

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-FOURTH LEGISLATURE

House Document

No. 492

H. P. 1447 House of Representatives, Feb. 27, 1929.

Reported by Miss Laughlin from Committee on Judiciary
and laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

Presented by Miss Laughlin of Portland.

STATE OF MAINE

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

AN ACT to Incorporate Sanford Water District.

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

Section 1. *Territorial limits, corporate name and purpose.*

2 The territory comprising the town of Sanford with the
3 people residing therein, shall constitute a body politic and
4 corporate under the name of Sanford Water District, for
5 the purpose of supplying the inhabitants of said district and
6 said municipality with water for domestic, sanitary, indus-
7 trial, and municipal purposes.

Sect. 2. *Source of water supply; may take and hold land
2 by purchase or otherwise, subject to general provisions.*

3 Said district is hereby authorized, for the purposes afore-
4 said, to take and hold sufficient water of any surface or
5 underground sources, streams, springs or ponds in said
6 district or any adjoining towns and may take and hold
7 by purchase or otherwise any land or real estate necessary
8 for erecting dams, reservoirs, standpipes for storing water
9 or preserving the purity thereof or for protecting water-
10 shed and for laying and maintaining aqueducts for taking,
11 discharging and disposing of water.

The provisions of sections twenty-three to twenty-six, in-
2 clusive, of chapter sixty-one of the revised statutes shall
3 apply to all land taken under this section.

Sect. 3. *Damages, how ascertained.* Said district shall
2 be liable for all damages sustained by persons or corpora-
3 tions in their property by the taking of any land whatsoever
4 or water or by flowage or by excavating through any land
5 for the purpose of laying pipes, building dams or construct-
6 ing reservoirs or standpipes. If any person sustaining
7 damage as aforesaid and said corporate district shall not
8 mutually agree upon the sum to be paid therefor, such
9 person or corporation shall cause his or her or its damages
10 to be ascertained in the same manner and under the same
11 conditions, restrictions and limitations as are or may be
12 prescribed in the case of damages by the laying out of high-
13 ways.

Sect. 4. *May lay pipes, etc., along public ways and across*
2 *private lands.* Said water district is hereby authorized to

3 lay in and through the streets and highways of said town
4 of Sanford and any adjoining town or towns and across
5 private lands in said town of Sanford or any adjoining
6 town or towns and to take up, repair and replace all such
7 pipes, aqueducts and fixtures as may be necessary for the
8 objects set forth and whenever said district shall lay any
9 pipes or aqueducts in any street or highway, it shall cause
10 the same to be done with as little obstruction as possible
11 to the public travel, and shall at its own expense, without
12 unnecessary delay, cause the pavement and earth removed
13 by it to be replaced in proper condition.

Sect. 5. *Management of Affairs.* All the affairs of said
2 water district shall be managed by a board of trustees,
3 composed of three members chosen by the legal voters of
4 said district. The first board of trustees shall be elected
5 at the meeting of the voters of said town of Sanford when
6 this charter is accepted, which meeting may be a special
7 meeting called for said purpose. As soon as convenient
8 after said trustees have been chosen, they shall hold a meet-
9 ing at the office of the selectmen in the town of Sanford
10 and organize by the election of a president and clerk, adopt
11 a corporate seal, and when necessary may choose a treas-
12 urer and all other needful officers and agents for the proper
13 conduct and management of the affairs of said district. At
14 said first meeting they shall determine by lot the term of
15 office of each trustee so that one shall serve for one year,
16 one for two years and one for three years; and when the

17 term of office of a trustee expires, the town at its annual
18 town meeting shall elect by ballot a successor to serve the
19 full term of three years; and in case any other vacancy
20 arises it shall be filled in like manner for the unexpired
21 term. They may also ordain and establish such by-laws,
22 not inconsistent with the laws of the state, as are necessary
23 for their own convenience and the proper management of
24 the affairs of said district. The terms of office of said
25 trustees shall begin on the first Monday of January, but
26 this provision shall not prevent the first board of trustees
27 from becoming such at once upon their election at the
28 meeting in which this charter is accepted. The trustees
29 shall make and publish an annual report and include therein
30 the report of the treasurer. Each trustee shall receive in
31 full compensation for his services an allowance of two
32 hundred dollars per annum.

