

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1098

H. P. 824

House of Representatives, February 24, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Curtis of Orono.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT to Amend the Charter of the Orono-Veazie Water District.

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

Sec. 1. P. & S. L., 1969, c. 50, § 6, amended. Section 6 of chapter 50 of the private and special laws of 1969, is amended by inserting after the first sentence of the 2nd paragraph the following new sentence:

Notice of the filing shall be sent by mail to the owners at the address appearing on the tax records of the municipality in which the land is located.

Sec. 2. P. & S. L., 1969, c. 50, § 6, amended. The 3rd paragraph of section 6 of chapter 50 of the private and special laws of 1969, is amended to read as follows:

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~~ town ways.

Sec. 3. P. & S. L., 1969, c. 50, § 8, amended. The 2nd sentence of section 8 of chapter 50 of the private and special laws of 1969, is amended to read as follows:

As soon as convenient after the members of said board have been appointed, said trustees shall hold a meeting in the Town of Orono and organize by the election of a president and clerk, **from their own membership**, adopt a corporate seal and choose a treasurer and, when necessary, all other needful

officers and agents, who with the treasurer shall serve at their pleasure and whose compensation shall be fixed by said trustees.

Sec. 4. P. & S. L., 1969, c. 50, § 8, amended. The 4th sentence of section 8 of chapter 50 of the private and special laws of 1969, is repealed and the following enacted in place thereof:

The present members of the board of trustees shall remain in office until their respective terms of office expire, and thereafter, the term of office of a trustee shall expire with the end of each municipal year.

Sec. 5. P. & S. L., 1969, c. 50, § 8, amended. The 3rd sentence from the end of section 8 of chapter 50 of the private and special laws of 1969, is amended to read as follows:

Members of the board shall not be eligible to any office under the board, except that of president and clerk.

Sec. 6. P. & S. L., 1969, c. 50, § 11, amended. Section 11 of chapter 50 of the private and special laws of 1969 is amended to read as follows:

Sec. 11. Authority to purchase; right of eminent domain to take property of Penobscot County Water Company. The Orono-Veazie Water District is authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain, which right is expressly delegated to said district for said purpose, the entire plant, property, franchises, rights and privileges of the Penobscot County Water Company located in or serving the Towns of Orono and Veazie, except its cash assets ~~and~~, amounts receivable, ~~and its land and office building on Forest Avenue in Orono~~, including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by said company, whether the record title thereto is or is not in said Penobscot County Water Company. Said company is authorized to sell, transfer and convey its franchises and property to said water district.

Sec. 7. P. & S. L., 1969, c. 50, § 12, amended. The first paragraph of section 12 of chapter 50 of the private and special laws of 1969, is amended to read as follows:

In case said trustees fail to agree with said Penobscot County Water Company upon the terms of purchase of the above mentioned property, on or before January 1, ~~1970~~ 1972, said district, through its trustees aforesaid, is authorized to take said plant, property and franchises, as for public use by petition therefor in the manner hereinafter provided. Said water district, through its trustees, is authorized on or before July 1, ~~1970~~ 1972, to file a petition in the clerk's office of the ~~Supreme Judicial~~ Superior Court of the County of Penobscot, in term time or in vacation, addressed to any Justice of ~~said court~~ the Supreme Judicial Court, who, after due notice to said Penobscot Water Company and its mortgagees, shall, after hearing and within 30 days after the date at which said petition is returnable, appoint 3 disinterested appraisers, one of whom shall be learned in the law, and none of whom shall be residents of Penobscot County, for the purpose of fixing a valuation of said plant, property and franchises. At the hearing aforesaid,

