

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1737

H. P. 1240

House of Representatives, April 1, 1975

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

EDWIN H. PERT, Clerk

Presented by Mrs. Berry of Madison.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

**AN ACT to Establish the Department of Electric Works Within the
Town of Madison.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, reorganization of the Madison Electric Works is urgently needed to assure a continuous supply of electricity to consumers within the Town of Madison and in nearby communities; and

Whereas, the Town of Madison has heretofore approved establishment of a board of directors to administer said electric works; and

Whereas, funds are urgently needed to finance capital improvements to said electric works and to pay current operating expenses; and

Whereas, the Town of Madison has heretofore approved expenditures of funds for such purposes; 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. Department of Electric Works. There is hereby created within the Town of Madison a Department of Electric Works for the purpose of exercising all powers and performing all duties of the town in connection with or incidental to the management and operation of the town's electric works.

Sec. 2. Board of directors. All the affairs of said department shall be managed by a board of directors composed of 5 members, who shall be elected by plurality vote of the legal voters of said Town of Madison. At the first election, 5 directors shall be elected, one to serve until the annual town meeting next ensuing after the date of such election, one until the 2nd annual town meeting thereafter, one until the 3rd such town meeting, one until the 4th such town meeting and one until the 5th such town meeting. Thereafter one director shall be elected at the time of each annual town meeting to serve for the term of 5 years.

Sec. 3. Vacancies in board of directors. Vacancies occurring in said board of directors between annual meetings of the Town of Madison shall be filled by appointment by the municipal officers of said town, and any such appointee shall serve only until the next annual town meeting, when a successor shall be elected to fill such vacancy for the unexpired term, unless such term shall expire at said next annual meeting in which case election shall be as provided under section 2 hereof. All directors, whether duly elected or appointed to fill vacancies, shall be eligible to reelection, but no municipal officer of said Town of Madison shall be eligible to election or appointment as such director. The election or appointment of any director as a municipal officer of said Town of Madison shall, unless such director shall refuse to accept such election or appointment, terminate his directorship and the vacancy caused thereby shall be filled as herein provided.

Sec. 4. Compensation. Directors shall not receive any compensation for their services, except that equal compensation for all directors may be provided by legal vote of the Town of Madison at any annual town meeting. Compensation so voted shall be for the term of one year and shall be paid from the funds of said department.

Sec. 5. Annual audit. The directors of said department shall have an annual audit made of its accounts within 60 days after the end of each fiscal year, and said audit shall be made by individuals or firms recognized as competent auditors by training and experience, or by qualified public accountants.

Sec. 6. Annual report of electors. At the close of each fiscal year and immediately following the audit provided by section 5 hereof, the directors shall make a detailed report of their doings, of the receipts and expenditures of said department, of its financial and physical condition, and of such other matters pertaining to said department as shall show the inhabitants of the town how said directors are fulfilling the duties and obligations of their trust, such report to include the auditor's report and to be made and filed with the municipal officers of the Town of Madison, and to be published as a part of the annual report of said town.

Sec. 7. Rules and regulations. The Board of Directors of the Electric Works shall have the general and exclusive authority and responsibility to prepare and issue rules and regulations for the management and operation of said Electric Works, subject to the rules and regulations of the Public Utilities Commission.

Sec. 8. Borrowing; generally. The town is hereby authorized to borrow amounts of money by the issuance of its general obligation securities for its

electric works for any purpose allowed by law, after vote by the town. Except as otherwise provided herein, said borrowings shall be made under authority of Title 30 of the Revised Statutes, as amended. All of said borrowing shall be approved by the board of directors of the electric works and, unless the vote authorizing such securities otherwise provides, bonds and notes shall be signed by the municipal officers and by the board of directors of the electric works of the town and by the treasurer of said town; provided, however, that coupons need be signed by the treasurer only.

Sec. 9. Borrowing for current operating expenses. In addition to any other borrowing permitted by law, the Town of Madison, by votes of its municipal officers and the board of directors of its electric works, is authorized to borrow money for current operating expenses and to issue therefor bonds or notes of the town, not to exceed \$50,000. Said bonds and notes shall be paid in not more than 5 years from their date and shall be legal obligations of said town, and shall be legal investments for savings banks.

