecticut Norwalk, Connecticut Miami Beach, Florida Palm Beach County, Florida Lewiston, Idaho Havre de Grace, Maryland Haverhill, Massachusetts Concord, New Hampshire Rutherford County and Town of Rutherfordton, North Carolina
1942	Richmond, Virginia
1943	Marshall's Monument Grounds, California Alachua County, Florida
1945	New Britain, Connecticut Bradenton, Florida Passamaquoddy District, Maine Baltimore, Maryland Silver Spring, Maryland Revere, Massachusetts Austin, Texas

local legislation should be discouraged for a variety of reasons already indicated, it is suggested that general state enabling statutes be utilized to the largest possible extent in authorizing local governments to deal with the parking problem.

DECLARATION OF POLICY

Statutory declarations of policy are found infrequently in state special enabling laws dealing with

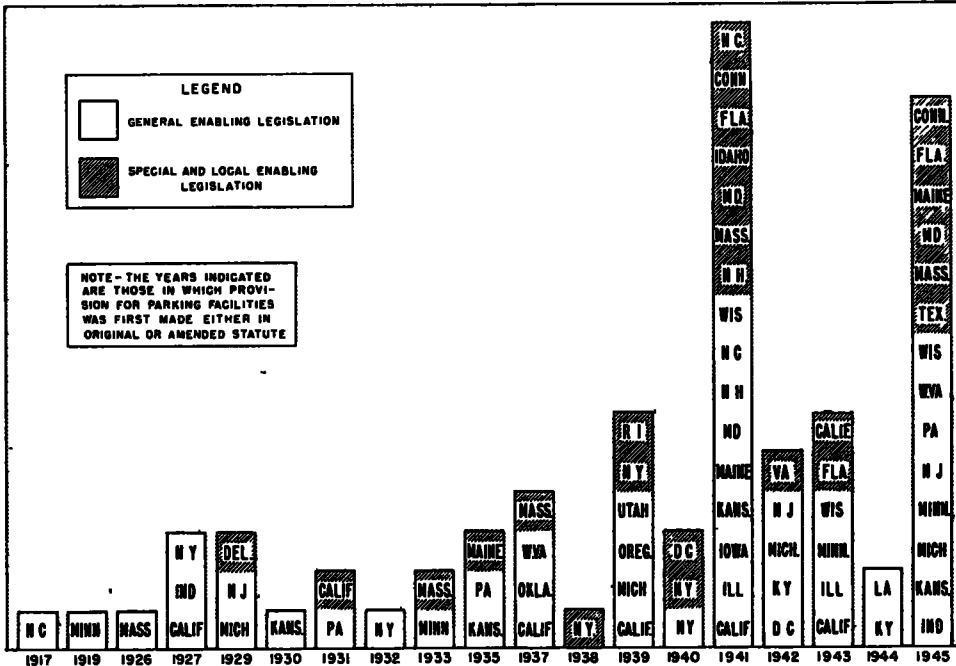


Figure 1. -- Year of Enactment of State Enabling Legislation of General, Special, and Local Character Dealing with Automobile Parking Facilities.

parking facilities. Of 32 statutes in 15 jurisdictions, only 11 acts in 6 states contain such provisions.

Florida and New York only have specifically declared that the provision of parking facilities in connection with special undertakings are deemed to be for public or municipal purposes. In Florida, the legislation concerns Palm Beach County (1941) and the city of Bradenton (1945). In New York, Jones Beach Island and Long Island (1939), New York City (1938 and (1940), and Westchester County are involved.

Legislation applicable only to the first and second taxing districts of the city of Norwalk, Connecticut, merely states that the act is necessary to relieve highway congestion. A much more elaborate declaration of policy is to be found in the Lexington Market Authority Act of 1945 (Baltimore, Md.), to the effect that the public health and safety of citizens are

endangered by the dilapidated condition of Lexington Market; that, in the public interest, it is desirable to eliminate that condition; and that traffic congestion be alleviated and a more productive use of the area be made by the construction of a modern, accessible market with parking facilities.

In connection with Silver Spring Business District Act of 1945, it is asserted that the legislation is necessary for the welfare of the inhabitants of Montgomery County (Maryland) and for the immediate preservation of the public health and safety.

With a somewhat different justification, the Jones Beach State Parkway Authority Act (1939, New York) states that the law will improve the health, welfare and prosperity of the state, and promote traffic. Similar objectives are found in the 1940 Westchester County Playland Commission Act (New York), declared to be for the improvement of the health, education,

pleasure, and recreation of the people.

A 1941 North Carolina statute concerning the provision of a public parking area near the courthouse in Rutherford County and the town of Rutherfordton, states that parking space on the streets in the vicinity of the courthouse is inadequate; and that it is necessary to provide additional space for public officials and employees and the general public.

Finally, a law (1945) establishing a parking garage for the capitol grounds in Austin, Texas, indicates that in addition to other purposes, it will provide employment for returning servicemen and servicewomen.

Desirable Elements. Probably no section of state legislation dealing with parking facilities suggests the need for general rather than special and local laws more

than the sections containing the declaration of policy. For no longer is the parking problem a matter of isolated concern to a single area. Everywhere, parking facilities are urgently needed to relieve street and highway congestion, to promote safety, and to prevent the further deterioration of property values particularly near the central areas of cities.

