

MAINE STATE LEGISLATURE

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ONE - HUNDRE DTH LEGISLATURE

Legislative Document

No. 910

S. P. 299

In Senate, January 26, 1961

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

CHESTER T. WINSLOW, Secretary

Presented by Senator Ferguson of Oxford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT to Incorporate the Oxford Water District.

Emergency preamble. Whereas, there is no existing public water system in the Town of Oxford; and

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

Whereas, an adequate supply of water under pressure is essential for fire fighting and other municipal purposes of the Town of Oxford; and

Whereas, it is imperative that action be taken at the earliest possible moment to eliminate such condition; and

Whereas, acts and resolves do not become effective until 90 days after the Legislature adjourns unless passed as emergency measures; 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 territory, and the inhabitants therein, of the Town of Oxford, is hereby created a body politic and corporate under the name of "Oxford Water District" for the purpose of supplying the inhabitants and others in the district and the Town of Oxford with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes.

All incidental powers, rights and privileges necessary to the accomplishment of the main objects herein set forth are granted to said district.

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 river, lake, pond, stream, brook, spring or other source of water, natural or artificial, within the Town of Oxford or to contract to do any or all of the foregoing things.

Sec. 3. Right of eminent domain. The said district, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, real estate and personal estate, and any interest therein, necessary or convenient for such purposes, by purchase, lease or otherwise, and is hereby expressly authorized to exercise the right of eminent domain as hereinafter provided to acquire for such purposes any land or interest therein or water rights necessary for erecting and maintaining dams, plants and works, for flowage, for power, for pumping, for supplying water through its mains, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining mains, 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 hereby authorized to lay in and through the streets, roads, ways and highways of the Town of Oxford, and across private land therein, and to maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures as may be necessary and convenient for its corporate purposes, and whenever said district shall lay or install any pipes, mains, conduits, aqueducts or fixtures 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 so replaced as to leave the surface in proper condition.

The said district is hereby authorized, for the purpose of its incorporation, to erect and maintain all dams, reservoirs and 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 exercising right of eminent domain; assessment of damages; appeal procedure. In exercising any rights of eminent domain that are conferred upon said district, the district shall file for record in the registry of deeds in Oxford County plans of the location of lands or interest therein to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective or uncertain, it may, at any time, correct and perfect such location and file a new description thereof; and in such case, the district is liable in damages only for property for which the owner had not previ-

ously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any act which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of 10 days from such filing; whereon possession may be had of all such lands or interest therein so taken, but title thereto shall not vest in said district until paid for.

If any person sustaining damages by any taking as aforesaid shall not agree with the trustees of said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Oxford County, may have said damages assessed by them. The procedure and all subsequent proceedings and and rights of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be prescribed in the case of damages by laying out of highways.

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 upon petition by the district 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 or as prescribed by the Public Utilities Commission but at the expense of the district.

Sec. 6. Trustees; how elected; meetings; officers. 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 the acceptance of this act as hereinafter provided, the selectmen of the Town of Oxford shall appoint 3 trustees of said district to hold office as follows: One to serve until the first annual town meeting of the Town of Oxford following the acceptance of this act; one to serve until the 2nd annual town meeting of said town, following such acceptance; and one to serve until the 3rd annual town meeting of said town following such acceptance. At each annual town meeting of said town, beginning with the first annual town meeting following the acceptance of this act, one trustee shall be elected by the town in the manner of voting followed at the town meeting for the election of selectmen, to serve until the annual town meeting occurring 3 years thereafter and until his successor is elected and qualified.

Whenever any trustee ceases to be a resident of said district, he vacates the office of trustee. All trustees, if residents of said district, shall be eligible for reelection. Vacancies in the office of trustee shall be filled by the selectmen until the next annual town meeting of the Town of Oxford, and at such annual town meeting the unexpired portion of said term, if any, shall be filled in the same manner as the trustees are elected.