Sec. 10. Moneys of electric works. All moneys received from electric works receipts, notes, bonds or other sources in connection with said electric works department shall be deposited in such banks or depositories as the board of directors of the electric works shall determine, in separate accounts entitled "Town of Madison Electric Works Department," and all withdrawals from said accounts shall be over or upon the orders or warrants of the board of directors of the electric works, said warrants and orders to be directed to the town treasurer. The treasurer of said town shall execute and carry out all such orders and warrants.

No money or surplus shall be transferred by vote of the town or otherwise from the electric works department to any other department of the town.

Sec. 11. Directors to establish rates. All individuals, partnerships, firms and corporations, whether private, public or municipal, shall pay the rate established by the board of directors for the electricity used by them, and the rates for electricity so supplied shall be uniform within the territory supplied by the electric works wherever the installation and maintenance of transmission lines and apparatus for distribution of electric power and the cost of service is substantially uniform, but nothing in this Act shall preclude said directors, with the approval of the Public Utilities Commission, 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 section where they apply. All rates shall be subject to the approval of the Public Utilities Commission and shall be so established as to provide revenue for the following purposes:

1. To pay the current expenses of operating and maintaining the electric light and power system, including all usual and ordinary repairs, replacements and improvements.

2. To provide for the payment of interest on the indebtedness of the town related to the electric works.

3. To provide each year a sum equal to not less than $2\frac{1}{2}\%$ nor more than 5% of the entire existing indebtedness of the town related to the electric works, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of such indebtedness. Money set aside for the sinking fund shall be devoted to the retirement of the aforesaid obligations or invested in such securities as savings banks are allowed to hold.

4. To provide each year a sum equal to not less than 2% nor more than 4% of the book value of the depreciable assets of said department of electric works determined as of the close of the preceding fiscal year, which sum shall be turned into a depreciation and obsolescence fund and there kept to provide for repairs, replacements, additions to, and obsolescence and depreciation of such depreciable assets.

5. To provide and accumulate from year to year reasonable surplus funds to carry out the general purposes of said department of electric works, as may be necessary or desirable in the sole discretion of the directors. At the option of the directors, any accumulated surplus may be deposited in the sinking fund created by this section.

Sec. 12. Electric works subject to Public Utilities Commission. Nothing herein contained is intended to repeal nor shall be construed as repealing the whole or any part of any existing statute; and all rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of Title 35 of the Revised Statutes as amended.

Sec. 13. Appointment of superintendent; removal. The board of directors may appoint a superintendent of the electric works. Said superintendent shall be selected solely on the basis of his administrative qualifications with special reference to his actual experience in, or his knowledge of, utility operations. The board of directors shall determine his compensation.

The superintendent shall hold office for an indefinite term unless otherwise specified by contract. He may be removed or suspended for cause by the board of directors in accordance with the following procedure:

1. The directors shall file with the town clerk a written preliminary resolution setting forth the specific reasons for the proposed removal, a copy of which shall be delivered to the superintendent within ten days of filing.

2. The superintendent may within 20 days of receiving the resolution reply in writing and may request a public hearing.

3. Upon request for a public hearing the directors shall hold one not earlier than 10 days after the request is filed and not later than 30 days.

4. After the public hearing or at the expiration of the time permitted the superintendent to request the public hearing, if no such request is made, the directors may adopt or reject the resolution of removal.

5. The directors may suspend the superintendent from duty in the preliminary resolution, but in no event shall the superintendent's salary be affected until the final resolution of removal has been adopted.

Sec. 14. Duties of superintendent. Subject to any specific limitations imposed by the board of directors pursuant to section 9 hereof, the superintendent shall be responsible for the daily administration and operation of the electric works.

The superintendent shall also perform any additional duties relating to the electric works which are imposed by statute or by rules or regulations promulgated by the board of directors.

Sec. 15. Incidental powers granted. All powers, rights and privileges incidental or necessary to the accomplishment of the purposes herein set forth are granted to the department hereby created.

Sec. 16. Ratification. All action previously taken by the town and its officers to incur debt or contractual responsibility or otherwise to commit the town with respect to any capital improvements project undertaken on behalf of the electric works including the votes taken under Articles 44, 45 and 46 at the annual town meeting held on March 3, 1975, is hereby ratified, validated and confirmed as if this Act had been in effect as of the time such action was taken.

The validity of the first election of the board of directors of the electric works held on March 3, 1975 is hereby confirmed, and any action previously taken by said directors with respect to the electric works including, without limitation, any action to incur debt or contractual responsibility, is hereby ratified, validated and confirmed as if this Act had been in effect as of the time such action was taken.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is reflected in the emergency preamble.