DESIGNATION OF PARKING FACILITIES

Special laws contain a variety of terms descriptive of parking facilities. There are 25 different terms or phrases in 32 separate acts, as Table 3 reveals.

The most frequently used terms are "parking space", "parking facilities," and "parking areas." The terms used do not suggest either a functional or administrative classification.

TABLE 3

DESIGNATION OF PARKING FACILITIES BY STATE ENABLING LEGISLATION OF SPECIAL AND LOCAL CHARACTER

Terms Used in Statute	Locality and State
Parking space	Palm Beach County, Florida Revere, Massachusetts Westchester County, New York Rutherford County and Town of Rutherfordton, North Carolina Newport, Rhode Island
Parking facilities	Alachua County, Florida Baltimore, Maryland Town of Narragansett, Rhode Island Richmond, Virginia
Parking areas	Portland, Maine Passamquoddy District, Maine Baltimore, Maryland Clinton, Massachusetts Concord, New Hampshire
Parking places	New York City, New York
Parking in buildings or on grounds	District of Columbia
Parking field	New York City, New York
Off-street parking facilities	New Britain, Connecticut
Off-street parking system	Silver Spring, Maryland
Off-street parking lots	New Britain, Connecticut Silver Spring, Maryland

Terms Used in Statute	Locality and State
Public parking ground	Rutherford County and Town of Rutherfordton, North Carolina
Public parking area	Rutherford County and Town of Rutherfordton, North Carolina
Public parking lots	Lewiston, Idaho
Public automobile parking station	San Francisco, California
Public garages	Portland, Maine Passamaquoddy District, Maine
Automobile parking places	Jones Beach Island and Long Island, New York
Automobile parking lots	Miami Beach, Florida Bradenton, Florida
Automobile parking garage	New York City, New York
Land for parking of vehicles	Greenwich, Connecticut
Land for parking purposes	Dover, Delaware Haverhill, Massachusetts
Land for vehicle parking purposes	Town of Scituate, Massachusetts
Garages	Alachua County, Florida Baltimore, Maryland Austin, Texas
Areas for automobile parking	Salisbury Beach, Massachusetts
Places for parking automobiles	Norwalk, Connecticut Havre de Grace, Maryland
Spaces for parking automobiles	Norwalk, Connecticut
Provision for parking automobiles	Marshall's Monument Grounds, California

ADMINISTRATIVE AUTHORITY AND JURISDICTION

Public authority with respect to the administration of parking facilities is distributed among a wide variety of state and local agencies determined to some extent by the specific function to which the parking facility is an adjunct. As is characteristic of general state enabling statutes, the administrative authority delegated is largely concerned with urban areas.

State. Restricted authority with respect to the establishment of parking facilities in specific places is granted to state administrative agencies in five states, namely California, Massachusetts, New Hampshire, Texas, and Virginia, as indicated in Table 4. The areas to be served by these respective parking projects are of more than local interest. One of the parking projects is to be provided in connection with a monument, one as an

adjunct to a beach, two avowedly in connection with state capitols, and the last located in the vicinity of the statehouse.

Special Districts. Special *ad hoc* bodies, functioning at the metropolitan level, are granted administrative authority with respect to parking facilities in addition to other public enterprises, in Maine, Massachusetts and New York. As Table 5 reveals, only a special district in each of these states is involved.

City. Under 15 separate state statutes, 15 different cities in 11 jurisdictions are granted authority of varying magnitude with respect to the provision of parking facilities (See Table 6).

The city council and other corporate officials are designated as the administrative body in six cities. In three others, the city park commission, taxing district commissioners, or a county board

sitting as a district council for a business district, is empowered to act. In each of two municipalities, an agency was specially created for the purpose--a city parking commission in one, and a parking agency in the other. Special

authorities, equipped with broader powers, are designated in four other urban areas, exemplified by the Lexington Market Authority in Baltimore, Maryland, and the Triborough Bridge and Tunnel Authority in New York, New York.

TABLE 4

**STATE ADMINISTRATIVE AGENCY VESTED WITH AUTHORITY BY STATE
ENABLING LEGISLATION OF SPECIAL AND LOCAL CHARACTER
DEALING WITH PARKING FACILITIES**

Locality and State	Administrative Agency
Marshall's Monument Grounds, California	State Department of Natural Resources, Division of Beaches and Parks
Salisbury Beach, Massachusetts	Commissioner of Conservation of Commonwealth
Concord, New Hampshire	The appropriate institution or department, under direction of governor and council
Austin, Texas	State Board of Control, with assistance of legislative and business council
Richmond, Virginia	State Director of Division of Grounds and Buildings, with approval of governor.

