

MAINE STATE LEGISLATURE

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EIGHTY-SECOND LEGISLATURE

H. P. No. 451

H. D. No. 393

House of Representatives, March 13, 1925.

Reported by Mr. Pillsbury from Committee on Public Utilities and laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Forhan of Canton.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-FIVE

AN ACT to Incorporate the Dixfield Water District.

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

Section 1. The following territory and the people within
2 the same, namely: That part of the town of Dixfield de-
3 scribed and known as the Dixfield Village Corporation and
4 such additions as may be made to it from time to time, to-
5 gether with all other land owned by the Dixfield Light &
6 Water Company, for the purpose of protecting its water
7 shed and preserving the purity of its water supply, shall
8 constitute a public municipal corporation under the name
9 of the Dixfield Water District, for the purpose of supplying
10 the inhabitants of said district and also the several towns
11 of Dixfield and Mexico or any portion of either of said

12 towns, with pure water for domestic, sanitary and munic-
13 pal purposes.

Sect. 2. The said district, for the purpose of its incorpora-
2 tion, is hereby authorized to take, hold, divert, use and dis-
3 tribute water from Aunt Hannah brook, so-called, in the
4 town of Dixfield, and from Podunk pond, so-called, in the
5 town of Carthage.

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 necessary for erecting and maintaining dams,
5 for flowage, for power for pumping its water supply
6 through its mains, for reservoirs, for preserving the purity
7 of its water and watershed, for laying and maintaining aque-
8 ducts and other structures for taking, distributing, discharg-
9 ing and disposing of water and for rights of way or road-
10 ways to its sources of supply, dams, power stations, reser-
11 voirs, mains, aqueducts, structures and lands.

Sect. 4. The said district is hereby authorized to lay
2 pipes in and through the streets, roads, ways and highways
3 of the towns named in sections one and two and to main-
4 tain, repair and replace all such pipes, aqueducts and fix-
5 tures as may be necessary and convenient for its corporate
6 purposes, and whenever said district shall lay any pipes
7 or aqueducts in any street, roadway or highway it shall
8 cause the same to be done with as little obstruction as prac-
9 ticable to the public travel, and shall at its own expense,

10 without unnecessary delay, cause the earth and pavement
11 removed by it to be replaced in proper condition.

Sect. 5. The said district is hereby authorized, for the
2 purposes of its incorporation, to erect and maintain all dams,
3 reservoirs and structures necessary and convenient for its
4 corporate purposes.

Sect. 6. In exercising any right of eminent domain con-
2 ferred upon it by law, from time to time, or any right of
3 eminent domain through or under the franchise of the light
4 and water company or companies by it acquired, the said
5 district shall file in the office of the county commissioners
6 of the county where such lands or water rights are situated
7 and record in the registry of deeds in said county, plans of
8 the location of all lands or interest therein or water rights,
9 to be taken, with an appropriate description and the names
10 of the owner thereof, if known. When for any reason the
11 district fails to acquire the property authorized to be taken,
12 and which is described in such location, or the location re-
13 corded is defective or uncertain, it may, at any time, correct
14 and perfect such location and file a new description thereof,
15 and in such case the district is liable in damages only for
16 the property for which the owner had not previously been
17 paid, to be assessed as of the time of the original taking,
18 and the district shall not be liable for any acts which would
19 have been justified if the original taking had been lawful.
20 No entry shall be made on any private lands, except to make
21 surveys, until the expiration of ten days from such filing,

22 whereon possession may be had of all said lands or interests
23 therein or water rights so taken, but title thereto shall not
24 vest in said district until payment therefor.

Sect. 7. 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
5 rights are situated, may have said damages assessed by
6 them; the procedure and all subsequent proceedings and
7 right of appeal thereon shall be had under the same re-
8 striction, conditions and limitations as are or may be by
9 law prescribed in the case of damages by the laying out of
10 highways.

