

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1336

H. P. 913

House of Representatives, March 2, 1967

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

BERTHA W JOHNSON, Clerk

Presented by Mrs. Baker of Orrington.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT to Create the Orrington Water District.

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

Sec. 1. The territorial limits and corporate name and purposes. The inhabitants and territory within the Town of Orrington in the County of Penobscot shall be and hereby are constituted a public municipal corporation under the name of "Orrington Water District" for the purpose of supplying the inhabitants of said district with pure water for domestic, sanitary, manufacturing and municipal purposes.

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 Swett's Pond and Johnson Mill Stream.

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, by purchase, gift, or by exercise of the right of eminent domain, which right is hereby expressly delegated to said water district for said purposes, any lands or interests therein or water rights necessary for erecting and maintaining dams, for flowage, for power, for pumping its water supply through its mains, for reservoirs and standpipes, for preserving the purity of the watershed, for laying and maintaining aqueducts, mains 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, standpipes, mains, aqueducts structures and lands.

Sec. 4. Authorized to lay pipes, etc. through public ways and across private lands. The said district is hereby authorized to lay in and through the streets, roads, ways and highways within said district and across private lands therein,

and to maintain and replace all such pipes, aqueducts, mains and fixtures as may be necessary, and may excavate through any lands when necessary and convenient for its corporate purposes; and whenever said district shall lay any pipes, aqueducts or mains 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.

Sec. 5. Authorized to erect and maintain dams, reservoirs, etc. The said district is hereby authorized for the purposes of its incorporation, to erect and maintain all dams, pumping stations, with all necessary appliances required therefor, reservoirs, standpipes and structures necessary and convenient for its corporate purposes.

Sec. 6. Liability for damage; procedure in exercise of eminent domain; adjustment of damages. Said water district shall be liable for all damage that shall be sustained by any person or corporation in his or its property by the taking of any land or interest therein whatsoever, or water, or by flowage, or by excavating through any land for the purpose of laying pipes, aqueducts or mains, building dams or constructing reservoirs or standpipes.

In exercising any right of eminent domain conferred upon it by law, from time to time, in the taking of lands or interests therein, or water rights, the said district shall file in the office of the county commissioners of Penobscot County and record in the registry of deeds in said county plans of the location of all such lands or interests therein or water rights, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire the property authorized to be taken, and which is described in such location, or the location 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 shall be liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any acts 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, whereupon possession may be had of all said lands or interests therein or water rights so taken, but title shall not vest in said district until payment therefor.

If any person or corporation sustaining damages by any taking as aforesaid and said water district shall not mutually agree upon the sum to be paid therefor, either party, upon petition to the county commissioners of Penobscot County, may have such damages assessed by them; and the procedure and all subsequent proceedings and right 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. 7. Crossing of railroads. In case of any crossing of railroads, unless consent is given by the company owning or operating such railroad, as to place, manner and conditions of the crossing, within 30 days after such consent is requested by such district, the Public Utilities Commission shall, upon petition

setting forth a description of said premises and the reasons for said crossing, after notice given as said commission may prescribe, determine the place, manner and conditions of such crossing, and all work within the limits of such railroad location shall be done under the supervision of the railroad company and to the satisfaction of said company, but at the expense of said water district, unless otherwise ordered by said Public Utilities Commission.