TABLE 5

**SPECIAL DISTRICT ADMINISTRATIVE AGENCY VESTED WITH AUTHORITY
BY STATE ENABLING LEGISLATION OF SPECIAL AND LOCAL CHARACTER
DEALING WITH PARKING FACILITIES**

Locality and State	Administrative Agency
Passamaquoddy District, Maine	Passamaquoddy District Authority
Revere, Massachusetts	Metropolitan District Commission
Jones Beach Island and Long Island, New York	Jones Beach State Parkway Authority

TABLE 6

**CITY ADMINISTRATIVE AGENCY VESTED WITH AUTHORITY BY STATE
ENABLING LEGISLATION OF SPECIAL AND LOCAL CHARACTER
DEALING WITH PARKING FACILITIES**

Locality and State	Administrative Agency
San Francisco, California	City Park Commission
Norwalk, Connecticut	Commissioners of First and Second Taxing Districts
New Britain, Connecticut	City Parking Commission
Dover, Delaware	City Council

Locality and State	Administrative Agency
District of Columbia	Commissioners of District of Columbia or Parking Agency
Miami Beach, Florida	City Council
Bradenton, Florida	City Council and other corporate authorities
Lewiston, Idaho	City corporate authorities
Portland, Maine	Portland Public Development Commission
Havre de Grace, Maryland	Mayor and City Council
Baltimore, Maryland	Lexington Market Authority
Silver Spring, Maryland	Board of County Commissioners of Montgomery County sitting as a District Council for Silver Spring Business District
Haverhill, Massachusetts	City of Haverhill and Public Property Department
New York City, New York	New York City Parkway Authority Triborough Bridge and Tunnel Authority
Newport, Rhode Island	Easton's Beach Commission

County. Designated counties in only three states are permitted to establish parking facilities. In all but one of the four counties involved, as indicated in Table 7, the board of county commissioners is designated as the administrative agency.

Town, Village or Other Local Unit. Five towns in four states are authorized by special laws to cope with the parking problem. Town authorities are granted the power in three instances, the department of public works in another, and a beach commission in the remaining town (See Table 8).

Administration of Special Projects. Notwithstanding the general undesirability of state enabling legislation of a special and local character, municipalities are often confronted with the necessity of making provision for off-street parking facilities in connection with special projects and for special purposes. Even in such instances, it is possible to lodge administrative authority in the parking agency created under general state laws, spelling out any specialized matters in brief sub-

sections thereof. Moreover, any further pertinent detail may be delineated in local ordinances contemplated under general state enabling authority.

PLANNING AND PRELIMINARIES

There is little of significance to be found in provisions relating to planning and preliminaries in special state enabling legislation. Most of the language of these sections in 13 laws in 7 states relates to necessary steps precedent to financing. See appendix.

A provision worthy of note is found in a 1941 enactment applicable to Palm Beach County. It is provided that the Board of County Commissioners, by resolution, shall describe land to be acquired, purpose of acquisition, nature of proposed improvements and details concerning methods of financing--whether by bond issue, promissory notes, or executory contract. This resolution is to be published and an election duly held, which shall not be valid unless participated in by more than 50 percent of qualified electors who are freeholders.

TABLE 7

**COUNTY ADMINISTRATIVE AGENCY VESTED WITH AUTHORITY BY STATE
ENABLING LEGISLATION OF SPECIAL AND LOCAL CHARACTER DEALING
WITH PACKING FACILITIES**

Locality and State	Administrative Agency
Palm Beach County, Florida	Board of County Commissioners
Alachua County, Florida	Board of County Commissioners or subsequent bodies, boards and commissions charged with governing the county
Westchester County, New York	Westchester County Playland Commission
Rutherford County, North Carolina	Board of County Commissioners

TABLE 8

**TOWN, VILLAGE, OR LOCAL ADMINISTRATIVE AGENCY VESTED WITH
AUTHORITY BY STATE ENABLING LEGISLATION OF SPECIAL AND
LOCAL CHARACTER DEALING WITH PARKING FACILITIES**

Locality and State	Administrative Agency
Town of Greenwich, Connecticut	Town authorities
Town of Clinton, Massachusetts	Department of Public Works
Town of Scituate, Massachusetts	Selectmen of Town
Town of Narragansett, Rhode Island	Beach Commission

A somewhat different procedure is prescribed for Havre de Grace, Maryland, by a 1941 enactment. Whenever the mayor and city council shall order the purchase or construction of any public or municipal improvement, the mayor, with consent of the council, shall appoint three legal voters and taxpayers, not office-holders, who together with the mayor and city attorney shall constitute a commission to examine and report on proposed improvements and the necessity of acquiring land, buildings, or other property, or the removal thereof.

Under the 1940 Triborough Bridge and Tunnel Authority Act, New York City and the Authority may enter into contracts providing for the lands to be acquired by the city, the division of cost and terms of payment. New York State may cove-

nant with bondholders that no competitive project will be constructed until the bonds are fully discharged.

Applicable to the city of Newport, Rhode Island, a 1939 statute provides that Easton's Beach Commission shall prepare, from time to time, plans and specifications for the construction and repair of all structures and improvements.

Finally, in order to establish a parking garage, among other things, for the capitol grounds in the city of Austin, Texas, the State Board of Control may employ architects to prepare preliminary and working plans and specifications and to supervise construction of buildings.

Indicated Policy. It is axiomatic that advance planning is a necessary preliminary to the effective

provision of parking facilities. Yet effective pre-planning for an integrated system of parking facilities is often rendered very difficult under special laws that sanction only a single project. Every aspect of parking legislation seems to suggest the desirability of laws of general rather than special application.

FINANCING

Provisions of special state legislation relating to the financing of parking facilities are generally restricted in character. Sections dealing with finance are found in all but four of the 32 special statutes on the subject.

