

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

SENATE

NO. 140

In Senate, Jan. 30, 1913.

Came from the House referred to the Committee on Judiciary and on motion by Senator Colby of Somerset laid on the table for printing pending reference in concurrence.

W. E. LAWRY, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTEEN.

AN ACT to incorporate the Madison Water District.

Be it enacted by the People of the State of Maine, as follows:

Section 1. The territory and people thereon comprising
2 Madison Village Corporation in the town of Madison shall
3 constitute a body politic and corporate under the name of the
4 Madison Water District, for the purpose of supplying the
5 inhabitants of said district and of the towns of Madison,
6 Anson and Embden, or parts thereof, and all of said munici-
7 palities with pure water for domestic, sanitary, manufac-
8 turing and municipal purposes. Provided, however, that
9 the territory and people in the town of Anson constituting

10 what was formerly school district number thirteen in said
11 town may and shall become a part of said water district to
12 all intents and purposes, provided a majority of the legal
13 voters residing within the limits of said school district num-
14 ber thirteen shall at a legal meeting, regularly called for the
15 purpose as hereinafter provided, vote so to do.

Sect. 2. Said district is hereby authorized for the pur-
2 poses aforesaid to take, hold, divert, use and distribute suffi-
3 cient water of the Kennebec River, Madison Pond or Hay-
4 den Lake, so-called, Embden Pond, or of any of their tribu-
5 tary lakes or streams.

Sect. 3. The said district for the purposes of its incor-
2 poration is hereby authorized to take and hold as for public
3 uses, by purchase or otherwise, any land or interest therein,
4 or water rights and mill privileges necessary for erecting
5 and maintaining dams for flowage, for power, for reservoirs,
6 for pumping water supply through its mains, for preserving
7 the purity of the water and water shed, for laying and main-
8 taining pipes, aqueducts and other structures for taking, dis-
9 tributing, discharging and disposing of water, and for rights
10 of way or roadways to its source or sources of supply, dams,
11 power-stations, reservoirs, mains, aqueducts, structures and
12 lands.

Sect. 4. If any person sustaining damages, by any taking
2 as aforesaid, shall not agree with said district upon the sum
3 to be paid therefor, either party, upon petition to the county
4 commissioners of the county where said lands or water rights

5 are situated, may have said damages assessed by them; the
6 procedure and all subsequent proceedings and right of ap-
7 peal thereon shall be had under the same restriction, condi-
8 tions and limitations as are or may be by law prescribed in
9 the case of damages by the laying out of highways.

Sect. 5. Said district is hereby authorized to lay in and
2 through the streets, roads, ways and highways thereof and
3 of the towns of Madison, Anson and Embden, and to take
4 up, repair and replace all such pipes, aqueducts and fixtures
5 as may be necessary for the objects herein set forth. And
6 whenever said district shall lay any pipes in any street, road,
7 way or highway, it shall cause the same to be done with as
8 little obstruction as practicable to the public travel, and shall,
9 at its own expense, without unnecessary delay, cause the
10 earth and pavement removed by it to be replaced in proper
11 condition.

Sect. 6. In case of any crossing of a railroad, unless con-
2 sent is given by the company owning or operating such rail-
3 road as to place, manner and conditions of the crossing,
4 within thirty days after such consent is requested by said
5 district, the railroad commissioners shall determine the place,
6 manner and condition of such crossing; and all work within
7 the limits of such railroad location shall be done under the
8 supervision and to the satisfaction of said railroad com-
9 pany, but at the expense of said district.

Sect. 7. All the affairs of said district shall be managed
2 by a board of trustees of three members, to be elected by a

3 plurality vote of the legal voters within said district at an
4 election to be specially called and held within thirty days
5 after the approval of this act by the legal voters of said dis-
6 trict. Such special election shall be called, held and con-
7 ducted in the same manner as meetings of Madison Village
8 Corporation are now called and held. All records of the
9 meetings and other business of the district shall be kept by
10 the clerk of said Madison Village Corporation for the time
11 being. The term of office of the trustees shall begin on the
12 first Monday of July in each year after the approval of this
13 act. As soon as convenient after the members of said board
14 have been chosen said trustees shall hold a meeting at some
15 convenient place within said Madison Village Corporation
16 and organize by the election of a president, adopt a corpo-
17 rate seal, and when necessary may choose a treasurer and all
18 other needful officers and agents for the proper conduct and
19 management of the affairs of said district. At said first
20 meeting they shall determine by lot the term of office of each
21 trustee so that one shall serve for one year, one for two years,
22 and one for three years; and whenever the term of office of
23 a trustee expires his successor shall be elected by a plurality
24 vote by the legal voters of said district for the term of three
25 years; and in case any vacancy shall arise it shall be filled
26 for the remainder of the year by appointment by the remain-
27 ing members of the board of trustees, and at the next reg-
28 ular meeting of the district the vacancy shall be filled for
29 the remainder of the term in the manner hereinbefore set

30 forth. The assessors of Madison Village Corporation for
31 the time being shall be eligible to election to the board of
32 trustees, and the treasurer of Madison Village Corporation
33 shall be eligible to election of treasurer of said trustees or
34 district. The trustees, treasurer and clerk shall receive for
35 their services as such such compensation as the district by
36 vote shall from time to time determine.

