

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and First Legislature

OF THE

STATE OF MAINE

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The Knowlton and McLeary Company
Farmington, Maine
1963

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

As Passed by the One Hundred and First Legislature

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Sec. 2. R. S., c. 27, § 1, amended. The first paragraph of section 1 of chapter 27 of the Revised Statutes, as amended, is further amended to read as follows:

'The Department of Mental Health and Corrections, as heretofore established, hereinafter in this chapter called the "department," shall have general supervision, management and control of the research and planning, grounds, buildings and property, officers and employees, and patients and inmates of all of the following state institutions: The hospitals for the mentally ill, Pineland Hospital and Training Center, the State Prison, the Reformatories for Men and Women, the juvenile institutions, the Governor Baxter State School for the Deaf, ~~the Military and Naval Children's Home~~ and such other charitable and correctional state institutions as may be created from time to time. All orders of commitment, medical and administrative records in the department are held to be confidential. Such records may be subpoenaed by a court of record.'

Director's note: Amended by P. & S. L., 1963, c. 183, § 9.

Sec. 3. R. S., c. 27, §§ 166 - 167, repealed. Section 166, as amended by chapter 415 of the public laws of 1955, and section 167 of chapter 27 of the Revised Statutes are repealed.

Director's note: See P. & S. L., 1963, c. 183, § 10.

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect July 1, 1963.

Effective July 1, 1963

Chapter 169

AN ACT to Incorporate the Baileyville Water District.

Emergency preamble. Whereas, there is need of improved fire protection and an increased supply of pure water for drinking, sanitary and other purposes in the Town of Baileyville; and

Whereas, additional water supply sources must be developed and major alterations, improvements and extensions made to said water supply system; and

Whereas, an adequate supply of pure water is essential to the health and well-being of the inhabitants of the Town of Baileyville; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Territorial limits; name; purposes. The inhabitants of and territory within the Town of Baileyville shall be and hereby are constituted a body politic and corporate by the name of "Baileyville Water District" for the purpose of supplying the inhabitants of said district with pure water for domestic, sanitary, agricultural, commercial, industrial and municipal purposes, including the extinguishment of fires.

Sec. 2. Source of supply. The said water district, for the purposes of its incorporation, is authorized to take, hold, divert, collect, store, flow, use, detain, and distribute to and in the Town of Baileyville water from any surface or underground lake, pond, river, brook, stream, spring, vein of water or other water source in said Town of Baileyville or from such other source of supply as is approved by the Department of Health and Welfare.

Sec. 3. May exercise eminent domain. The said district, for the purposes of its incorporation, is authorized to take and hold, as for public uses, by purchase or otherwise, including by right of eminent domain, in the Town of Baileyville any lands or interests in land or water rights necessary for erecting and maintaining dams, for flowage, for power for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining aqueducts and other structures for taking, distributing, discharging and disposing of water and for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands.

The said district is authorized to lay in and through the streets, roads, ways and highways in the Town of Baileyville and across private lands therein, and to maintain, repair and replace all such pipes, aqueducts and fixtures as may be necessary and convenient for its corporate purposes, and whenever said district shall lay any pipes or aqueducts in any street, road, way or highway it shall cause the same to be done with as little obstruction as practicable to the public travel; 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 authorized for the purposes of its incorporation, to erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes. Nothing herein contained shall be construed as authorizing said water 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, or as provided in section 9.