Sect. 8. All the affairs of said water district shall be
2 managed by a board of trustees composed of three mem-
3 bers, chosen by the municipal officers of Dixfield. As soon
4 as convenient after the members of said board have been
5 chosen, said trustees shall hold a meeting and organize by
6 the election of a president and clerk, adopt a corporate seal
7 and when necessary may choose a treasurer and all other
8 needful officers and agents for the proper conduct and
9 management of the affairs of said district. At said first
10 meeting they shall determine by lot the term of office of
11 each trustee so that one shall serve for one year, one for
12 two years and one for three years, and whenever the term
13 of office of a trustee expires, the body which appointed said
14 trustee shall appoint a successor to serve the full term of

15 three years, and in case any other vacancy arises it shall
16 be filled in like manner for the unexpired term. They may
17 also ordain and establish such by-laws as are necessary
18 for their own convenience and the proper management of
19 the affairs of the district. The term of office of said trust-
20 tees first chosen shall be considered to date from the first
21 Monday of April, in the year of our Lord nineteen hun-
22 dred and twenty-five. Said trustees may procure an office
23 and incur such expenses as may be necessary. Each mem-
24 ber shall receive in full compensation for his services an
25 allowance of fifty dollars per annum. At the close of each
26 fiscal year the trustees shall make a detailed report of their
27 doings, of the receipts and expenditures of said water dis-
28 trict, of its financial and physical condition, and of such
29 other matters and things pertaining to said district as shall
30 show the inhabitants of said district how said trustees are
31 fulfilling the duties and obligations of their trust, such re-
32 ports to be made and filed with the municipal officers of the
33 town of Dixfield.

Sect. 9. 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 hereby expressly
4 delegated to said water district for said purposes, the entire
5 plant, property, franchises, rights and privileges now held
6 by the Dixfield Light & Water Company and intended, used
7 and provided by said company for the purposes of supplying
8 water for domestic or municipal purposes or both, includ-

9 ing all lands, waters, water rights, dams, reservoirs, pipes,
10 machinery, fixtures, hydrants, tools and all apparatus and
11 appliances owned by said company, and used or usable in
12 supplying water in said district, together with all real estate
13 so used or usable. The said Dixfield Light & Water Com-
14 pany is hereby authorized to sell and transfer its franchises
15 and property to said water district.

Sect. 10. In case the said trustees fail to agree with the
2 aforesaid company upon terms of purchase, on or before
3 September fifteenth, nineteen hundred and twenty-five, then
4 said water district, through its trustees, is hereby authorized
5 to take the plant, property and franchises of the aforesaid
6 company as authorized in section nine as for public uses,
7 by petition therefor in the manner provided wherein such
8 company shall be party defendant. And said water district,
9 through its trustees, is hereby authorized before November
10 first, nineteen hundred and twenty-five, to file a petition in
11 the clerk's office of the supreme judicial court for the county
12 of Oxford, in term time or in vacation, addressed to any
13 justice thereof, who, after notice to said defendant com-
14 pany, shall after hearing and within thirty days after the
15 filing of said petition appoint three disinterested appraisers,
16 none of whom shall be residents of the county of Oxford,
17 one at least of whom shall be learned in the law, for the
18 purpose of fixing the valuation of the plant, property and
19 franchises of said defendant company as described in sec-
20 tion nine. Said petition shall not be dismissed after filing

21 but may and shall be amended in any manner required to
22 enable the court to make all necessary decrees thereon. At
23 the hearing aforesaid, such justice, upon motion of the pe-
24 titioner, may order the production and filing in court, for
25 the inspection of the petitioner, of all books and papers per-
26 tinent to the issue to be heard by said appraisers, the terms
27 and conditions of so producing and filing such books and
28 papers to be determined by said justice in his order there-
29 for and to be enforced from time to time as any justice of
30 said supreme judicial court in term time or in vacation,
31 upon motion of either party, may deem reasonable and
32 proper in the premises. At such hearing, such justice, upon
33 motion of the petitioner, may fix a time at which the said
34 defendant company shall file in the clerk's office of the su-
35 preme judicial court of the county of Oxford, for the in-
36 spection of the petitioner, the following: First, schedules
37 showing the names, residence, street number if any and
38 water service of each customer on September fifteenth in
39 the year of our Lord one thousand nine hundred and twenty-
40 five, with rate charged therefor; second, copies of all con-
41 tracts in force on said September fifteenth; third, an item-
42 ized statement of the gross income earned during its last
43 complete fiscal year and all operating expenses and fixed
44 charges paid or incurred during such year and properly
45 chargeable thereto; fourth, a memorandum of all real estate,
46 or interest therein, owned or controlled on said September
47 fifteenth, with such brief description thereof as will reason-

