

# MAINE STATE LEGISLATURE

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Legislative Document

No. 482

H. P. 438

House of Representatives, February 5, 1953.

Referred to Committee on Public Utilities. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Wylie of Madawaska.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-THREE

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AN ACT to Incorporate the Madawaska Water District.

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

**Sec. 1. Territorial limits; name; purposes.** That part of the town of Madawaska within the area hereinafter described, and the inhabitants within that area, are hereby created a body politic and corporate by the name of "Madawaska Water District" for the purpose of supplying the inhabitants of said district with water for domestic, sanitary, agricultural, commercial and municipal purposes; provided, however, that it shall not construct any system of pipe lines or development without first having submitted its plans to the public utilities commission and obtained its advice therefor in writing under power vested in said commission by section 13 of chapter 40 of the revised statutes of 1944, and all acts amendatory thereof or additional thereto.

The area within the district shall be that part of the town of Madawaska bounded and described as follows: To include that part of the town of Madawaska now served by the Madawaska Water Company, bounded on the north by the St. John river and including the easterly boundary section of the town now served by the Madawaska Water Company along East Main street to Factory brook, so called, said brook being the easterly boundary of said water district and including the westerly boundary of

said district, and bounded on the south by Martin Brook, and including the area now served by the Madawaska Water Company which includes the water company's reservoir, and upper and lower dams, the approximate area of the above described district is approximately 1.76 square miles.

**Sec. 2. Source of supply.** The said district, for the purposes of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from any stream, river, lake or underground vein of water within the township of Madawaska that is satisfactory and serviceable to the Madawaska Water District.

**Sec. 3. Eminent domain; pipes and reservoirs.** The said district for the purposes of its incorporation is hereby authorized to take, and hold, as for public uses, by purchase or otherwise, including the exercise of eminent domain, any land or interests therein or water rights necessary for erecting and maintaining dams, wells and standpipes for flowage, for power for pumping its water supply through its standpipes and mains, for reservoirs, for aqueducts and other structures, for taking, distributing and discharging and disposing of water, for rights of way or roadways to its source of supply, dams, standpipes, reservoirs, wells, mains, aqueducts, structures and lands, for preserving the purity of the water and watershed, and for all other purposes incident thereto, and where it is necessary to draw water outside the said district, the right of eminent domain will be effective within the limits of the township of Madawaska.

The said district is hereby authorized to lay water pipes, aqueducts and fixtures as may be necessary and convenient for its purposes in and through the streets, ways and highways within the district and across private lands therein, and to maintain, repair and replace all such pipes, aqueducts and fixtures, and whenever said district shall lay any pipes, aqueducts or fixtures in any street, road, way or highway, it shall cause the same to be done with as little obstruction to public travel as practicable, and shall at its own expense without unnecessary delay cause the earth and pavement removed by it to be replaced in proper condition. The said district is hereby authorized for the purposes of its incorporation to erect and maintain reservoirs, wells, standpipes and other structures necessary and convenient for its corporate purposes.

Provided, however, nothing herein contained shall be construed as authorizing said district to take by right of eminent domain any of the property or facilities of any other public service corporation or district used or acquired for future use by the owner thereof in the performance of a public

duty unless expressly authorized thereto herein, or by subsequent act of the legislature.

**Sec. 4. Procedure in eminent domain.** If any person, sustaining damages by any taking authorized by this act, shall not agree with said district upon the sum to be paid therefor, either party upon petition to the county commissioners of Aroostook county may have said damages assessed by them. The procedure and all subsequent proceedings and rights of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

**Sec. 5. Procedure in crossing public utility.** In case of crossing of any public utility, unless consent is given by the company owning or operating such public utility as to place, manner and conditions of the crossing within 30 days after such consent is requested by said district, the public utilities commission shall determine the place, manner and conditions of such crossing; and all work on the property of such public utility shall be done under the supervision and to the satisfaction of such public utility, but at the expense of the district.

**Sec. 6. Board of trustees.** All the affairs of the district shall be managed by a board of 3 trustees elected by and from the inhabitants of the district who are legal voters, qualified to vote in town meetings in the town of Madawaska. They shall hold office as hereinafter provided and until their respective successors are chosen and qualified. Whenever the term of office of a trustee expires, a successor shall be elected for a term of 3 years. In case of the death, resignation, removal of his principal place of abode from the district, or inability of a trustee to serve, the 2 remaining trustees shall immediately declare his office vacant and shall immediately appoint a new trustee from the inhabitants of said district, to serve until the next annual meeting of the district, at which time a trustee shall be elected to serve the balance of the unexpired term.

The 1st board of trustees may be elected either at the special meeting for the acceptance of this act or at a special meeting of the district called by the selectmen of the town of Madawaska in the same manner in which a town meeting is called in said town, at a time and place designated by said board of selectmen, within said district. The 1st board of trustees so elected shall meet and determine by lot the term of office of each trustee, so that 1 shall serve until the next annual district meeting, 1 until the 2nd annual district meeting and 1 until the 3rd annual district meeting. Said board of

trustees shall organize by the election of a chairman and a clerk and adopt a corporate seal.

As necessary, they may choose agents and other needful officers, who shall serve at their pleasure and whose compensation shall be fixed by said trustees.

They shall choose annually a treasurer to serve for a term of 1 year, fix the treasurer's salary and fill vacancies in that office. The treasurer shall furnish a bond to the satisfaction and approval of said trustees, the expense of said bond to be borne by the district.

**Sec. 7. Annual district meeting; qualification of voters.** After the acceptance of this charter, an annual meeting of the district shall be held within the district on the last Monday of January at such hour and place as may be designated by the trustees. Notice thereof, signed by the chairman or clerk of the board, shall be conspicuously posted in 2 public places within the district, not less than 7 days before the meeting. Special meetings may be called by the board in like manner at any time, and notice of special meetings shall state the business to be transacted thereat. If for any reason a legally sufficient annual meeting is not held on the day above designated, a meeting in lieu thereof may be called and held in like manner.