Sec. 4. Procedure in exercising right of eminent domain and adjustment of damages. After the original acquisition, for which provision is made in sections 9 and 10, the said district in exercising, from time to time, any right of eminent domain conferred upon it by law or through or under the franchise of any water company by it acquired shall file written application with the Public Utilities Commission requesting its approval of the proposed taking. Such application shall describe the property or rights to be taken, the purpose of the taking, and shall name all parties who may be interested therein. The commission thereupon shall appoint a time for a hearing near the premises and shall require such notice as the commission may direct to be given to the persons interested at least 14 days before the date of the hearing. The commission then shall view the premises, hear the parties and shall determine how much, if any, of the property described in the petition should be taken for the reasonable purposes of the water district and for the safe, economical and efficient furnishing of an adequate water supply. In authorizing any taking, the commission

may attach such reasonable terms, limitations and restrictions as justice may require. If the commission shall find that any of the property described in the application is necessary for the aforesaid purposes of the district, it shall make a certificate containing a definite description of the property to be taken, and of any terms, restrictions and limitations in connection therewith, and shall furnish to the district a true copy thereof, attested by the clerk of the commission. When such copy of the certificate is filed with the clerk of courts in the county where property lies, the property shall be deemed and treated as taken; provided, however, that when property is held by a tenant for life and the reversion is contingent as to the persons in whom it may vest at the termination of the life estate, such fact shall be stated in the application and the commission, in addition to the notice of the tenant for life, shall require notice by publication, in such manner as it may deem proper, to all others interested. Entry may be made on any private land prior to the filing of any such application for the purpose of making surveys, the district being responsible for any damage resulting from such entry, and possession may be had of the property described in the certificate of the commission forthwith upon the filing and recording of such certificate as hereinbefore provided, but title to such property shall not vest in the district until payment therefor has been made.

If any person sustaining damages by any taking as aforesaid under this section shall not agree with said district upon the sum to be paid therefor either party may, by complaint filed in the Superior Court in the County of Washington, proceed under the Maine rules of civil procedure to bring an action against the other to have the damages assessed for any taking. The court shall determine the same by verdict of its jury or if all parties agree, by the court without a jury or by a referee or referees, and shall render judgment for just compensation with interest where such is due, and for costs in favor of the parties entitled thereto. An appeal may be taken on such award on questions of law under the Maine rules of civil procedure.

Sec. 5. Procedure if public utility must be crossed. In case of any 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. Trustees and officers, tenure of office; election to office, organization; vacancies, compensation; special meetings. All of the affairs of said district shall be managed by a board of 3 trustees, residents therein, who shall be chosen as hereinafter provided.

As soon as may be after acceptance of this act, the town manager with the approval of the town council of the Town of Baileyville shall appoint 3 trustees of said district to hold office as follows: One to serve until the first annual meeting of said town following the acceptance of this act; one to serve until the 2nd annual meeting of said town following such acceptance; and one to serve

until the 3rd annual meeting of said town following such acceptance. At the expiration of the term so determined the vacancy shall be filled for a term of 3 years and the trustees shall notify the municipal officers of the Town of Baileyville 30 days before the annual meeting of the Town of Baileyville, of the fact that a vacancy will occur so that the town manager with the approval of the town council of the Town of Baileyville may appoint a trustee, or trustees, to fill the vacancy that will occur. When any trustee ceases to be a resident of said district, he vacates his office as trustee. All trustees, if residents of said district, shall be eligible for reelection or reappointment as hereafter provided. When a vacancy on the board of trustees occurs by reason of death, resignation, removal from the district or otherwise, the town manager with the approval of the town council of the Town of Baileyville shall fill the vacancy by appointing a trustee who is a resident of the district to serve the remaining term of the trustee who has vacated his office.

As soon as convenient after their appointment, the board of trustees shall hold a meeting at some convenient place in the district, to be called by any member thereof in writing, designating the time and place and delivered in hand to the other 2 members not less than 2 full days before the meeting; provided, however, that they may meet by agreement without such notice. At this original meeting the trustees shall organize by electing from their own members a chairman, a treasurer and a clerk and adopting a corporate seal. The trustees may adopt and establish bylaws, consistent with the laws of the State of Maine and necessary for their own convenience and the proper management of the affairs of the district, and perform any other acts within the powers delegated to them by law.

Within one week after each annual meeting of the Town of Baileyville, the trustees shall meet for the purpose of electing a chairman, treasurer and clerk to serve for the ensuing year and until their successors are elected and qualified. The trustees from time to time may choose and employ, and fix the compensation of, any other necessary officers and agents who shall serve at their pleasure. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost thereof to be paid by the district.

