

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1618

H. P. 1136

House of Representatives, May 2, 1967

Reported by Mr. Clark, from the Committee on Public Utilities. Printed under Joint Rule No. 18.

BERTHA W. JOHNSON, Clerk

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. Corporation. The inhabitants and the territory of the Town of York in the County of York, State of Maine, 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. Provided, however, that existing rights, franchises and properties of the Kittery Water District and the Kennebunk, Kennebunkport and Wells Water District within the Town of York shall not in any manner be affected by inclusion of said properties within the limits of the York Water District, and said existing rights, franchises and properties shall not be subject to any liens, mortgages or other encumbrances created by the present or future indebtedness of the York Water District. The York Water District shall in no way be obligated to acquire, maintain, operate or service any properties of the Kittery Water District of the Kennebunk, Kennebunkport and Wells Water District.

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 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 waters 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 section 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, 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; 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 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 the 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; compensation; annual reports. All the affairs of said district shall be managed by a board of trustees composed of 5 members who shall be residents of the Town of York and elected as hereinafter provided. The trustees of said district holding office at the effective date of this Act shall continue to hold office until the annual town meeting of the inhabitants of the Town of York next following the expiration of the current term of office of each such trustee. At the annual town meeting of the inhabitants of the Town of York to be held in the year 1969, and at each annual town meeting thereafter, the said inhabitants shall choose a trustee of said district for a term of 5 years. Said trustees shall be nominated and elected under the same procedure as provided for the selectmen of said town. In the event a vacancy arises in the membership of the board of trustees, the unexpired term of the vacant office shall be filled by the board of selectmen. All

trustees shall be eligible to reelection, but no person holding the office of road commissioner or selectman in the Town of York shall be eligible to nomination or election as trustee.

After each annual town meeting of the inhabitants of the Town of York, the trustees shall organize by the election of a president and clerk. Said trustees may 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. Said trustees may procure an office and incur such expenses as may be necessary. Each member shall receive in 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 made and filed with said municipal officers.

Sec. 10. Acquisition of York Shore Water Company. The acquisition of York Shore Water Company by said district is ratified and confirmed and the district is 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 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 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 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 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 section 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:

I. To pay the current expenses for operating and maintaining the water system and to provide for necessary extensions and renewals of said system.

II. To provide for the payment of the interest on the indebtedness created or assumed 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 the 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.

IV. If any surplus remains at the end 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 15, 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 Sec. 16 hereof, and shall not be repealed by the acceptance of this charter.

Sec. 17. Ratification of amendments. At the annual town meeting of the inhabitants of the Town of York to be held in the year 1968, the town clerk shall reduce the subject matter of the foregoing Act to the following question on a written ballot in the following form :

‘FORM OF BALLOT

Place a cross (×) 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 entitled ‘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 Town of York shall vote by ballot on said question and shall indicate by a cross or check mark 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 voting on the question are in favor of the Act, the result shall be declared by the selectmen and due certification thereof filed by the town clerk with the Secretary of State.’

Acceptance of the aforesaid amendments by an affirmative vote of the inhabitants of York shall render the aforesaid amendments immediately effective as law and shall subject all property in the Town of York to existing liens, mortgages and encumbrances arising out of the existing indebtedness of said district, and being the liens, mortgages and encumbrances heretofore applicable only to that property within the limits of said district prior to acceptance of the foregoing amendments, except as provided in section 1 of this Act.

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. L., 1929, c. 8, repealed. If this Act is accepted as provided herein, then chapter 8 of the private and special laws of 1929, as amended by chapter 112 of the private and special laws of 1963, is repealed.