Provided, however, that if that part of Anson formerly
38 comprising school district number thirteen in said town shall
39 by a majority of the legal voters of said district, at a meeting
40 specially called and held for the purpose on or before the
41 first Monday of July, one thousand nine hundred and thir-
42 teen, vote to accept the provisions of this act and it shall
43 thereby become a part of said water district and entitled to
44 all its rights and privileges and subject to all the liabilities
45 and obligations thereof, such part of said Anson shall have
46 the right to and shall choose by a plurality vote two trus-
47 tees to act with and become a part of the board of trustees
48 as hereinbefore provided for the management of all of the
49 affairs of said district. The term of office of such trustees
50 shall begin on the first Monday of July, one thousand nine
51 hundred and thirteen, and, together with the three trustees
52 chosen as hereinbefore set forth, form a joint board for the
53 management of the affairs of said district and have a right
54 to take a part in the organization and all of the meetings
55 and business of said board. The two trustees first elected
56 shall serve one for one year and one for two years, and an-

57 nually thereafter at the regular annual meeting of the legal
58 voters of that part of Anson constituting what was former-
59 ly school district number thirteen shall elect one trustee to
60 serve for the term of two years. The two trustees first
61 so elected shall decide by lot their respective terms of of-
62 fice. Any vacancy occurring in the terms of either of said
63 two trustees shall be filled for the remainder of the term at
64 a special meeting of the legal voters of said part of said dis-
65 trict in said Anson legally called and held.

Said trustees may also ordain and establish such by-laws
67 as are necessary for their own convenience and the proper
68 management of the affairs of the district. At the close of
69 each fiscal year the trustees shall make a detailed report of
70 their doings, of the receipts and expenditures of said water
71 district, of its financial and physical conditions, and of such
72 other matters and things pertaining to said district as shall
73 show to the inhabitants of said district a full and true stand-
74 ing of its conditions and how said trustees are fulfilling the
75 duties and obligations of their trust. Said report shall be
76 either written or printed for distribution to the inhabitants
77 of said district. The books and accounts pertaining to the
78 receipts and expenditures of money shall be audited by the
79 auditor of Madison Village Corporation for the time being.

Sect. 8. Said water district is hereby authorized and em-
2 powered to acquire by purchase or by the exercise of the
3 right of eminent domain, which right is expressly delegated
4 to said district for said purpose, the entire plant, property,

5 franchises, rights and privileges of the Madison Water Com-
6 pany and any other company organized or doing business
7 within said district, except cash assets, including all lands,
8 waters, water rights, dams, reservoirs, dams, pipes, ma-
9 chinery, fixtures, hydrants, tools and all apparatus and ap-
10 pliances owned by said Madison Water Company or any
11 other company organized or doing business in said district
12 for said purpose and used or usable in supplying water in
13 said district and towns, and any other real estate owned by
14 said company or companies in said district.

Said water companies or any of them are hereby author-
16 ized to sell and transfer their franchises and all property
17 to said water district.

Sect. 9. In case the said trustees fail to agree with said
2 Madison Water Company and any other company organized
3 or doing business in said district for said purpose upon the
4 terms of purchase of the above mentioned property on or
5 before the first Monday of September, one thousand nine
6 hundred and thirteen, said water district through its trus-
7 tees is hereby authorized and empowered to take such plant,
8 property and franchises for public uses by petition therefor
9 in the manner hereinafter provided. The said water dis-
10 trict through its trustees is hereby authorized, on or before
11 the eighth day of September, one thousand nine hundred
12 and thirteen, to file a petition in the clerk's office of the su-
13 preme judicial court for the county of Somerset, in term
14 time or in vacation, addressed to any justice of said court,