Sect. 6. *Acquisition of systems of Sanford Water Company
2 and Springvale Aqueduct Company authorized.* Said dis-
3 trict is hereby authorized and empowered to acquire by pur-
4 chase or by the exercise of the right of eminent domain,
5 which right is hereby expressly delegated to said district
6 for said purpose, the entire plants, properties (except ac-
7 counts receivable, stocks, bonds, or other securities) fran-
8 chises, rights and privileges now owned or held by said
9 Sanford Water Company and Springvale Aqueduct Com-
10 pany, or their successors or assigns, including all lands,
11 buildings, pipes, standpipes, reservoirs, machinery, fixtures,

12 hydrants, automobiles, tools, apparatus and appliances
13 owned by the said Sanford Water Company and Spring-
14 vale Aqueduct Company, or their successors or assigns, and
15 used or usable in supplying water, and any other real estate
16 in said district or adjoining towns for the purposes herein
17 set forth, whether their aggregate value exceeds or not the
18 value limit named in the charter of said companies.

Sect. 7. *Procedure in case purchase price of systems of*
2 *Sanford Water Company and Springvale Aqueduct Com-*
3 *pany cannot be agreed upon.* In case said trustees fail to
4 agree with said Sanford Water Company and Springvale
5 Aqueduct Company, their successors or assigns, or either
6 of said companies upon the terms of the purchase of the
7 above mentioned property or properties, within three months
8 after the acceptance of this charter by the inhabitants of
9 said water district as hereinafter set forth, said district,
10 through its trustees aforesaid, is hereby authorized to take
11 said plants, properties and franchises, as for public use by
12 petition therefor in the manner hereinafter provided. And
13 said water district, through its trustees, is hereby authorized
14 at any time after three months from the date of the accept-
15 ance of this charter, as aforesaid, not later than January
16 one, nineteen hundred and thirty, to file a petition in the
17 clerk's office of the supreme judicial court for the county
18 of York, in term time or vacation, addressed to any justice
19 of said court, who, after due notice to said Sanford Water
20 Company and said Springvale Aqueduct Company, their

21 successors or assigns, and their mortgagees shall after hear-
22 ing and within thirty days after the filing of said petition
23 appoint three disinterested appraisers, none of whom shall
24 be residents of the town of Sanford, for the purpose of
25 fixing the valuation of said plants, properties, and fran-
26 chises. At the hearing aforesaid, such justice, upon motion
27 of the petitioner, may order the production and filing in
28 court, for the inspection of the petitioner, all of the books
29 and papers appurtenant to the issue and necessary for the
30 full understanding of the matter to be heard by said ap-
31 praisers, the terms and conditions of so producing and filing
32 such books and papers to be determined by the justice in
33 his order therefor and to be enforced from time to time
34 as any justice of the supreme judicial court, in term time
35 or in vacation, upon motion of either party, may deem
36 reasonable and proper in the premises. At such hearing,
37 such justice upon motion of the petitioner, may fix a time
38 at which the said water companies shall file in the clerk's
39 office of the supreme judicial court for the county of York,
40 for the inspection of the petitioner, the following: first,
41 schedules showing the names, residences and water service
42 of all customers on the first day of January in the year
43 nineteen hundred and thirty, with the rate charged there-
44 for; second, copies of all contracts in force on the said
45 first day of January, nineteen hundred and thirty; third,
46 an itemized statement of the gross income earned during
47 its last complete fiscal year and up to said first day of

48 January and all operating expenses and fixed charges, paid
49 or incurred during such period and properly chargeable
50 thereto; fourth, a memorandum of all real estate, water
51 rights, or interest therein, owned or controlled on said first
52 day of January, nineteen hundred and thirty, with such
53 brief description thereof as would reasonably identify the
54 same; fifth, brief descriptions, specifications and plans of
55 all reservoirs, mains, pipes, service pipes, hydrants, gates,
56 gate-boxes, shut-off boxes, fixtures and machinery and all
57 the physical elements in such water systems, giving in de-
58 tail quantities, sizes, lengths and specifying the streets,
59 roads, or ways where situated; sixth, an itemized list of
60 all tools, apparatus, appliances and supplies used or usable
61 in supplying water on said first day of January. Such
62 orders may be enforced from time to time by any justice
63 of said supreme judicial court, in term time or in vacation,
64 upon motion of either party, as such justice may deem
65 reasonable and proper in the premises. At such hearing
66 the justice then sitting may, upon motion of the petitioner,
67 make all such decrees as he deems reasonable and proper
68 to enable the petitioner, through its servants and employees,
69 to ascertain the true condition of the mains and pipes of
70 the said water companies, externally or internally, in the
71 presence of the officers or agents of said water companies,
72 the entire expense thereof to be borne by said water district.
73 The said appraisers shall have the power of compelling
74 attendance of witnesses and the production of all books,