such justice, upon motion of the petitioner, may order the production and filing in court, for the inspection of the petitioner, of all books and papers pertinent to the issue and necessary for a full understanding of the matter to be heard by said appraisers, the terms and conditions of so producing and filing such books and papers to be determined by the justice in his order therefor and to be enforced from time to time as any Justice of said Supreme Judicial Court, in term time or in vacation, upon motion of either party, may deem reasonable and proper in the premises. At such hearing, such justice, upon motion of the petitioner, may fix a time at which the said water company shall file in the clerk's office of the ~~Supreme Judicial~~ Superior Court of the County of Penobscot for the inspection of the petitioner, so far as they relate to the service of the Towns of Orono and Veazie, the following: First, schedule showing the names, residences and water service of all of its customers on the first day of January, ~~1970~~ 1972, with the rate charged therefor; second, copies of all contracts in force on said first day of January ~~1970~~ 1972; third, an itemized statement of the gross income earned during its last complete fiscal year and up to said first day of January, ~~1970~~ 1972, and all operating expenses and fixed charges, paid or incurred during such period and properly chargeable thereto; fourth, a memorandum of all real estate, water rights, or interest therein, owned or controlled on said first day of January, ~~1970~~ 1972, with such brief description thereof, as will reasonably identify the same; fifth, brief descriptions, specifications and plans of all reservoirs, mains, pipe, service pipes, hydrants, gates, gate boxes, shut-off boxes, fixtures and machinery and all the physical elements in such water system, giving in detail quantities, sizes and lengths, and specifying the streets, roads or ways where situated; sixth, an itemized list of all tools, apparatus, appliances and supplies used or usable in supplying water on said first day of January, ~~1970~~ 1972. Such orders may be enforced from time to time by any Justice of said Supreme Judicial Court, in term time or in vacation, upon motion of either party, as such justice may deem reasonable and proper in the premises. At such hearing the justice then sitting may upon motion of the petitioner, make all such decrees as he deems reasonable and proper to enable the petitioner, through its servants and employees, to ascertain the true condition of the mains and pipes of the said water company, externally or internally, in the presence of officers or agents of said water company, the entire expense thereof to be borne by said water district. The said appraisers shall have the power of compelling attendance of witnesses and the production of all books, accounts and papers pertinent to the issue and necessary for a full understanding by them of the matter in question and may administer oaths; and any witness or person in charge of such books, accounts and papers refusing to attend or to produce the same shall be subject to the same penalties and proceedings, so far as applicable, as witnesses summoned to attend the ~~Se-~~ ~~preme Judicial~~ Superior Court. Depositions may be taken as in civil actions. The appraisers so appointed shall, after notice and hearing, fix the valuation of said plant, property and franchises at what they are fairly and equitably worth, so that said water company shall receive just compensation for all and the same. The first day of January, ~~1970~~ 1972, shall be the date as of which the valuation aforesaid shall be fixed, from which date interest on said award shall run, and the net balance of all rents and profits accruing there-

after shall belong to and be paid to said water district as provided for in the final decree of court.

Sec. 8. P. & S. L., 1969, c. 50, § 12, amended. The 4th and 5th sentences from the end of section 12 of chapter 50 of the private and special laws of 1969, are amended to read as follows:

Before said plant, property and franchises are transferred in accordance with such final decree and before payment therefor, as hereinbefore provided, such justice shall, upon motion of either party, after notice and hearing, take account of (a) all additions to and deductions from the plant and property, as of the first day of January, 1972, adjusting the valuation to reflect such changes as may occur from the first day of January, 1972, to the date of the final decree, and (b) take account of all receipts and expenditures properly had or incurred by the company in respect of the territory comprising said district belonging to this period, from and after said first day of January, ~~1970~~ 1972, and all net rents and profits accruing thereafter, and shall order (a) the adjusted value of the plant and property and (b) the net balance of the rents and profits, if any, to be added to or deducted from the amount to be paid under such final decree, as the case may be. On payment or tender by said district of the amount so determined and the performance of all the other terms and conditions so imposed by said court, possession of and title to the entire plant, property and franchises of said company used and usable in supplying water in the Towns of Orono and Veazie shall become vested in said water district.

Sec. 9. P. & S. L., 1969, c. 50, § 16, repealed. Section 16 of chapter 50 of the private and special laws of 1969, is repealed.

Sec. 10. P. & S. L., 1969, c. 50, § 18, repealed and replaced. Section 18 of chapter 50 of the private and special laws of 1969 is repealed and the following enacted in place thereof:

Sec. 18. Certain sections inoperative on failure to acquire Penobscot County Water Company plant. If said water district shall fail to purchase, before July 1, 1972, the plant, property, franchises, rights and privileges owned by the Penobscot County Water Company and used or usable in supplying water to the Towns of Orono and Veazie, or shall fail to file a petition before July 1, 1972, to exercise its right of eminent domain as in this Act provided, for the acquisition of said plant, property, franchises, rights and privileges owned by the Penobscot County Water Company and used or usable in supplying water to the Towns of Orono and Veazie, then this Act shall be inoperative, null and void.

Sec. 11. P. & S. L., 1969, c. 50, § 19, amended. Section 19 of chapter 50 of the private and special laws of 1969, is amended to read as follows:

Sec. 19. Costs and expenses of taking directed by court. All costs and expenses incurred by the district in the acquisition of or in the taking of the property of the Penobscot County Water Company arising under the provisions of this Act shall be paid and borne as directed by the court in the final decree provided in section 12.

STATEMENT OF FACT

The intent of the several amendments contained in this Act is to clarify the language and procedure creating the Orono-Veazie Water District in order to avoid constitutional and interpretative questions.