Sec. 8. Management of affairs of district; election of officers; ballots; trustees' meeting. All the affairs of said district shall be managed by a board of trustees composed of 5 members who shall be residents in the district. The trustees to be so elected shall be chosen by a plurality vote of the legal voters within said district voting at an election to be specially called for the acceptance of this Act and the election of said trustees on or before December 31, 1968. Such special election shall be called, advertised and conducted according to the law relating to municipal elections in said town, except as otherwise provided herein. The registrar of voters in said Town of Orrington shall not be required to prepare for posting, nor the town clerk to post, a new list of voters, but for the purpose of registration of voters, said registrar of voters shall be in session for 3 secular days next preceding such election, the first 2 days thereof to be devoted to registration of voters, and the last day to enable said registrar to verify the corrections of said lists and to complete and close up the records of said session. All nominations of candidates so to be voted for shall be made by nomination papers signed in the aggregate for each candidate by not less than 50 qualified voters within said water district. Each voter signing the nomination paper shall make his signature in person and add to it his place of residence, and each voter may subscribe to as many nominations as there are trustees to be elected and no more. Such nomination papers shall, before being filed, be submitted to the town clerk of the Town of Orrington, who shall forthwith certify thereon what number of the signatures are names of qualified voters in said district. One of the signers to each such separate paper shall swear to the truth thereof and the certificate of such oath shall be annexed to or made upon the nomination papers. Such nomination papers shall be filed with said town clerk at least 7 days, exclusive of Sundays, previous to the day of such election. With such nomination papers shall be filed the consent in writing of the person or persons nominated. All nomination papers being filed and being in apparent conformity with the foregoing provisions, shall be deemed to be valid, and if not in apparent conformity they may be seasonably amended under oath. In case any candidate who has been duly nominated under the provisions hereof shall die before the day of election, or shall withdraw in writing, the vacancy may be supplied in the manner herein provided for such nominations. The name so supplied for the vacancy shall, if the ballots have not been printed, be placed on the ballots instead of the original nomination; or, if the ballots have been printed, new ballots containing the new nomination shall, if practicable be furnished, or slips containing the new nomination shall be printed under the direction of the town clerk, which may be pasted in proper place upon the ballots, and thereafter shall become part and parcel of said ballots as if originally printed thereon.

The ballot shall be substantially as follows: It shall contain the names of all candidates so nominated printed in one column under the heading, "For Trustees

of Orrington Water District". Above such heading shall be printed "Vote for 5 (or such number as may be appropriate) trustees. Make a cross or check mark to the right of each name voted for." As many blank spaces shall be left after the names of the candidates as there are trustees to be elected, in which the voter may by writing insert the name or names of any person or persons for whom he desires to vote. In preparing his ballot, the voter shall mark a cross (X) or check mark (V) against and to the right of such names on such ballot as he desires to vote for, not to exceed the number of trustees so to be elected. If the voter shall desire to vote for any person or persons whose name or names are not on the printed ballot, he may fill in such name or names in the blank spaces left therefor by writing the same therein. Where the voter so adds by writing in such new name or names, his vote for such new name or names shall be counted therefor although he may fail to mark a cross or check mark against the same. The result of such election shall be declared by said municipal officers, and due certificate thereof filed with the town clerk. The term of office of the trustees shall begin when elected.

As soon as convenient after members of said board have been so chosen, said trustees shall hold a meeting at the town office in said Town of Orrington, to be called by one of said trustees upon such reasonable notice to the others as he deems proper. They shall organize by the election of a president and clerk, adopt a corporate seal, and, when necessary, may choose a treasurer and all other needful officers and agents for the proper conduct and management of the affairs of said district. They may also ordain and establish such bylaws as are necessary for their own convenience and the proper management of the affairs of the district. At said first meeting, the trustees so elected shall determine by lot the term of office of each trustee, so that one trustee shall retire each year and whenever the term of office of a trustee expires, his successor shall be elected by a plurality vote by the inhabitants of said district, upon nomination made as herein provided for the first election of trustees, and for the purpose of such election, a special election shall be called and held on or before December 31st in each year, the same to be called in the manner hereinbefore provided for the first election of trustees. The trustee so elected shall serve the full term of 5 years; and in case any vacancy arises in the membership of the board of trustees, it shall be filled in like manner for the unexpired term by special election to be called by the municipal officers of the Town of Orrington. When any trustee ceases to be a resident of the district, he shall vacate such office of trustee and the vacancy shall be filled as aforesaid. All such trustees shall be eligible to reelection, but no person holding the office of selectman or road commissioner in the Town of Orrington shall be eligible to nomination or election as trustee. Said trustees may procure an office and incur such expense as may be necessary. Each member shall receive in full compensation for his services in whatever capacity an allowance of \$100 per year and no more. At the close of each fiscal year, the trustees shall make a detailed report of their doings, of the receipts and expenditures of said water district, of its financial and physical condition and of such other matters and things pertaining to said district as shall show the inhabitants of said district how said trustees are fulfilling the duties and obligations of their trust, such report to be made and filed with the municipal officers of said Town of Orrington.