Members of the board of trustees shall be eligible to any office under the board. The trustees, as such, shall serve without compensation; but the treasurer may be allowed such compensation as the trustees shall determine.

The trustees shall be sworn to the faithful performance of their duties as such which shall include the duties of any member who shall serve as clerk or clerk pro tem. They shall make and publish an annual report, including a report of the treasurer, and such report may be included in, and published as part of, the town report.

Sec. 7. District and town authorized to make contracts. Said district, through its trustees, is authorized to contract with persons and corporations, for the securing of a supply, as well as the supplying, of water for all uses and the general management of its facilities, including but not limited to the Town of Baileyville, and said Town of Baileyville is authorized to contract with it for the supply of water for municipal purposes.

Sec. 8. Authorized to acquire property and franchises of Woodland Water & Electric Co. The said district, through its trustees, is hereby authorized to acquire by purchase all of the entire plant, properties, franchises, rights and privileges owned by Woodland Water & Electric Co. located within the Town of Baileyville, only insofar as the same pertains to said water system, including all lands, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in said district. Said water district is further authorized and empowered to acquire by the exercise of the right of eminent domain, which right is hereby expressly delegated to said district for said purpose, the entire plant, properties, franchises, rights and privileges, except cash assets and accounts receivable, owned by Woodland Water & Electric Co., situated in the Town of Baileyville, only insofar as the same pertains to said water system, including all lands, waters, water rights, dam structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in the Town of Baileyville, and if and when so acquired, the said district, in addition to the powers conferred by this act, shall have and enjoy and be entitled to exercise all the rights, privileges and franchises of said Woodland Water & Electric Co., only insofar as the same pertains to said water system, and may do and perform any and all the acts and things authorized by the original charter of Woodland Light and Water Company insofar as the same relates to the taking, using, selling and distributing of water, as acquired by said Woodland Water & Electric Co., and insofar as they are not inconsistent with the provisions of this act. Said Woodland Water & Electric Co. is authorized to sell, transfer and convey its said franchises and property to said water district.

Sec. 9. Procedure in case trustees and Woodland Water & Electric Co. fail to agree on terms of purchase. In case the said trustees fail to agree with the Woodland Water & Electric Co. upon terms of purchase, then said water district, through the trustees aforesaid, is hereby authorized to take said properties, interest and franchises of said Woodland Water & Electric Co. as set forth in section 8, in the manner hereinafter provided wherein the Woodland Water & Electric Co. and its mortgagees, if any, or those having an interest in any realty which is of record, shall be the parties defendant. Said water district, through its trustees, is hereby authorized to file a petition in the clerk's office of the Superior Court for the County of Washington, addressed to any justice thereof who, after notice to said defendant aforesaid, shall, after hearing and within 60 days after the filing of said petition, appoint 3 disinterested appraisers at least one of whom shall be learned in the law and none of whom shall have residence in Washington County, for the purpose of fixing the valuations of the plant, property and franchises of said Woodland Water & Electric Co. described in section 8. The petition shall also be filed in the registry of deeds in the County of Washington and the filing of said petition of taking shall immediately vest in the Baileyville Water District all right, title and interest of the Woodland Water and Electric Company insofar as the interests of said Woodland pertains to the water system, including all lands, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water. The court may order under proper terms the production for inspection by the trustees or the said appraisers of all books and papers pertaining to the issue on petition for same by the petitioner unless same are voluntarily produced. The said appraisers shall have the power to administer