State. In order to establish parking facilities at Marshall's Monument Grounds, California, \$5,000 is authorized to be appropriated out of the State Beach Fund, to be expended during the fiscal years 1943-1944 and 1944-1945. Likewise, \$6,000 is appropriated for the acquisition, construction and maintenance of a parking area in Concord, New Hampshire. The law further authorizes the state treasurer to borrow money and issue bonds or notes, which shall be deemed to be a pledge of the faith and credit of the state. Short-term loans may be negotiated and Federal aid may be accepted.

In connection with the establishment of Salisbury Beach Reservation in Massachusetts, including a parking area therein, the sum of \$300,000 is authorized to be spent for the acquisition of property, to be assessed upon designated cities and towns, one-half apportioned on the basis of valuation and one-half on population. Ten-year bonds may be issued to meet expenditures. Special fees and other charges for parking and for other special privileges may be levied.

A 1945 enactment authorizes the construction of a garage for at least 500 cars on ground adjacent to the State capitol at Austin, Texas, to be financed from general revenue fund appropriations. Garage and other facilities provided for business purposes are to be leased to the highest cash bidder.

Finally, a statute sanctioning the establishment of parking facilities for State officers and employees near Capitol Square, Richmond, Virginia, provides that the salary of any necessary attendant shall be paid by state officers and employees using the facilities, under rules prescribed by the State Director of the Division of Grounds and Buildings.

Special legislation applicable only to Concord, New Hampshire, authorizes state aid and the acceptance of Federal aid.

Special Districts. The three laws that sanction solution of the parking problem in special districts contain elaborate provisions relating to financing.

Under a 1945 reenactment, the Passamaquoddy District Authority may borrow money, issue negotiable notes, bonds, or other obligations and secure payment thereof by mortgage of its property, franchises or revenues, or by trust agreements. It may fix and collect rates and other charges for use of its facilities or services for the purpose of providing for expenses of authority, operation and maintenance of facilities, principal and interest on its bonds, notes and other obligations.

The Jones Beach State Parkway Authority, to construct or reconstruct Jones Beach Parkway, and other related facilities, may issue its negotiable bonds, not to exceed \$10,050,000, outstanding at any one time, to mature within 40 years, at interest not to exceed 5 percent. Bonds are general obligation bonds

payable out of moneys of the authority, unless otherwise indicated. Charges may be made for use of facilities. Obligations are tax exempt, except as to transfer and estate taxes.

The Metropolitan District Commission may set suitable fees to be charged for the use of parking facilities in the city of Revere, Massachusetts.

City. Only three of 15 special statutes that empower city administrative agencies to deal with urban parking problems omit provisions relating to financing. In some of these cases, general financial provisions sometimes are broad enough to include the financing of parking facilities authorized in specific statutes.

In only six cities in four states -- Miami Beach and Bradenton, Florida; Portland, Maine; Baltimore and Silver Spring, Maryland; and New York City -- are bonds sanctioned as a method of financing parking facilities. Revenue bonds are permitted in all such urban areas, while general obligation bonds are possible only in Miami Beach and Bradenton, Florida; in New York City, and probably in Silver Spring, Maryland. Table 9 summarizes the most significant provisions relating to bond financing.

Special or benefit assessment to finance parking facilities is authorized in only a single city by special legislation, namely, Lewiston, Idaho. This municipality is empowered to create improvement districts and to assess, levy, and collect special taxes and assessments on the land included within the district and benefited by the improvement.

In only two cities in as many states -- Newport, Rhode Island and Bradenton, Florida -- may general funds be used to finance parking facilities. In addition, the first and second taxing districts in Norwalk may make any necessary appropriations to acquire such real estate as the commissioners of said districts shall consider necessary. Newport's council may appropriate necessary funds to be expended by Easton's Beach Commission. Finally, in Bradenton, Florida, sufficient property taxes may be used to meet principal and interest on bonds not otherwise provided for.

Laws in 7 states and the District of Columbia applicable to provision of parking facilities in 10 cities, permit the recoupment, in whole or in part, of the costs of establishing and maintaining parking facilities through fees or special charges levied against the user or beneficiary of special privileges. See Table 10.

TABLE 9

FINANCING OF PARKING FACILITIES BY CITIES THROUGH BONDS,
PURSUANT TO STATE ENABLING LEGISLATION OF SPECIAL
AND LOCAL CHARACTER

City	Nature of Statutory Authority
Miami Beach, Florida	In case of revenue bonds, city council shall collect fees or other charges sufficient to meet bond payments, provide for operation and maintenance, and establish reserves. In case of general obligation bonds, sum sufficient to pay interest and principal shall be raised annually by a property tax additional to other taxes. Bonds shall be fully negotiable.
Bradenton, Florida	Provisions similar to those applicable to Miami Beach, Florida

City	Nature of Statutory Authority
Portland, Maine	Portland Public Development Commission may borrow money, issue bonds or other obligations, secure payment thereof by mortgage pledge or assignment of its properties, including revenue derived therefrom.
Baltimore, Maryland	Lexington Market Authority is empowered to issue negotiable bonds, to bear interest at not to exceed 6 per cent and to mature within 40 years. Bonds shall not constitute a debt of city, and shall be exempt from State, municipal and local taxation.
Silver Spring, Maryland	Board of County Commissioners of Montgomery County sitting as a District Council for Silver Spring Business District may issue certificates of indebtedness and bonds to the amount of \$800,000, payable primarily from special taxes or if necessary from unlimited ad valorem taxes upon all assessable property within county. Obligations exempt from state, county, and municipal taxes.
New York, New York	New York City Parkway Authority may issue its negotiable bonds, not exceeding \$18,000,000, payable within 40 years, with interest not to exceed 5 percent. Bonds shall be general obligations payable out of any moneys of authority, subject to agreement with bondholders pledging particular revenues. Shall not be obligations of state or city, shall be tax free except for estate and transfer taxes.