15 who, after notice to said Madison Water Company and its
16 mortgagees, if any, and to any other company or companies
17 organized and doing business for said purpose in said dis-
18 trict, shall, after hearing, and within thirty days after the
19 filing of said petition, appoint three disinterested appraisers,
20 none of whom shall be residents either of the county of
21 Somersèt or Kennebec, one of whom shall be learned in the
22 law and one a hydraulic engineer, for the purpose of fixing
23 the valuation of said plant or plants, property and fran-
24 chises as described in section eight hereof. Said petition
25 shall not be dismissed after filing but may and shall be
26 amended in any manner required to enable the court to make
27 all necessary decrees thereon. At the hearing aforesaid,
28 such justice, upon motion of the petitioner, may order the
29 production and filing in court, for the inspection of the peti-
30 tioner, of all books and papers pertinent to the issue and nec-
31 essary for a full understanding of the matter to be heard by
32 said appraisers, the terms and conditions of so producing
33 and filing such books and papers to be determined by said
34 justice in his order therefor and to be enforced from time
35 to time as any justice of said supreme judicial court in term
36 time or in vacation, upon motion of either party, may deem
37 reasonable and proper in the premises. At such hearing,
38 such justice, upon motion of the petitioner, may fix a time
39 at which the said water company or companies shall file in
40 the clerk's office of the supreme judicial court for the coun-
41 ty of Somersèt, for the inspection of the petitioner, the fol-

42 lowing: First, schedules showing the names, residence and
43 water services of all customers on the first day of July in
44 the year one thousand nine hundred thirteen, with the rate
45 charged therefor; second, copies of all contracts in force
46 on said July first; third, an itemized statement of the gross
47 income earned during its last complete fiscal year and all
48 operating expenses and fixed charged paid or incurred dur-
49 ing such year and property chargeable thereto; fourth, a
50 memorandum of all real estate, or interest therein, owned or
51 controlled on said July first, with such brief description
52 thereof as will reasonably identify the same; fifth, brief de-
53 scriptions, specifications and plans of all reservoirs, mains,
54 pipes, service pipes, hydrants, gates, gate boxes, shut off
55 boxes, fixtures and machinery and all the physical elements
56 in such water system, giving in detail quantities, sizes, lengths
57 and specifying the streets, roads or ways where situated;
58 sixth, an itemized list of all tools, apparatus, appliances and
59 supplies used or usable in supplying water on said July first.
60 Such orders may be enforced from time to time by any jus-
61 tice of said supreme judicial court in term time or in vaca-
62 tion, upon motion of either party, as such justice may deem
63 reasonable and proper in the premises. At such hearing the
64 justice then sitting may, upon motion of the petitioner, make
65 all such decrees as he deems reasonable and proper to en-
66 able the petitioner, through its servants and employees, to
67 ascertain the true condition of mains and pipes of the said
68 Water Company or companies, externally and internally.

69 The said appraisers shall have the power of compelling at-
70 tendance of witnesses and the production of all books, ac-
71 counts and papers pertinent to the issue and necessary for a
72 full understanding by them of the matter in question, and
73 may administer oaths; and any witness or person in charge
74 of such books, accounts and papers refusing to attend or to
75 produce the same shall be subject to the same penalties and
76 proceedings, so far as applicable, as witnesses summoned to
77 attend the supreme judicial court. Depositions may be
78 taken as in civil actions. The appraisers so appointed shall,
79 after due notice and hearing, fix the valuation of said plant
80 or plants, property and franchises at what they are fairly and
81 equitably worth, so that said Water Company or companies
82 shall receive just compensation for all the same. The first
83 day of July, one thousand nine hundred and fourteen, shall
84 be the date as of which the valuation aforesaid shall be fixed,
85 from which date interest on said award shall run, and all
86 rents and profits accruing thereafter shall belong to said
87 water district. The report of said appraisers or a major-
88 ity of them shall be filed in said clerk's office in term time or
89 in vacation within six months after their appointment, but
90 a further time, not exceeding four months, shall be granted
91 for good cause, upon motion of either party, by any jus-
92 tice of the supreme judicial court within which said apprais-
93 ers shall file their report, and such single justice, or in case
94 of his inability to act, then any justice designated for the
95 purpose by the chief justice may, after notice and hearing,