All persons resident in said district qualified to vote at town meetings in the town of Madawaska shall be entitled to vote in any meeting of the district.

Ten per cent of the voters qualified to vote in said district shall constitute a quorum.

**Sec. 8. Trustees granted certain powers of selectmen.** After the meeting of the voters of the district for acceptance of this charter, and after the organization of the board under the provisions of section 6, the trustees shall have the same powers and perform the same duties as otherwise are exercised and performed by the selectmen of towns in correcting and preparing lists of the persons qualified to vote in said district, and for that purpose they shall be in session at the place designated for holding the meeting between the hours of 7 o'clock in the evening and 9 o'clock in the evening on the secular day next before the date of every meeting and also 1 hour before the opening of the meeting, and notice thereof shall be given in the call of the meeting. All meetings of the district shall be presided over by a moderator chosen in the same manner and with the same authority as moderators of town meeting.

**Sec. 9. District and town authorized to make contracts.** Said district, through its trustees, is authorized to contract with persons and corporations, including the town of Madawaska, for the supply of water; and said town of Madawaska is authorized to contract with it for the supply of water for municipal purposes. Said district shall have the further right to contract with other persons, corporations and districts for the furnishing or procurement of water for the needs of the district.

**Sec. 10. Authorized to acquire property and franchises of Madawaska Water Company.** Said district is hereby authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain, the entire plant, properties, franchises, rights and privileges, except cash assets and accounts receivable, owned by Madawaska Water Company situated in the town of Madawaska, including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all appurtenant apparatus and appliances used or usable in supplying water in the town of Madawaska.

**Sec. 11. Authority to borrow money.** For accomplishing the purposes of this act and for such other expenses as may be necessary for the carrying out of said purposes, said district, through its trustees, with district vote, is authorized to issue its notes and bonds in one series or in separate series from time to time and to make subsequent renewals of the same in whole or in part to an amount not exceeding the sum of \$500,000. Said notes and bonds shall be legal obligation of said district, shall be a legal investment for savings banks in the state of Maine, and shall be exempt from all present taxes. Each bond or note shall have inscribed on its face the words "Madawaska Water District Bond," or "Madawaska Water District Note," as the case may be, and shall bear interest at such rates as the trustees shall determine. If said bonds be issued from time to time, each authorized issue shall constitute a separate loan. Each loan shall be payable in annual amounts of principal, beginning not more than 1 year from its date and made to run for such period as said trustees shall determine.

All bonds or notes issued by said district shall bear the district seal, and shall be signed by the treasurer and countersigned by the chairman of the board of trustees of said district, and if coupon bonds be issued, each coupon shall bear the facsimile signature of the treasurer.

All bonds issued by said district may be issued with or without provisions for calling the same for payment before maturity, and in case of such call provisions, with or without provision for the payment of a premium of not exceeding 5% of the principal upon such call.

**Sec. 12. Property tax exempt.** The property of said district shall be exempt from all taxation by the town of Madawaska.

**Sec. 13. Water rates; application of revenue; sinking fund.** All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of said district the rates established by said board of trustees for the service used by them, and said rates shall be uniform within the territory supplied by the district, and the water rates shall be subject to the approval of the public utilities commission. Said water rates shall be so established as to provide revenue for the following purposes:

1. To pay current expenses for operating and maintaining the water system;
2. To provide for the payment of the interest on the indebtedness created by the district;
3. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of said indebtedness. 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 or fiduciaries or trustees are now or hereafter 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 1% of the amount of the bonds so issued shall mature and be retired each year;
4. If any surplus remains at the end of the year, it may be turned into the sinking fund.

**Sec. 14. Existing statutes not affected; rights conferred subject to existing provisions of law.** Nothing herein contained is intended to repeal or shall be construed as repealing, the whole or any part of any existing statute, and all rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of chapter 40 of the revised statutes of 1944, and all acts amendatory thereof or additional thereto.

**Sec. 15. Local referendum for; procedure of election; form of question; certificate to secretary of state.** This act shall effect 90 days after adjournment of the legislature, only for the purpose of permitting its submission to the legal voters within said district, voting by ballot at an election to be specially called and held for the purpose within 60 days of the effective

date of this act. The board of selectmen of the town of Madawaska shall call said election to be held upon a date to be specified in writing by them. Said board of selectmen shall make and provide a separate check list for such of the voters within said district as are then legal voters therein, and all warrants issued to said district shall be varied accordingly to show that only such voters therein are entitled to vote thereon. Such election shall be called, advertised and conducted according to the law relating to municipal elections; providing, however, that the selectmen shall not be required to prepare nor the town clerk to post a new check list of voters, and for this purpose said board shall be in session the 2 secular days next preceding such election, the 1st day thereof to be devoted to the registration of voters and the last day to enable the board to verify the corrections of said list and to complete and close up the records of said sessions. The town clerk shall reduce the subject matter of this act to the following question: "Shall the Act to Incorporate Madawaska Water District, passed by the 96th legislature, be accepted?" and the voters shall indicate by a cross or check mark placed against the words "Yes" or "No", their opinion of the same.

This act shall take effect for all the purposes thereof immediately upon its acceptance by a majority vote of the legal voters voting at said election; provided that the total number of votes cast for and against the acceptance of this act at said election equals or exceeds 10% of the total number of the qualified voters within said district.

The result of the vote in said district shall be declared by the municipal officers of the town of Madawaska and due certificate thereof shall be filed by the town clerk with the secretary of state.