75 accounts and papers pertinent to the issue and necessary
76 for a full understanding by them of the matter in question
77 and may administer oaths; and any witness or person in
78 charge of such books, accounts and papers refusing to attend
79 or to produce the same shall be subject to the same penal-
80 ties and proceedings, so far as applicable, as witnesses sum-
81 moned to attend the supreme judicial court. Depositions
82 may be taken as in civil actions. The appraisers so ap-
83 pointed shall after notice and hearing, fix the valuation of
84 said plants, properties and franchises at what they are
85 fairly and equitably worth, so that said water companies,
86 their successors or assigns, shall receive just compensation
87 for all the same. The first day of January, nineteen hun-
88 dred and thirty, shall be the date as of which the valuation
89 aforesaid shall be fixed, from which date interest on said
90 award shall run, and all rents and profits accruing there-
91 after shall belong to said water district. The report of
92 said appraisers, or a majority of them, shall be filed in
93 said clerk's office, in term time or in vacation, as soon as
94 may be after their appointment, and such single justice, or,
95 in case of his inability to act, any justice of said court
96 appointed by the chief justice, may, after notice and hear-
97 ing, confirm or reject the same, or recommit it if justice
98 so requires. Upon the confirmation of said report the court
99 so sitting shall thereupon, after hearing, make final decree
100 upon the entire matter, including the application of the
101 purchase money and transfer of property, jurisdiction over

102 which is hereby conferred, and with the power to enforce
103 said decrees as in equity cases. All findings of fact by said
104 court shall be final, but any party aggrieved may take ex-
105 ceptions as to any ruling of law so made, the same to be
106 accompanied by so much of the case as may be necessary
107 to a clear understanding of the questions raised thereby.
108 Such exceptions shall be claimed on the docket within ten
109 days after such final decree is signed, entered and filed and
110 notice thereof has been given to the parties or their coun-
111 sel, and said exceptions so claimed shall be made up, al-
112 lowed and filed within said time unless further time is
113 granted by the court, or by agreement of the parties. They
114 shall be entered at the next term of the law court to be
115 held after the filing and entry of said decree and there
116 heard unless otherwise agreed; or the law court for good
117 cause shall order further time for hearing thereon. Before
118 said plants, properties and franchises are transferred in
119 accordance with such final decree and before payment
120 therefor, as hereinbefore provided, such account of all
121 receipts and expenditures properly had or incurred by the
122 Sanford Water Company and Springvale Aqueduct Com-
123 pany, their successors or assigns, belonging to this period,
124 from and after said first day of January, and all net rents
125 and profits accruing thereafter, and shall order the net
126 balance to be added to, or deducted from, the amount to be
127 paid under such final decree, as the case may be. All find-
128 ings of law and fact by such justice at such hearing shall

129 be final. On payment or tender by said district of the
130 amount so determined and the performance of all the
131 other terms and conditions so imposed by said court, the
132 entire plants, properties and franchises shall become vest-
133 ed in said water district. All of said plants, properties
134 and franchises shall be taken and shall vest in said district,
135 subject to all bonds, mortgages, liens and incumbrances
136 thereon, all which bonds, mortgages, liens and incum-
137 brances shall be assumed and paid by said district. The
138 compensation to be paid to said Sanford Water Company
139 and Springvale Aqueduct Company, their successors or
140 assigns, for said plants, properties and franchises shall be
141 the difference between the valuation thereof as fixed and
142 determined by said appraisers and the aggregate amount of
143 such bonds, mortgages, liens and incumbrances which are
144 assumed by said district.

Sect. 8. *Valid contracts of Sanford Water Company and
2 Springvale Aqueduct Company, their successors or assigns,
3 to be assumed.* All valid contracts now existing between
4 the said companies and any persons or corporations for sup-
5 plying water shall be assumed and carried out by said San-
6 ford Water District.

Sect. 9. *Bond issue authorized.* For accomplishing the
2 purposes of this act said water district is hereby authorized
3 and empowered through its trustees, to issue its bonds to
4 an amount sufficient to procure funds to pay the expenses
5 incurred in the acquisition of said plants, properties and

6 franchises of said companies aforesaid, for further exten-
7 sions, additions and improvements of said plant and to
8 refund any bonds or other indebtedness assumed by said
9 district under this act. Said bonds shall be a legal obliga-
10 tion of said water district, which is hereby declared to be
11 a quasi-municipal corporation within the meaning of section
12 one hundred and five of chapter fifty-one of the revised
13 statutes of nineteen hundred and sixteen and all the pro-
14 visions of said section and acts amendatory thereof shall
15 be applicable thereto. The bonds shall be a legal investment
16 for savings banks. The trustees may also borrow on the
17 notes of the district such sums as may be necessary to meet
18 the current expenses of the district in anticipation of the
19 collection of water rates.