96 confirm or reject the same, or recommit it or submit the
97 subject matter thereof to a new board of appraisers, if jus-
98 tice shall require, and in case of such rejection, recommittal
99 or resubmission such justice may fix the times for new hear-
100 ings and new report thereon. The award of the apprais-
101 ers shall be conclusive as to valuation. Upon the confirma-
102 tion of said report, the court so sitting, shall thereupon,
103 after hearing, make final decree upon the entire matter,
104 including the application of the purchase money, discharge
105 of incumbrances and transfer of property and franchises,
106 jurisdiction over which is hereby conferred with the same
107 power to enforce a decree as in equity cases. Upon re-
108 quest of either party the justice so making such final decree
109 shall make separate findings of law and fact. All such
110 findings of fact shall be final, but either party aggrieved
111 may take exceptions to any rulings of law so made, the same
112 to be accompanied only by such parts of the case as are
113 necessary to a clear understanding of the questions raised
114 thereby. Such exceptions shall be claimed on the docket
115 within ten days after such final decree is signed, entered
116 and filed, and notice thereof shall be given by the clerk to
117 the parties or their counsel, and said exceptions so claimed
118 shall be made up, allowed and filed within said time unless
119 further time is granted by the court or by agreement of the
120 parties. They shall be entered at the next term of the law
121 court held after the filing of such exceptions and there
122 heard unless otherwise agreed, or the law court shall for

123 good cause order a further time for hearing thereon. Up-
124 on such hearing the law court may confirm, reverse or mod-
125 ify the decree of the court below or remand the cause for
126 further proceedings as it seems proper. During the pend-
127 ency of such exceptions the cause shall remain on the dock-
128 et of the court below, marked "law," and decree shall be
129 entered thereon by a single justice, in term time or in vaca-
130 tion, in accordance with the certificate and opinion of the
131 law court. On payment of tender by said district of the
132 amount so fixed and the performance of all other terms and
133 conditions so imposed by said court, said entire plant,
134 property and franchises shall become vested in said water
135 district and be free from all liens, mortgages and incum-
136 brances theretofore created by the said Madison Water
137 Company or any other company or companies organized
138 or doing business in said district for said purpose, and
139 either party shall be entitled to appropriate process to com-
140 pel the other to perform the terms and conditions of said
141 decree. All the costs and expenses arising under said pe-
142 tition and appraisal shall be borne and paid by said water
143 district and water company or companies equally. Any
144 vacancy occurring in said board of appraisers shall be filled
145 in term time or in vacation by any justice of the supreme
146 judicial court on petition therefor, after notice and hearing.

Sect. 10. All valid contracts now existing between the
2 Madison Water Company and any person or corporations

3 for supplying water within said district shall be assumed
4 and carried out by the Madison Water District.

Sect. 11. The property of said district shall be exempt
2 from all taxation in the town or towns where said water
3 district is located.

Sect. 12. For accomplishing the purposes of this act, said
2 water district, through its trustees, is authorized to borrow
3 money temporarily and to issue therefor the interest-bearing
4 negotiable notes of the district, and for the purpose of pay-
5 ing or refunding the indebtedness so created, of paying any
6 necessary expenses and liabilities, incurred under the pro-
7 visions of this act, including the expenses incurred in the
8 creation of the district, in acquiring the property and fran-
9 chises of the said water company or companies, by purchase
10 or otherwise, or in the purchase or acquisition of the prop-
11 erty and franchises of said company or companies, of se-
12 curing sources of supply, taking water and lands, paying
13 damages, laying pipes, constructing, maintaining and oper-
14 ating a water plant, and making renewals, extensions, addi-
15 tions and improvements to the same, the said water district,
16 through its trustees, may from time to time issue bonds of
17 the district to an amount or amounts necessary in the judg-
18 ment of the trustees therefor. Said notes and bonds shall be
19 legal obligations of the water district, which is hereby de-
20 clared to be a quasi municipal corporation within the mean-
21 ing of section ninety-six, chapter forty-seven of the revised
22 statutes, and all the provisions of said section shall be ap-

23 plicable thereto. The said notes and bonds shall be legal in-
24 vestments for savings banks.

Sect. 13. All individuals, firms and corporations, whether
2 private, public or municipal, shall pay to the treasurer of
3 said district the rates established by said board of trustees
4 for the water used by them, and said rates shall be uniform
5 within the territory supplied by the district. Said rates
6 shall be so established as to provide revenue for the follow-
7 ing purposes:

I. To pay the running expenses for operating and main-
9 taining the water system and provide for such extensions
10 and renewals as may become necessary.

II. To provide for the payment of the interest on the in-
12 debtedness created or assumed by the district.

III. To provide each year a sum equal to not less than
14 one nor more than five per cent. of the entire indebtedness of
15 the district, which sum shall be turned into a sinking fund
16 providing for the final extinguishment of said indebtedness.
17 The money set aside for the sinking fund shall be devoted to
18 the retirement of the obligations of the district or invested
19 in such securities as savings banks are allowed to hold.

IV. If any surplus remains at the end of any year, it may
21 be divided between the parts of the district accepting this
22 act and so composing the district in the same proportion as
23 each contributed to the gross earnings of the district, and
24 in order that these proportions may be readily determined,
25 the moneys received for water from the two parts of said

26 district shall be entered in separate accounts so that the to-
27 tal amount thereof may be easily ascertained.

