

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1355

H. P. 902

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. Fuller of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT to Expand the Territory of the York Water District and to Modernize its Charter.

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

Sec. 1. York Water District, territory expanded. The inhabitants and the territory of the Town of York in the County of York, State of Maine, in the area hereinafter described, shall constitute a body politic and corporate under the name of the York Water District for the purposes of supplying said Town of York and the inhabitants and others located in said district with pure water for domestic, sanitary, commercial, manufacturing, industrial, agricultural and municipal purposes, and the supply of shipping.

Beginning at a point on the shore of the Atlantic Ocean situated in said Town of York at Bald Head Cliff, so-called, said point being determined by projecting the center line of the road leading from Shore Road, so-called, to the Cliff Country Club, easterly to said shore; thence from said point westerly along said line as projected and also by said line as projected in a westerly direction to a point on said projected line that is 1,000 feet westerly from said Shore Road; thence on a line running in a southerly direction parallel to and holding a distance of 1,000 feet from the southwesterly side of said Shore Road to a point formed by the intersection of said line with the projection of another line drawn 1,000 feet northerly of and parallel to the northerly side of the Hutchins or River Road, so-called, formerly the Passaconaway and Weare Road, so-called; thence westerly along said line parallel to and holding a distance of 1,000 feet from said Hutchins or River Road to a point 1,000 feet easterly of the Blue Star Memorial Highway, formerly called U. S. Route One and The Post Road; thence from said point on a line running in a northerly direction

parallel to and holding a distance of 1,000 feet from the easterly side of the Blue Star Memorial Highway to a point opposite the intersection of the Logging Road, so-called, with said Blue Star Memorial Highway; thence westerly at a 90° angle to the last named course and crossing said Blue Star Memorial Highway at a 90° angle thereto at said point of intersection and continuing on said course westerly to a point that is 2,500 feet westerly of said Blue Star Memorial Highway; thence from said point on a line running in a southerly direction parallel to and holding a distance of 2,500 feet from the westerly side of said Blue Star Memorial Highway to the thread of the York River; thence southerly along the thread of said York River to the southerly side of Rice's Bridge; thence westerly along the southerly side of Rice's Bridge and the southerly side of the said Blue Star Memorial Highway to a point 1,000 feet westerly of the intersection of the center line of the South Side Road, so-called, and the southerly side of said Blue Star Memorial Highway; thence on a line running in a general southeasterly direction parallel to and holding a distance of 1,000 feet from the westerly side of said South Side Road, said line continuing the same distance from and parallel to the Seabury Road, and also continuing the same distance from and parallel to the Brave Boat Harbor Road to a point on said line which is 2,000 feet southerly from the intersection of said line with the thread of the South Side Brook, so-called; thence along a line drawn at a 90° angle to the last named course southeasterly to a point on the shore of the Atlantic Ocean; thence northeasterly along the shore of said Ocean to Western Point, so-called, and thence northeasterly on a line drawn from said Western Point to East Point, so-called, and thence along the shore in a general northeasterly direction to the point of beginning.

Sec. 2. Source of supply. The said district, for effecting and carrying out the purposes of its incorporation, is authorized to take, hold, divert, use and distribute water from Chase's Pond in said Town of York, and all other ponds and streams tributary thereto or running therefrom.

Said district is also authorized to take, hold, divert, store and use water from any underground brook, spring or vein of water in said Town of York.

Sec. 3. Right of eminent domain conferred. The said district for the purposes of its incorporation is authorized to take and hold as for public uses, by purchase or otherwise, 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, for preserving the purity of the water and water shed, 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 source of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands. Said right shall not be limited to the geographical limits of said district, provided the taking is in the furtherance of its corporate purposes.

Sec. 4. Authorized to lay pipes over public ways. The said district is authorized to lay in and through the streets, roads, ways, highways and bridges in said Town of York, 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.

Sec. 5. Authorized to erect dams and reservoirs; to cross navigable waters; to supply water to utilities. Said water 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. Said water district is also authorized to lay, construct and maintain its pipes and fixtures in, over and under navigable waters and to build and maintain structures therefor, subject to the laws of the United States; also to supply water to any public utility now supplying water in the County of York, subject to the consent of the Public Utilities Commission.

Sec. 6. Procedure in exercising right of eminent domain. After the original acquisition for which provision is made in sections 10 and 11, 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, or secretary, of the commission. When such copy of the certificate is filed with the clerk of courts in the county where the property lies, the property shall be deemed and treated as taken. 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 to 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 in the registry of deeds

of York County of such certificate as hereinbefore provided, but title to such property shall not vest in the district until payment therefor has been made.

Sec. 7. Adjustment of damages; procedure as in laying out of highways. If any person sustaining damages by any taking as aforesaid shall not agree with the district upon the sum to be paid therefor, either party, upon petition to the county commissioners of York County, may have such damages assessed by them. The procedure and all subsequent proceedings and right of appeal therefrom 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. 8. 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. 9. Election of trustees; term of office; bylaws; compensations; annual reports. 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 and elected as hereinafter provided. The trustees to be so elected shall be chosen by a plurality vote of the legal voters within said district. 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 25 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 registrar of voters of the Town of York, 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 the town clerk at least 7 days, exclusive of Sundays, previous to the day of such election. With such nomination papers shall also 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 York Water District." Above such heading shall be printed "Vote for Five (or such number as may be appropriate) Trustees." Make a cross (X) or a 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 be 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 a check mark (✓) 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 name 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 (X) or a 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.