48 ably identify the same; fifth, a memorandum of all water
49 rights used or owned on said September fifteenth with a
50 brief description thereof and a concise statement of the
51 method of acquiring the same; sixth, duplicate plans of all
52 structures owned in whole or in part on said September
53 fifteenth, with specifications thereof; seventh, descriptions
54 and specifications of all reservoirs and stand pipes owned
55 on said September fifteenth; eighth, a description of all
56 pipes, service pipes, hydrants, gates, gate boxes, shut-off
57 boxes, fixtures and machinery, and all physical elements
58 in such water system, giving in detail all quantities, sizes
59 and lengths, specifying the streets, roads or ways where
60 situated; ninth, an itemized list of all tools, apparatus and
61 appliances used or usable in supplying water on said Sep-
62 tember fifteenth. Such orders may be enforced from time
63 to time by any justice of said supreme judicial court in
64 term time or in vacation, upon motion of either party, as
65 such justice may deem reasonable and proper in the pre-
66 ises. At such hearing the justice then sitting, may, upon
67 motion of the petitioner, make all such decrees as he deems
68 reasonable and proper to enable the petitioner, through his
69 servants and employees, to ascertain the conditions of the
70 mains and pipes of the defendant company, externally and
71 internally, all work connected therewith to be in the pres-
72 ence of the agents of the aforesaid company, but wholly
73 at the expense of said water district, said decree to fix the
74 number of such examinations and to impose such condi-

75 tions as may to the court seem just and proper in the prem-
76 ises. The said appraisers shall have the power of com-
77 pelling attendance of witnesses and the production of books
78 and papers pertinent to the issue and may administer oaths;
79 and any witness or person in charge of such books or papers
80 refusing to attend or to produce the same shall be subject to
81 the same penalties and proceedings, so far as applicable, as
82 witnesses summoned to attend the supreme judicial court.
83 Depositions may be taken as in civil actions. The said
84 appraisers may appoint a sufficient number of stenographers
85 to enable a full report of the proceedings of each day to
86 be in readiness for use the following day, each of said ap-
87 praisers is to have one copy thereof, and the parties to
88 receive such numbers of copies as the appraisers may deem
89 necessary. The compensation and expenses of said stenog-
90 raphers shall be taxed and allowed by the appraisers and
91 be paid and borne as hereinafter provided. Their reports,
92 certified by said appraisers as correct, shall be filed with the
93 award to be made by said appraisers and shall be legal evi-
94 dence of all proceedings so reported. They shall make a
95 full report as required in trials had in the supreme judicial
96 court. The appraisers so appointed shall, after due notice
97 and hearing, fix the valuation of the plant, property and
98 franchises of the defendant company at what they are fairly
99 and equitably worth, so that said defendant company shall
100 receive just compensation for all the same. The first day
101 of November, nineteen hundred and twenty-five, shall be

102 the date as of which the valuation aforesaid shall be fixed,
103 from which date interest on said award at the rate of six
104 per cent per annum shall run and all net rents and profits
105 accruing thereafter shall belong to said water district. The
106 report of said appraisers or of a majority of them shall
107 be filed in said clerk's office within six months after their
108 appointment, but, if at the expiration of said six months
109 the hearing before said appraisers should then be in
110 progress and unfinished, their report may be so filed within
111 thirty days after close of said hearing. After said report
112 is filed, such single justice, so appointing said appraisers,
113 or in case of his inability to act, then any justice desig-
114 nated for the purpose by the chief justice, may, after
115 notice and hearing, confirm or reject the same or recom-
116 mit, if justice so requires, and in case of such rejection
117 or recommittal such justice may fix the times for new
118 hearings and new report thereon. The award of the ap-
119 praisers shall be conclusive as to valuations. Upon con-
120 firmation of their report, the court so sitting, in term
121 time or in vacation, shall thereupon, after hearing, make
122 final decree upon the whole matter, including the transfer
123 of the properties and franchises, jurisdiction over which
124 is hereby conferred with the same power to enforce said
125 decree as in equity cases. All the costs and expenses aris-
126 ing under such petition and appraisal shall be paid and
127 borne as directed by the court in said final decree. The
128 findings of such justice as to such costs and expenses and