TABLE 10

FINANCING OF PARKING FACILITIES IN CITIES THROUGH PARKING FEES AND SPECIAL CHARGES, PURSUANT TO STATE ENABLING LEGISLATION OF SPECIAL AND LOCAL CHARACTER

City	Nature of Statutory Authority
San Francisco, California	Park commission may lease subsurface space under any public park to highest responsible bidder for term not to exceed 50 years. Revenue so derived to be credited to park fund.
New Britain, Connecticut	City Parking Commission may establish fees for parking.
District of Columbia	District Commissioners authorized to prescribe and collect fees.
Miami Beach, Florida	City Council shall collect fees or other charges for services sufficient to meet revenue bond payments, provide for operation and maintenance, and establish reserves.
Bradenton, Florida	Provisions similar to those applicable to Miami Beach, Florida.
Portland, Maine	Portland Public Development Commission may fix fees for use of its property or enter into private contract, and revenues derived shall be devoted exclusively to management, repair, replacement, construction, and general development of its property.
Baltimore, Maryland	Lexington Market Authority shall fix rates or charges for use of facilities including parking accommodations, and shall contract with any person or firm desiring such use. Rates to be sufficient at all times to pay cost of maintaining, repairing, and operating market, for replacements, depreciation, and necessary extensions, to finance bond issues, and to create reserves for all purposes.
Silver Spring, Maryland	The Board of Montgomery County Commissioners, sitting as a District Council for Silver Spring Business District, may fix and collect fees for use of parking lots, such revenue to be applied toward costs of improvement, maintenance and operation of parking lots. In connection with parking facilities in the business district, on-site expenses for operation of the parking system must be paid from a special tax levied for the purpose, from funds derived from parking meters, or from parking fees.

City	Nature of Statutory Authority
New York, New York	New York City Parking Authority may collect charges, subject to agreement with bondholders, sufficient for maintenance and operation and to fulfill agreement with bondholders.
Newport, Rhode Island	Easton's Beach Commission shall charge suitable fees for use of its parking spaces, among other facilities, to the end that the operation of the beach will be self-liquidating and reasonably profitable.

General property taxation for parking facilities is authorized in three cities in two different states. In the case of Miami Beach and Bradenton, Florida, interest and principal payments on general obligation bonds may be raised by property taxes. The Silver Spring Business District Act authorizes the levy of 40 cents per \$100 of assessed valuation of improved real estate used for commerce, industry, or other business and tangible personal property in such commercial buildings or on the land, and 20 cents per \$100 of assessed value of unimproved real estate zoned for business use. Places providing their own parking facilities are exempt from taxation for this purpose.

County. Three of the four special laws authorizing solution of the parking problem at the county level, contain provisions relating to finance. The Palm Beach County Board of Commissioners (Florida) may execute notes or issue county bonds and mortgage property acquired. Obligations issued shall not exceed 3 percent of assessed valuation of property in county, bear interest at not to exceed 4 percent, and mature within 35 years. The board shall make annual property levies sufficient to pay principal and interest. It may levy a property tax not to exceed 4 mills annually to maintain, improve, protect and operate the facilities. Charges for use of the facilities

shall be established.

The Alachua County Commissioners (Florida) are authorized to collect fees and charges for use of facilities and to issue revenue bonds, with interest not to exceed 6 percent, maturing within 60 years.

The Westchester County Playland Commission (New York) may fix parking fees and other charges. Monthly and annual reports are to be rendered to the commissioner of finance.

Town, village or other local unit. Provisions relating to the financing of parking facilities in towns are perhaps more restricted in scope than any others. Town authorities of Greenwich, Connecticut, may provide by ordinance for the payment of all or part of the cost of acquiring land by special benefit assessments. The Department of Public Works may expend for the town of Clinton, Massachusetts, not exceeding \$10,000 from the appropriation for construction and repair of town and county ways. The act of the town of Scituate in the same state in appropriating \$20,000 for parking purposes was ratified by the State.

The town of Narragansett, Rhode Island, may issue its bonds not to exceed \$300,000 payable within 30 years. A sum sufficient to meet bond payments shall be appropriated annually. The Beach Commission shall charge fees for the use of facilities sufficient to make them self-liquidating and reasonably profitable.⁶

⁶Additionally, the towns of Little Compton, Warren, and Middletown, Rhode Island, through a special commission, are authorized by three separate enactments, to charge reasonable fees for the parking of motor vehicles upon any of the public beaches or commons, or upon any land owned by the town in the vicinity thereof. The inhabitants of the said towns, however, may be exempt from the payment of any of the fees assessed, if the respective commissions so rule. See Public Laws of Rhode Island, 1939-1940, ch. 763 (Town of Little Compton); Public Laws of Rhode Island, 1931-1932, ch. 2002 (Town of Warren); and Public Laws of Rhode Island, 1933-1934, ch. 2057 (Town of Middletown).