Each year after the election of a trustee or trustees, said trustees shall forthwith hold a meeting to elect officers as hereafter provided. 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. 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 election of trustees. For the purpose of such election, a special election shall be called and held on the first Monday of May in each year, the same to be called by the trustees of said district in the same manner as town meetings are called, and for this purpose only the trustees are vested with the powers of selectmen of towns. The trustees 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 trustees of the York Water District. 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 trustees shall be eligible to reelection, but no person holding the office of selectman or road commissioner in the Town of York shall be eligible to nomination or election as trustee. Said trustees may procure an office and incur such expenses as may be necessary. Each member shall receive as full compensation for his services in whatever capacity an allowance of \$300 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 thereof how said trustees are fulfilling the duties and obligations of their trust, such report to be filed with the municipal officers of the Town of York.

The trustees may appoint a registrar of voters for said district, who may also be the registrar of voters for the Town of York, and fix his salary. It shall be the registrar's duty to make and keep a complete list of all the eligible voters of said district, and the list prepared by him, as provided by the laws of the State of Maine, shall govern the eligibility of any voter.

Sec. 10. Acquisition of York Shore Water Company. The acquisition of the York Shore Water Company by said district is ratified and confirmed and the district is hereby vested with all of the franchises, rights and privileges of the York Shore Water Company in every respect.

Sec. 11. Authority to contract for municipal supply; all valid contracts to be assumed. Said water district is hereby authorized to make contracts with the Town of York, or any municipal or quasi-municipal corporation therein, for the purpose of supplying water as contemplated by this Act, and the Town of York by its selectmen or any municipal or quasi-municipal corporation in said town by its proper officers 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 York or any municipal or quasi-municipal corporation therein for said purposes may raise money in the same manner as for other municipal charges.

Sec. 12. Authority to borrow money. For accomplishing the purposes of this Act, said water district, through its trustees, without vote of the inhabitants, 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, of securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant and making renewals, extensions, additions and improvements to the same, and protecting the water shed, the said water district, through its trustees, without vote of the inhabitants, may from time to time issue bonds of the district to an amount or amounts necessary in the judgment of the trustees therefor.

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. 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 "York Water District," shall be signed by the treasurer and countersigned by the president 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 1964, Title 30, section 5053, 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. 13. Property tax exempt. The property of said district shall be exempt from all taxation in the Town of York and in any other towns where any part of its plant may be located.

Sec. 14. Water rates; 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 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 and to provide for necessary extensions and renewals of said system.

2. Interest. To provide for the payment of the interest on the indebtedness created or assumed by the district.

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

Sec. 15. Incidental rights and powers granted. All incidental rights, powers and privileges necessary to the accomplishment of the main object herein set forth are granted to the public municipal corporation hereby created.

Sec. 16. Water Tower at Bald Head. If the inhabitants of the district approve chapter , of the private & special laws of Maine, 1967, as therein provided, it shall upon the acceptance of this charter become part thereof, and be designated section 16 hereof, and shall not be repealed by the acceptance of this charter.

Sec. 17. Registrar of voters prepares list of voters; warrants for election. In all elections hereunder the registrar of voters of the district shall exclude from his lists and from all check lists the legal voters who are resident outside the territorial limits of said water district as defined in this Act, and all warrants issued for elections by the trustees shall be varied accordingly to show that only the voters resident within the territorial limits of said water district are entitled to vote hereunder.

Sec. 18. Public Utilities Commission statutes shall govern the district. 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 I, and all Acts amendatory thereof and additional thereto.

Sec. 19. P. & S., 1929, c. 8, repealed. If this Act is accepted as provided herein, then chapter 8 of the private & special laws of 1929, as amended by chapter 112 of the private & special laws of 1963, is repealed.

Sec. 20. Provisions for acceptance of this charter. This Act shall not take effect unless accepted and approved by a majority vote of the legal voters within said water district voting at an election especially called and held for the purpose in accordance with the present provisions of the charter of the York Water District. Said special election shall be called, advertised and conducted in accordance with the provisions of the existing charter. Provided, however, that the registrar of voters of the town of York shall not be required to prepare for posting, nor the clerk to post, a new list of voters. Said registrar of voters shall be in session for 3 secular days next preceding the date set for said special election for the purpose of revising the list as provided in said charter. Persons eligible to vote in this election shall include, and whose names shall be set forth on said list, those voters presently eligible to vote in water district elections and also those persons who shall be made eligible to vote in said election by the expansion of the territory as expressed in this Act. All other voters of the Town of York, except those legal voters who are resident within the territorial limits of the water district as defined in this Act, shall be excluded from voting. The subject matter of this Act shall be reduced to the following question on a writer ballot in the following form:

‘FORM OF BALLOT

Place a cross (X) or a check mark (√) in the square set forth below to indicate your opinion on the question. You may mark only one square. If you mark more than one square, your ballot will not be counted.

“Shall the provisions of ‘An Act to Expand the Territory of the York Water District and to Modernize its Charter,’ as passed by the 103rd Legislature, be ratified?”

YES []

NO []

The inhabitants of the York Water District, as now constituted, and those inhabitants within the area added by this Act shall vote by ballot on said question and shall indicate by a cross (X) or check mark (V) placed against the words “YES” or “NO” their opinion of the same. The ballots shall be received, sorted, counted and declared in open meeting and if it shall appear that a majority of the inhabitants of the district voting on the question are in favor of the Act, the results shall be so declared and due certification thereof filed with the Secretary of State.

Acceptance of this Act by an affirmative vote of the inhabitants of the York Water District, as above expressed, shall render this Act immediately effective as law and shall subject all the property and the expanded area of the York Water District to any existing liens, mortgages, encumbrances or laws with a specific reference to the Revised Statutes of 1964, Title 30, section 5053, arising out of the existing indebtedness of said district which via liens, mortgages, encumbrances and operation of law heretofore was applicable only to the property within the limits of said district prior to the acceptance of this Act.