129 their apportionment shall be final. In all other matters
130 the justice so making such final decree, shall, upon re-
131 quest of any of the parties, make separate findings of law
132 and fact. All such findings of fact shall be final, but any
133 party aggrieved may take exceptions to any rulings of law
134 so made, the same to be accompanied by only such parts
135 of the case as are necessary to a clear understanding of
136 the questions raised thereby. Such exceptions shall be
137 claimed on the docket within ten days after such final
138 decree is signed, entered and filed, and notice thereof has
139 been given by the clerk to the parties or their counsel, and
140 said exceptions so claimed shall be made up, allowed and
141 filed within said time unless further time is granted by
142 the court or by agreement of the parties. They shall be
143 entered at the next term of the law court to be held after
144 the filing of such exceptions and there heard unless other-
145 wise agreed, or the law court shall for good cause order
146 a further time for hearing thereon. Upon such hearing
147 the law court may confirm, reverse or modify the decree
148 of the court below or remand the cause for further pro-
149 ceedings, as seems proper. During the pendency of such
150 exceptions the cause shall remain on the docket of the
151 court below, marked "law," and decree shall be entered
152 thereon by a single justice, in term time or in vacation, in
153 accordance with the certificate and opinion of the law court.
154 Before the aforesaid plant, property and franchises are
155 transferred in accordance with such final decree, and be-

156 fore the payment therefor, the court sitting in said county
157 of Oxford, by a single justice thereof, as hereinbefore pro-
158 vided, shall, upon motion of any party, after notice and
159 hearing, take account of all receipts and expenditures
160 properly had and incurred by said light and water com-
161 pany belonging to the period from and after November
162 first, nineteen hundred and twenty-five, and all net rents
163 and profits accruing thereafter, and shall order the net
164 balance due to any party to be added to or deducted from
165 the amount to be paid under such final decree, as the case
166 may be. All findings of law or fact by such single justice
167 at such hearings shall be final. The amount to be paid
168 for the plant of the said light and water company shall be
169 paid to the Dixfield Light & Water Company, under such
170 terms and conditions as shall be ordered by the court to
171 protect any outstanding mortgages or existing liens cre-
172 ated by said company, if any. On payment of tender by
173 said water district of the amount so fixed and the per-
174 formance of all other terms and conditions so imposed by
175 the court, the entire plants, property and franchises of
176 said defendant company as described in section nine shall
177 become vested in said water district and be free from all
178 liens, mortgages and incumbrances theretofore created by
179 the said Dixfield Light & Water Company. After the
180 filing of said petition it shall not be discontinued or with-
181 drawn by said water district, and the said light and water
182 company may thereafterwards cause said valuation to be

183 made as herein provided, and shall be entitled to appro-
184 priate process to compel said water district to perform
185 the terms of the final decree and to pay for said plants,
186 property and franchises in accordance therewith. If any
187 vacancy occurs at any time in said board of appraisers,
188 from any cause, any justice of the supreme judicial court,
189 sitting in said county of Oxford, may, in term time or in
190 vacation, after notice and hearing, appoint a new appraiser
191 or appraisers, and make all such orders for hearing said
192 cause by the appraisers anew or for any extension of time
193 for making their award, or otherwise, as the circumstances
194 of the case may require.

Sect. 11. All valid contracts, made in good faith, now
2 existing between said defendant company and any person,
3 firm or corporation for supplying water within the towns
4 named in section one, shall be assumed and carried out by
5 said Dixfield Water District.