oaths. The appraisers so appointed shall, after due notice and hearing, fix the valuation as of the date of filing said petition of said plants, properties and franchises at what they were fairly and equitably worth so that said water company shall receive just compensation for same. The report of said appraisers or of a majority of them, together with the report of a stenographer certified by said appraisers as correct, shall be filed in said clerk's office within 6 months after their appointment and any Justice of the Superior Court may after notice and hearing confirm or reject the same or recommit it if justice so requires. Upon the confirmation of said report the court so sitting shall thereupon make final decree upon the entire matter including the application of the purchase money and transfer of the property, jurisdiction over which is hereby conferred, and with the power to enforce said decree as in equity cases. All findings of fact by said court and the appraisers shall be final, but any party aggrieved may take exceptions as to any matters of law, the same to be accompanied by so much of the case as may be necessary to a clear understanding of the question raised thereby. Such exception shall be claimed on the docket within 10 days after such final decree is signed, entered and filed and notice thereof has been given by the clerk to the parties and said exceptions so claimed shall be made up, allowed and filed within said time unless further time is granted by the court or by agreement of the parties. They shall be entered at the next term of the law court to be held after the filing of such exceptions and there heard, unless otherwise agreed, or the law court for good cause shall order further time for hearing thereon. On payment or tender by said district of the amount determined by the final decree together with interest thereon at the rate of 6% per annum from the date of the recording of the taking in the registry of deeds, and the performance of all other terms and conditions imposed by said court, the liability of said Baileyville Water District to the Woodland Water & Electric Company shall cease.

Sec. 10. Valid contracts of water company to be assumed by district. All valid contracts now existing between Woodland Water & Electric Co. and any person or corporations for supplying water in the Town of Baileyville shall be assumed and carried out by said Baileyville Water District.

Sec. 11. Authorized to negotiate temporary loans; and to issue notes and bonds; declared a quasi-municipal corporation; notes and bonds legal investments for savings banks. For accomplishing the purpose of this act, said district, by vote of its board of trustees, without district vote except as hereinafter provided, is hereby authorized to borrow money temporarily and to issue therefor its negotiable notes; and for the purpose of renewing and refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this act, including the expenses and liabilities incurred in the creation of the district, and in acquiring properties, paying damages, laying pipes, mains and conduits, purchasing, constructing, maintaining and operating a water system and making renewals, additions, extensions and improvements to such system and to cover interest payments during any period of construction, said Baileyville Water District, by votes of its board of trustees, without district vote, is also hereby authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in such amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine; provided,

however, that the total indebtedness of said district at any one time outstanding shall not exceed the sum of \$500,000. Said bonds, notes and evidences of indebtedness may be issued to mature serially in annual installments of not less than 1% of the face amount of the issue and beginning not later than 2 years from the original issue thereof. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same prior to maturity, and if callable may be made callable at par or at premium as the trustees may determine. All notes, bonds or other evidences of indebtedness shall have inscribed upon their face the words "Baileyville Water District," shall be signed by the treasurer and countersigned by the chairman of the board of trustees of the district, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile of the signature of the treasurer. All such bonds, notes and evidences of indebtedness so issued by the district shall be legal obligations of the district which is hereby declared to be a quasi-municipal corporation within the meaning of the Revised Statutes of 1954, chapter 90-A, section 23, as amended, and all provisions of said section shall be applicable thereto. The said district may, from time to time, issue its bonds, notes and other evidences of indebtedness for the purpose of paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness, and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by said district shall be legal investments for savings banks in the State of Maine and shall be tax exempt. The said district is hereby authorized and empowered to enter into agreements with the State or Federal Government, or any agency of either, or any corporation, commission or board authorized by the State or Federal Government to grant or loan money to or otherwise assist in the financing of projects such as the district is authorized to carry out, and to accept grants and borrow money from any such government agency, corporation, commission or board as may be necessary or desirable to enforce the provisions of this act.

Sec. 12. Property tax exempt. The property of said district shall be exempt from all taxation.

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 water used by them, and said rates shall be uniform within the territory supplied by the district and subject to approval of the Public Utilities Commission. Said rates shall be so established as to provide revenue for the following purposes:

- I. To pay current expenses for operating and maintaining the water system, and provide for such extensions and renewals as may become necessary.
- II. To provide for the payment of the interest on the indebtedness created by the district.
- III. 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 obligation of the district or invested in such

securities as savings banks are allowed to hold. 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.