Sec. 9. Temporary loans negotiated; issue of bonds. For accomplishing the purposes of this Act, said water district, through its trustees, is authorized to borrow money temporarily and to issue therefor the negotiable notes of the district, and for the purpose of refunding the indebtedness so created, for paying any necessary expenses and liabilities incurred under the provisions of this Act, including the expenses incurred in the creation of the district, in securing sources of supply, taking water and land, paying damages, taking rights-of-way or other interests in real estate, by purchase or otherwise, laying pipes, aqueducts and mains, constructing, installing, maintaining and operating reservoirs, stand-pipes, dams, pumping stations and whatever equipment may be necessary or incidental to the construction and installation of such system of water works, and making renewals of or extensions, additions and improvements to the same, the said water district, through its trustees, may, from time to time, issue bonds of the district to the amount or amounts necessary in the judgment of the trustees therefor. Said notes and bonds shall be legal obligations of said water district, which is hereby declared to be a quasi-municipal corporation within the meaning of the Revised Statutes of 1964, Title 30, section 5053, and all the provisions of said section shall be applicable thereto. The said notes and bonds shall be legal investments for savings banks.

Sec. 10. Contracts for supply water. Said water district is hereby authorized to make contracts with the Town of Orrington and with corporations and inhabitants of said district, for the purpose of supplying water as contemplated by this Act, and the Town of Orrington, by its selectmen, is hereby authorized to enter into a contract with said district for a supply of water for public uses on such terms and for such time as the parties may agree, which contract when made shall be legal and binding on all parties thereto and said Town of Orrington, for said purposes, may raise money in the same manner as for other municipal charges.

Sec. 11. Water rates. 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 the rates for water so supplied shall be uniform within the territory supplied by the district whenever the installation and maintenance of mains and the cost of service is substantially uniform, but nothing in this Act shall preclude said district from establishing higher rates than the regular rates in sections where for any reason the cost of construction and maintenance or the cost of service exceeds the average, but such higher rates shall be uniform throughout the sections where they apply. Said rates shall be so established as to provide revenue for the following purposes:

1. **Expenses.** To pay the current expenses for operating and maintaining the water system.
2. **Interest.** To provide for the payment of the interest on the indebtedness created or assumed by the district.
3. **Percent of indebtedness.** To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created or assumed by the district, which sum shall be turned into a sinking fund and there kept to

provide for the extinguishment of such 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 are allowed to hold.

4. Surplus. If any surplus remains at the end of the year, it may be transferred to the sinking fund.

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

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 1964, Title 35, Part 1, and all Acts amendatory thereof or additional thereto.

Referendum; effective date; certificate to Secretary of State. Unless accepted and approved by a majority vote of the legal voters within said proposed water district, voting at an election called and held for the purpose by the selectmen of the Town of Orrington on or before December 31, 1968, as provided in section 8, this Act shall forthwith become inoperative. The registrar of voters shall be in session the 3 secular days next preceding said special election for the purpose of revising the lists as provided in section 8. The town clerk shall reduce the subject matter of this Act to the following question: "Shall the Act to Create the Orrington Water District, passed by the 103rd 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 shall be declared by the selectmen of the Town of Orrington and due certificate thereof filed by the town clerk with the Secretary of State.