Suggested Policy. A justification sometimes advanced in support of legislation of a special and local character is that financing provisions need to be spelled out in great detail in order to protect investors and the public at large. There is nothing in the nature of general laws that precludes the protection of the public interest in such matters -- witness the elaborate financial provisions of general state enabling statutes.⁷ Accordingly, general laws are to be preferred over special statutes.

'LAND ACQUISITION

Consistent with the special nature of the laws contained in this analysis, land acquisition provisions are directed almost invariably to specific projects. Of 32 special statutes, 27 contain provisions relating to land acquisition.

State. The Massachusetts State Commissioner of Conservation may take land by eminent domain for Salisbury Beach facilities, or may acquire by purchase, gift, or otherwise. Any land acquired otherwise than by condemnation may be sold or exchanged. Specially described lands are authorized to be acquired for parking facilities in Concord, New Hampshire. The act authorizing a parking garage for the Capitol grounds in Austin, Texas, simply states that the land already is state owned. Finally, vacant property owned by the state of Virginia is to be utilized for parking facilities for state employees in Richmond.

Special Districts. The Passamaquoddy District Authority may purchase lands, hold, control, sell,

mortgage, or lease land, buildings, real or personal property and rights therein. It may accept gifts, but the power of eminent domain is specifically denied.

In the establishment of parking facilities in Revere, Massachusetts, the Metropolitan District Commission is authorized to utilize only such lands as may be transferred to the Commonwealth without cost to it.

The Jones Beach State Parkway Authority is authorized to acquire, hold and dispose of personal property. The Long Island State Park Commission shall grant possession of necessary state lands to the Authority. Likewise, town bonds are authorized to convey to the state any necessary lands under water and to permit the temporary use of town lands.

City. Of 11 special laws enacted for as many cities in eight states, all but two specifically authorize the purchase of property for parking facilities; eight permit the use of the power of eminent domain, five acquisition by gift, and seven by lease. See Table 11.

TABLE 11

METHODS OF ACQUIRING PROPERTY FOR
PARKING FACILITIES IN CITIES,
PURSUANT TO STATE ENABLING
LEGISLATION OF SPECIAL
AND LOCAL CHARACTER

State and City	Purchase	Condemnation	Gift	Lease	Otherwise Acquire	Acquire
California San Francisco				x		
Connecticut Norwalk	x	x	x	x		
Delaware Dover	x					x

⁷See AN ANALYSIS OF GENERAL STATE ENABLING LEGISLATION DEALING WITH PARKING FACILITIES, Revised 1947, Highway Research Board.

State and City	Purchase	Condemnation	Gift	Lease	Otherwise Acquire	Acquire
Florida						
Miami Beach	x	x	x			
Bradenton	x	x	x			
Idaho						
Lewiston	x	x	x		x	
Maine						
Portland	x		x	x		
Maryland						
Havre de Grace	x	x		x		
Baltimore	x	x		x		
Silver Spring	x	x		x		
New York						
New York City	x	x				x

Analysis reveals that in only four states are specially-designated cities granted the power to dispose of properties acquired for parking facilities -- Miami Beach, Florida; Portland, Maine; Baltimore, Maryland; and New York, New York.

A land acquisition provision of special interest is one applicable to San Francisco, California. The park commission may lease to the highest responsible bidder subsurface space under any public park for a term not to exceed 50 years.

County. Land acquisition provisions are to be found in the special laws for each of four counties in three states. The Palm Beach County (Florida) Board of Commissioners may acquire land by gift, purchase or eminent domain. Somewhat more comprehensive is that applicable to Alachua County (Florida) where the county may acquire by gift, grant, purchase, trade, lease, or eminent domain lands, easements, rights in lands and water rights in connection therewith. It is provided in Rutherford County, North Carolina, that the county and the town of Rutherfordton shall jointly purchase a specific lot, that the

town's part shall be conveyed by deed to the county, and that, if the lot acquired should ever be used for any purpose other than a parking ground, it shall immediately revert to the town of Rutherfordton. Finally, the Westchester County Playland Commission of New York is authorized to acquire, lease, hold, and dispose of personal property or any interest therein.

Town, Village, or Other Local Unit. The town of Greenwich, Connecticut, may acquire land either by purchase or condemnation, as may the town of Scituate, Massachusetts. The Beach Commission in the town of Narragansett, Rhode Island, is authorized to purchase or take necessary lands in fee simple.

Desirable Policy. Nothing inherent in the character of special projects requires special treatment of its land acquisition requirements. The power to acquire, hold, and dispose of needed property can be effectively provided for in general enactments, as has been demonstrated in many instances⁸.

CONSTRUCTION

Few details concerning the construction of parking facilities are to be found in the legislation. Most provisions relate to special situations arising out of specific projects.

State. The State Conservation Commissioner of Massachusetts is authorized to lay out lands and erect such structures and other facilities thereon as may be necessary to render the lands on Salisbury Beach reasonably available and accessible for parking purposes. Plans and specifications for parking areas to be constructed in Con-

⁸Ibid.

cord, New Hampshire, by the state, are to be approved by the governor and the council. In construction of a parking garage for the capitol grounds in Austin, Texas, honorably discharged servicemen and servicewomen are to be given priority of employment. The structure is to be so designed as to have access to two streets.