IV. If any surplus remains at the end of the year, it may be turned into the sinking fund.

In case any of said bonds or notes are made to run for a period of years, a sinking fund shall be established by the trustees of said district for the purpose of redeeming said bonds or notes when they become due and a sum equal to not less than 1% of the aggregate principal of the outstanding bonds or notes issued on account of or in behalf of said district, as aforesaid, shall be turned into said sinking fund each year to provide for the final extinguishment of said district funded debt.

The money set aside for the sinking fund shall be devoted to the retirement of said notes and bonds, and shall be used for no other purposes, and shall be invested in such securities as savings banks are allowed to hold.

Whenever any bonds of said district become due or can be purchased by said trustees on favorable terms, said trustees may, if sufficient funds have accumulated in said sinking fund, redeem or purchase said bonds, and cancel them. In no case shall bonds so cancelled or redeemed be reissued.

In case the amount in said sinking fund shall not be sufficient to pay the total amount of the bonds falling due at any one time, authority to issue new bonds sufficient to redeem so many of said bonds as cannot be redeemed from the sinking fund is hereby granted to said trustees.

Sec. 14. Incidental powers 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.

Sec. 15. Separability. It is the intention to confer the whole or any part of the powers herein provided for, and if any of the powers or provisions, or part thereof, are for any reason illegal, the remaining powers or provisions, or part thereof, shall remain in full force and effect.

Sec. 16. Act void unless property of water company is acquired. If said water district shall fail to purchase or file its petition to take by eminent domain, before November 1, 1967, the said plant, properties, franchises, rights and privileges owned by Woodland Water & Electric Co. and used or usable in supplying water in the Town of Baileyville, then this act shall become null and void.

Sec. 17. Costs and expenses of taking. All costs and expenses of the taking of the property of Woodland Water & Electric Co. arising under the provisions of this act shall be paid and borne by the Baileyville Water District. The fees and expenses of the appraisers shall be determined and shall be set by the court.

Sec. 18. Existing statutes not affected; rights conferred subject to 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 the Revised Statutes of 1954, chapter 44, and all acts amendatory thereof or additional thereto.

Sec. 19. Local referendum; effective date; certificate to Secretary of State. In view of the emergency cited in the preamble, this act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the Town of Baileyville at an annual or special town meeting. Such special meeting shall be called, advertised and conducted by the municipal officers of said town according to the law relating to municipal elections; provided, however, that the registrar of voters in said town shall not be required to prepare for posting, nor the town clerk to post, a new list of voters, and for the purpose of registration of voters said registrar of voters shall be in session on the 3 secular days next preceding such special meeting, the first and 2nd days thereof to be devoted to registration of voters and the last day to enable the registrar of voters to verify the corrections of said lists and to complete and close up its records of such session. The town clerk shall prepare the required ballots on which he shall reduce the subject matter of this act to the following question: "Shall the Act to Incorporate the Baileyville Water District, passed by the 101st Legislature, be accepted?" 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 hereof immediately upon its acceptance by a majority of the legal voters voting at said annual or special meeting; provided that in the case of a special meeting the total number of votes cast for and against the acceptance of this act at said meeting equals or exceeds 10% of the total vote for all candidates for Governor in said town at the next previous gubernatorial election, but nothing in this section should be construed to prevent submitting this act for acceptance at any annual or special town meeting held within 3 years from the effective date hereof as provided in this section, notwithstanding an earlier vote against such acceptance. The result of each such vote shall be declared by the municipal officers and due certificate thereof filed by the town clerk with the Secretary of State.

Effective May 24, 1963

Chapter 170

AN ACT to Authorize the Municipalities of Detroit, Etna, Plymouth, Dixmont and Stetson to Form a School Administrative District.

Emergency preamble. Whereas, there is a vital need for safe and adequate school facilities in the municipalities; and

Whereas, the school programs of the area could be improved and more efficiently and economically operated; and