Sect. 10. *Water rates; sinking fund.* All individuals,
2 firms and corporations, whether public, private or munici-
3 pal, shall pay to the treasurer of said district the rates
4 established by said board of trustees for the water used
5 by them, and said rates for like services shall be uniform
6 within the district. Said water rates shall be so established
7 as to provide revenue for the following purposes:

I. To pay the current running expenses for maintaining
2 the water systems and provide for such extensions and
3 renewals as may become necessary, except where such ex-
4 tensions shall have been provided for by an issue of bonds
5 authorized by section thirty-seven, chapter fifty-five of the
6 revised statutes as amended.

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

III. To provide each year a sum equal to not less than one or more than four per cent of the entire indebtedness of the district, which sum shall be turned into a sinking-fund to provide for the final extinguishment of the funded debt. The money set aside for the sinking-fund shall be devoted to the retirement of the obligations of the district, or invested in such securities as savings banks are allowed to hold. Provided, however, that the trustees may, in their discretion and in lieu of the establishment of a sinking-fund, issue the bonds of the district so that not less than one per centum of the amount of the bonds so issued shall mature and be retired each year.

Sect. 11. *Exempt from taxation.* The property belonging to and situated within said district shall be exempt from taxation.

Sect. 12. *Incidental powers and privileges granted.* All incidental powers, rights and privileges necessary to the accomplishment of the main object herein set forth are granted to the corporation hereby created.

Sect. 13. *Subject to local referendum; procedure.* This act shall take effect when accepted by a majority vote by ballot of the inhabitants of the town of Sanford at a meeting to be specially called and held for the purpose on or before the twentieth day of August, nineteen hundred twenty-nine, and the selectmen of the town of Sanford are here-

7 by authorized to call said meeting. Such special meeting
8 shall be called by the selectmen as aforesaid by issuing their
9 warrant directed to any constable of the town directing him
10 to notify and warn the inhabitants of said town to assemble
11 at the town hall in said Sanford at such reasonable time
12 not later than said August twenty, nineteen hundred twenty-
13 nine, as they may direct, to choose a moderator to preside
14 at said meeting; to vote upon the acceptance of this act;
15 to elect trustees for said water district and transact such
16 other business as may properly come before said meeting.
17 In case said selectmen shall refuse or unreasonably neglect
18 to call said meeting it may be called by any justice of the
19 peace in said district upon petition and application of ten
20 or more inhabitants of said Sanford. The town clerk of
21 Sanford shall reduce the subject matter of this act to the
22 following questions: "Shall the act to incorporate Sanford
23 Water District be accepted?" And the voters shall indi-
24 cate by placing a cross against the words "yes" and "no"
25 their opinion of the same. The results shall be declared
26 by the selectmen of Sanford and due certificate thereof filed
27 by the town clerk with the secretary of state. The clerk
28 of the town of Sanford shall be clerk ex-officio of all meet-
29 ings of the inhabitants of said water district and shall make
30 and preserve a record of all such meetings as the records
31 of said town are made and preserved. This act shall take
32 effect ninety days after the final adjournment of the legis-
33 lature so far as necessary to empower the calling and hold-

34 ing of all of said meetings. The approval of this act in
35 the manner provided by this section shall constitute an ac-
36 ceptance by said water district of the methods of appraisal
37 prescribed by section seven hereof and shall bind said water
38 district and said water companies, or their successors or
39 assigns thereto.

Sect. 14. Sections two, three and four of this act shall
2 be inoperative, null and void, unless said water district shall
3 first acquire by purchase or by the exercise of the right of
4 eminent domain, as in this act provided, the plants, proper-
5 ties and franchises, rights and privileges now held by the
6 Sanford Water Company and Springvale Aqueduct Com-
7 pany, their successors or assigns.

Sect. 15. *Expenses, how borne.* All costs and expenses
2 arising under the provisions of this act shall be paid and
3 borne as directed by the court in the final decree provided
4 by section seven of this act.

Sect. 16. Nothing herein contained is intended to repeal
2 or shall be construed as repealing the whole or any part of
3 chapter fifty-five of the revised statutes as amended. All
4 the rights and duties herein prescribed shall be exercised
5 and performed in accordance with the applicable provisions
6 of chapter fifty-five of the revised statutes and acts addi-
7 tional thereto and amendatory thereof.