As soon as convenient after their appointment, the first 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 that they may meet by agreement without such notice. They shall then organize by electing from their own number a chairman and a clerk and, not necessarily from their own number, a treasurer. They shall adopt a corporate seal and may adopt by-laws and perform any other acts within the powers delegated to them by law. Following each annual town meeting of said Town of Oxford, the trustees shall elect from their own number a chairman and a clerk and, not necessarily from their own number, a treasurer to serve until the next annual town meeting of said Town of Oxford and until their respective 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 receive as compensation for their services an amount to be determined by them not to exceed \$100 each per year; 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.

Sec. 7. Annual report. The trustees 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 annual town report.

Also, a complete report of the doings of the district shall be rendered at the annual town meeting of the Town of Oxford by the board of trustees of said district, including a financial report.

Sec. 8. District and town authorized to make contracts. Said district, through its trustees, is authorized to contract with persons and corporations, including the Town of Oxford, and said Town of Oxford is authorized to contract with it, for the supply of water for municipal purposes.

The said district is further authorized to purchase water from the Norway Water District and the Norway Water District is authorized to distribute water to the Oxford Water District at such rates and under such terms as shall be established by the Maine Public Utilities Commission.

Sec. 9. Authorized to acquire property of Town of Oxford devoted to water supply purposes. Said district, through its trustees, is authorized to acquire by purchase or upon conveyance without consideration all or part of any property owned by the Town of Oxford, located in the Town of Oxford, including all lands, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in the Town of Oxford, and the Town of Oxford, through its selectmen, without town vote, is authorized to sell, transfer and convey, with or without consideration, its said properties to said district.

Sec. 10. Authorized to borrow money, to issue bonds and notes. 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, without vote of the inhabitants, is 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 organizational and other necessary expenses and liabilities whether incurred by the district or the Town of Oxford, the district being authorized to reimburse said Town of Oxford for any such expense incurred by it and on acquiring properties, paying damages, laying pipes, mains, aqueducts and conduits, constructing, maintaining and operating a water plant or system and making renewals, additions, extensions and improvements to the same and to cover interest payments during the period of construction, said district, through its trustees, without the vote of its inhabitants, is also authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in one series, or in separate series, in such amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine; provided the total indebtedness of the said district shall not exceed the sum of \$300,000 at any one time outstanding.

Said bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the trustees may determine, but none of them shall run for a longer period than 40 years from the date of 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 such premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "Oxford 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 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 declared to be a quasi-municipal corporation within the meaning of the Revised Statutes of 1954, chapter 53, section 137, and chapter 90-A, section 23, as enacted by the public laws of 1957, chapter 405, section 1 and all provisions of said sections shall be applicable thereto. The said district may refund and reissue, from time to time, in one or in separate series, its bonds, notes and other 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.

Sec. 11. Property tax exempt. The property, both real and personal, rights and franchises of said district shall be forever exempt from taxation.

Sec. 12. 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. Said rates shall be uniform within the territory supplied by the district and shall be subject to the 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 to 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 obligations of the district or invested in such securities as savings banks or fiduciaries or trustees in this State 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;

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

Sec. 13. 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 the 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.

Emergency clause; effective date; referendum; 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 Oxford at a special election or elections called and held for the purpose. The dates of said elections shall be determined by said municipal officers, but such election shall not be later than the first day of November, 1962. Such special elections shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, the board of registration shall not be required to prepare nor the town clerk to post a new list of voters; and for this purpose said board of registration shall be in session on the first secular day next preceding said election. 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 Creating the Oxford Water District, passed by the 100th 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.

The result of the vote in said district shall be declared by the municipal officers of the Town of Oxford and due certificate thereof filed by the town

clerk with the Secretary of State, and if said result so filed shows that a majority of the vote is for approval of this act, it shall take complete effect; provided that the total number of votes cast for and against the acceptance of this act equals or exceeds 20% of the total vote for all candidates for Governor cast in said district at the next previous gubernatorial election.