Special District. Three state laws that are administered by special authorities authorize construction of parking facilities among the powers delegated. For example, the Jones Beach State Parkway Authority

may construct automobile parking places by contract or by use of its own employees, subject to agreement with the bondholders of the authority. Under the terms of the legislation, the State of New York pledges not to authorize construction of any facility competitive with those authorized in the act.

City. Most cities that are granted authority concerning parking facilities are authorized to construct such facilities, either by contract or otherwise. Outstanding features of such legislation are summarized in Table 12.

TABLE 12

STATUTORY PROVISIONS RELATING TO CONSTRUCTION OF AUTOMOBILE PARKING FACILITIES IN CITIES, PURSUANT TO STATE ENABLING LEGISLATION OF SPECIAL AND LOCAL CHARACTER

Locality and State	Statutory Provisions
San Francisco, California	Park Commission may lease right to conduct a public automobile parking station along with subsurface space under any public park, on condition that completed facility will not be detrimental to the original park purposes.
New Britain, Connecticut	Parking Commission may contract for all purposes embraced in the grant of authority, subject to confirmation by common council when contract exceeds \$300.
Miami Beach, Florida	City may construct or may award any contract for construction of any municipal project.
Bradenton, Florida	City may construct, extend, repair, equip, develop, and improve municipal projects by means of its own officers, agents and employees, or by contracts with private corporations or individuals.
Lewiston, Idaho	City may improve real or personal property, and establish improvements in conformity with topography.
Portland, Maine	Portland Public Development Corporation may lay out and construct garages and parking areas.
Lexington Market, Baltimore	Lexington Market Authority may establish, construct, repair, remodel, extend, improve, and equip the market, including parking facilities.
Silver Spring, Maryland	Board of Montgomery County Commissioners sitting as a District Council may improve parking lots.
New York, New York	New York City Parkway Authority may construct, by contract, or by its own employees, or otherwise. Contracts in excess of \$10,000 shall be made on sealed bids after public notice. Similar provision applicable to Triborough Bridge and Tunnel Authority.
Newport, Rhode Island	Easton's Beach Commission may provide facilities.

County. The Palm Beach Board of County Commissioners may develop and improve parking spaces and may

provide such buildings, roads and walks as are necessary to accommodate the public in the use of such

facilities. Legislative authority for Alachua county (Florida), merely provides that the county may construct any undertaking of its own use, public use, or for private consumers. The Westchester County Playland Commission (New York) may construct facilities and may contract for work and materials; if more than \$1,000 is involved, the award shall be by competitive bidding. Finally, Rutherford county (North Carolina) is directed by law to grade, gravel or pave and equip a public parking area.

Town, Village or Other Local Unit. In connection with the provision of a parking area near Wachusett Dam in the town of Clinton, Massachusetts, the Department of Public Works is authorized to widen a street, adjust the grade and perform other designated acts. Under another act, the town of Scituate in the same state is given authority to improve land for vehicle parking purposes. A beach commission of the town of Narragansett, Rhode Island, is empowered to construct parking facilities in connection with other improvements.

MAINTENANCE AND OPERATION

Very little of significance relating to the maintenance and operation of parking facilities is to be found in special enabling legislation. Most provisions relate to the power to maintain, without going into any detail on the matter. Penalty provisions are sometimes included.

State. The State Commissioner of Conservation of Massachusetts may maintain parking facilities at Salisbury Beach, and issue rules, with the approval of the governor and council, for the administration and use of the same. Violation of the rules are punishable by a fine

not exceeding \$20. A designated parking area in Concord, New Hampshire, is to be maintained by the appropriate institution or department. In the provision of a parking garage for the capitol grounds in Austin, Texas, the law provides that none of the spaces provided for business purposes shall ever be operated in the name of the state, but shall be leased to the highest bidder upon terms and conditions prescribed by the state board of control. Finally, the state director of grounds and buildings is to allocate space in parking facilities for state employees in Richmond, Virginia, and is to operate the same under such rules as he may prescribe. Penalties for violations are provided.

Special Districts. The Passamaquoddy District Authority is authorized to maintain and operate parking facilities; it may appoint officers, agents, employees, and prescribe their duties and compensation. The Metropolitan District Commission is empowered to maintain parking spaces in the city of Revere, Massachusetts. Subject to agreement with its boardholders, the Jones Beach State Parkway Authority may, by contract or by its own employees, maintain and operate facilities authorized.

City. The City Parking Commission of New Britain, Connecticut, is charged with the management and control of all parking facilities, and subject to the approval of the council, may employ such employees, agents, and workmen as may be required, and fix their compensation. In connection with parking at the Municipal Center, the Commissioners of the District of Columbia are empowered to select the employees who may park in the center and may restrict parking on the grounds to persons having business at the center. Other regulations may be pro-

mulgated. Penalties are prescribed.

Both Bradenton and Miami Beach, Florida, are authorized by law to operate and maintain any municipal project for public or private users. Any act authorized may be performed by municipal officers and employees or by contract with private corporations, firms or individuals.

The Portland Public Development Commission of Maine may maintain and operate or enter into private contract for the operation of its facilities. Necessary officers and agents may be appointed, subject to the approval of the city council. The city of Portland disclaims any legal liability either in tort or in contract for acts of the commission.