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 incurred in the creation of the district,
7 in acquiring the property and franchises of the Dixfield
8 Light & Water Company, by purchase or otherwise, or in
9 the purchase or acquisition of the property and franchises
10 of said defendant company, of securing sources of supply,

11 taking water and lands, paying damages, laying pipes, con-
12 structing, maintaining and operating a water plant, and
13 making renewals, extensions, additions and improvements
14 to the same, the said water district, through its trustees,
15 may from time to time issue bonds of the district to an
16 amount or amounts necessary in the judgment of the trus-
17 tees therefor. Said notes and bonds shall be legal obliga-
18 tions of the water district, which is hereby declared to be
19 a quasi-municipal corporation within the meaning of section
20 one hundred and five, chapter fifty-one of the revised stat-
21 utes, and all provisions of said section shall be applicable
22 thereto. The said notes and bonds shall be legal investments
23 for savings banks.

Sect. 13. 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. 14. 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 shall
6 be so established as to provide revenue for the following
7 purposes:

I. To pay the current expenses for operating and main-
2 taining the water system.

II. To provide for the payment of the interest on the
2 indebtedness created by the district.

III. To provide each year a sum equal to not less than
2 one-half of one per cent nor more than five per cent of
3 the entire indebtedness created by the district, which sum
4 shall be turned into a sinking fund and there kept to pro-
5 vide for the extinguishment of said indebtedness. The
6 money set aside for the sinking fund shall be devoted to the
7 retirement of the obligations of the district or invested in
8 such securities as savings banks are allowed to hold.

Sect. 15. All incidental powers, rights and privileges neces-
2 sary to the accomplishment of the main object herein set
3 forth are granted to the public municipal corporation hereby
4 created.

Sect. 16. This act shall take effect when approved by a
2 majority of the legal voters of that portion of said water
3 district comprised by the Dixfield Village Corporation, at
4 a special meeting in the Dixfield Village section of said
5 water district, to be held on the third Monday of August,
6 in the year of our Lord one thousand nine hundred and
7 twenty-five. Said special meeting shall be called by the as-
8 sessors of the Dixfield Village Corporation, and shall be
9 called, warned and conducted according to the law relating
10 to municipal elections, provided however, that the assessors
11 of said Dixfield Village Corporation shall not be required
12 to prepare for posting new lists of voters included within
13 said water district and described in section one. For the
14 purpose of registration of voters, said board of assessors of
15 the Dixfield Village Corporation shall be in session at its

16 office the secular day next preceding said special election.
17 The clerk of the Dixfield Village Corporation shall reduce
18 the subject matter of this act to the following question:
19 "Shall the Act to Incorporate the Dixfield Water District
20 be Accepted?" and the voters shall indicate by a cross placed
21 over the words "yes" or "no" their opinion of the same.
22 The result of the balloting in each case shall be declared
23 by the assessors of said Dixfield Village Corporation and
24 certificate thereof shall be filed by the clerk of said Dixfield
25 Village Corporation with the secretary of state.

Sect. 17. If the Dixfield Village Corporation section of
2 said water district shall approve said act to incorporate
3 said water district by a majority of the legal voters at said
4 special election, then the territory within said Dixfield Vil-
5 lage Corporation and the people within the same shall con-
6 stitute the water district hereby created, and shall be em-
7 powered with all the rights, privileges and franchises con-
8 ferred by this act, and shall be authorized to proceed in
9 all acts, matters and things necessary to carry out the pur-
10 poses of this act. As early as may be after said special elec-
11 tion, if said act has been approved by the Dixfield Village
12 Corporation, the municipal officers of the town of Dixfield
13 shall as soon as may be thereafter meet and choose three
14 members, who shall constitute the board of trustees for said
15 water district.

Sect. 18. Sections two, three, four, five, six and seven
2 shall be inoperative, null and void unless said water district

3 shall first acquire by purchase or by the exercise of the right
4 of eminent domain as in this act provided, the plant, prop-
5 erty and franchises, rights and privileges of the Dixfield
6 Light & Water Company.

Sect. 19. This act shall take effect in ninety days after
2 the final adjournment of the legislature, so far as necessary
3 to empower the calling and holding of the election author-
4 ized in section sixteen herein provided for.

Sect. 20. *Existing statutes not affected; subject to provi-*
2 *sions of R. S., c. 55.* Nothing herein contained is intended
3 to repeal or shall be construed as repealing the whole or
4 any part of any existing statute. And all the rights and
5 duties herein mentioned shall be exercised and performed
6 in accordance with all the applicable provisions of chapter
7 fifty-five of the revised statutes.