Section 14. All incidental powers, rights and privileges
2 necessary to the accomplishment of the main object herein
3 set forth are hereby granted to the public municipal cor-
4 poration hereby created.

Sect. 15. This act shall take effect when approved by a
2 majority vote of the legal voters of that portion of said water
3 district comprised by the Madison Village Corporation and
4 by a majority vote of the legal voters of that portion of said
5 water district comprised by that part of the town of Anson
6 hereinbefore designated, at special meetings respectively in
7 said part of said Anson and in Madison Village Corpora-
8 tion, to be held on the first Monday of July in the year one
9 thousand nine hundred and thirteen. Said special meet-
10 ings shall be called respectively by the assessors for the time
11 being of Madison Village Corporation and the selectmen for
12 the time being of the town of Anson, and shall be called,
13 warned and conducted according to law regulating munici-
14 pal elections, but the selectmen of the town of Anson shall
15 prepare a list of the legal voters residing within the limits
16 of that part of Anson included within said water district as
17 hereinbefore described. The clerk of the Madison Village
18 Corporation and the selectmen of the town of Anson shall
19 reduce the subject matter of this act to the following ques-
20 tion: "Shall the act to incorporate the Madison Water Dis-
21 trict be accepted " and the voters shall indicate by the writ-

22 ten words "Yes" or "No" their opinion of the same. The
23 result of the balloting in each case shall be respectively de-
24 clared by the assessors of said Madison Village Corporation
25 and the selectmen of the town of Anson and recorded, and
26 certificates thereof shall be filed by the clerk of said Madi-
27 son Village Corporation and the selectmen of the town of
28 Anson with the secretary of State. All other meetings of
29 said water district and parts thereof shall be called, notified
30 and conducted in the manner hereinbefore provided, or said
31 district and the parts thereof may by vote or by-laws pre-
32 scribe the manner of calling their respective future meet-
33 ings. A full and complete record shall be made and pre-
34 served of all meetings of said water district and the parts
35 thereof.

Sect. 16. Should the legal voters of the Anson section of
2 said water district at said special election to be held on the
3 first Monday of July, one thousand nine hundred and thir-
4 teen, refuse to accept or approve the act incorporating said
5 water district, then that portion of said town of Anson here-
6 inbefore described together with the inhabitants thereof shall
7 not become a part of said water district; unless a majority
8 of the legal voters of said Anson section shall at some sub-
9 sequent special meeting, to be called and held in the man-
10 ner hereinbefore provided on or before the first day of Jan-
11 uary in the year one thousand nine hundred fifteen, vote to
12 accept or approve the act incorporating said water district
13 and to become a part of it. Then in such case said Anson

14 section shall become a part of said water district provided
15 mutual arrangements can be made to that effect with said
16 Madison section, and if this is done, said Anson section shall
17 become a part of said water district to all intents and pur-
18 poses as provided by this act and entitled to all its rights
19 and privileges, and subject to all its duties and obligations
20, as if it had at the first special election voted to become a
21 part of said water district; but if the Madison Village Cor-
22 poration section of said water district shall accept or ap-
23 prove said act to incorporate said water district by a ma-
24 jority vote of the legal voters thereof at said special elec-
25 tion to be held on the first Monday of July in the year one
26 thousand nine hundred thirteen, or at some subsequent spe-
27 cial election to be held on or before the first day of Septem-
28 ber in the year one thousand nine hundred thirteen, then the
29 territory within said Madison Village Corporation and the
30 people thereof shall constitute the water district hereby cre-
31 ated and as hereinbefore provided.

Sect. 17. The annual meeting of said water district and
2 the respective sections thereof shall be held on the first Mon-
3 day of July in each year hereafter for the choice of one or
4 more trustees and such other officers as said water district
5 or sections thereof shall by vote or by-laws determine, and
6 for the transaction of any other business that may legally
7 come before such meeting; special meetings of said water
8 district and of the respective sections thereof shall be called
9 at any time upon written application to the assessors of Mad-

10 ison Village Corporation and the selectmen of Anson re-
11 spectively by the trustees or ten or more legal voters of said
12 water district or of the respective sections thereof. The
13 written application for such meetings shall contain in sep-
14 arate articles the business to be acted on and no other busi-
15 ness shall be transacted at said meeting except such as is
16 contained in the articles of the warrant calling such special
17 meetings.

Sect. 18. This act shall take effect when approved by the
2 governor so far as it is necessary to empower the calling and
3 holding of the elections herein authorized.