The Lexington Market Authority, Baltimore, Maryland, may operate and maintain the market, including the parking facilities in connection therewith. The Public Property Department of the city of Haverhill, Massachusetts, is directed by law to maintain parking facilities in Memorial Park. Proper maintenance is likewise authorized by the New York City Parkway Authority and the Triborough Bridge and Tunnel Authority, of parking facilities within their respective jurisdictions.

County. The Board of Palm Beach County Commissioners, Florida, may maintain and operate parking areas established; any facility may be leased for a period not exceeding 20 years. Regulations and penalties may be prescribed. Alachua county in the same state is empowered to maintain and operate any undertaking for its own use or for the use of any public or private consumers; all necessary agents, employees, attorneys, engineers, and managers may be employed.

Westchester county (New York) is

directed by law to maintain parking facilities for use of the public, and may lease or grant concessions for the right to maintain such facilities, on such terms and conditions as it may prescribe. If more than \$1,000 is involved, the award shall be by competitive bidding. Rutherford county (North Carolina) is authorized merely to maintain a public parking area.

Town, Village, or Other Local Unit. The town of Scituate, Massachusetts, is authorized to maintain land for public parking purposes. Similar provisions apply to the town of Narragansett, Rhode Island.

BASIC TABLES ON STATE LEGISLATION

An analysis of each of the 32 major acts in 15 jurisdictions is summarized by states in the appendix. The data and discussion found in the preceding sections have been derived from this basic material. The interested reader is referred to this compilation for further details.

LEGISLATION OF 1946 DEALING WITH PARKING FACILITIES⁸

The preceding analysis of state special enabling legislation dealing with parking facilities has included laws enacted through December 31, 1945. During the 1946 legislative session, the Massachusetts legislature passed two laws dealing with parking facilities in the city of Boston. The provisions of statutes are summarized herewith.

⁸Legislation of 1946 is presented to the extent that it is available at this time.

AN ACT TO AUTHORIZE PUBLIC OFF-STREET PARKING FACILITIES IN THE CITY OF BOSTON

The Board of Real Estate Commissioners of the city of Boston is authorized to establish such public off-street parking facilities as are deemed necessary to insure the free circulation of traffic in and through the city.

The following powers are granted: (a) Power to acquire by eminent domain or by purchase, gift, devise or otherwise, but not by lease, and to hold property, real or personal, or any interest therein except a leasehold estate, in such locations as the board, with the approval of the planning board and the traffic commission, shall determine. The board is without authority to acquire, except by gift or devise, any garage, privately owned and operated. (b) Power to clear, grade, surface and resurface any property acquired or used for the purposes of this act, and to construct and maintain thereon such structures and facilities for parking as the board shall determine. (c) Power to cut curbs and issue all permits necessary to the conduct of a parking facility on any property acquired or used for the purposes of this act. (d) Power to lease property acquired, for period not to exceed three years. Any lease may contain schedules of maximum rates to be charged by the lessee and regulations for the use and operation of the property. (e) Power to sell at public auction, to the highest bidder, any real or personal property no longer needed for the purposes of the act. The power to operate parking facilities is specifically excluded.

Contracts for construction or work estimated to cost \$1,000 or more must be awarded after proper advertisement in a prescribed manner to the lowest responsible bidder.

As soon as each parking facility is completed for use, it shall be leased for operation to the highest responsible bidder, after proper advertisement. Such facilities shall be tax free.

A special parking facilities fund shall be set up and all financial matters shall be transacted through this fund. The city may incur debt and issue bonds or notes not to exceed five million dollars in the aggregate, but only upon authorization by a two-thirds vote of the city council, approved by the mayor. Debt incurred shall not be included in deter-

mining legal debt limitation of city.

Property acquired under the act is deemed to be for a governmental function. City shall not be liable for any injury, loss or damage suffered by any person or property.

Approved and effective June 7, 1946. Massachusetts Acts and Resolves of 1946, chapter 474.

AN ACT AUTHORIZING CITY OF BOSTON TO LEASE SPACE FOR AN UNDERGROUND GARAGE FOR MOTOR VEHICLE PARKING UNDER BOSTON COMMON, CHARLES STREET AND THE PUBLIC GARDEN

It is declared that free circulation of traffic through city streets of Boston is necessary to the health, safety and general welfare of the public; that increased use of motor vehicles has caused serious traffic congestion in Boston; that curb parking has contributed to that congestion, constituting a public nuisance; that such nuisance cannot be adequately abated except by establishment of a garage under Boston Common; act accordingly is a public necessity.

City of Boston, through its park department with the approval of the mayor, is authorized to contract with a private corporation for the construction and operation, at no cost to the city, of an underground parking garage for motor vehicles, under Boston Common. (Area carefully delimited.) A lease may be granted for not to exceed 40 years.

The construction contract and plans and specifications of the project shall be attached to and made part of the lease. The lessee shall pay a rental equivalent to not less than two percent of its gross receipts. The contract shall require completion within not more than three years from its date. Work of construction shall be so carried out that the gardens, lawns, trees and shrubs in the area will, after construction, remain in, or be restored to, substantially the same condition as prior to construction, with prescribed exceptions.

At the termination of the lease, all facilities and improvements shall become the property of the city of Boston. A two-lane traffic tunnel is also provided for.

Approved and effective May 14, 1946. Massachusetts Acts and Resolves of 1946, chapter 294.

APPENDIX
BASIC LEGISLATIVE DATA
BY STATES