

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1786

H. P. 1198

House of Representatives, March 25, 1975

Approved for introduction by a majority of the Committee on Reference of Bills, pursuant to Joint Rule 10. Referred to Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Dudley of Enfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Incorporate Howland Water District.

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

Sec. 1. Territorial limits; name; purposes; plan of system to be submitted to Public Utilities Commission for approval. The area included within the Town of Howland, and the inhabitants within that area, are hereby created a body politic and corporate by the name of "Howland Water District" for the purposes of supplying the inhabitants of said district with pure water for domestic, sanitary, agricultural, commercial, industrial and all lawful municipal purposes. All incidental rights, powers and privileges necessary to the accomplishment of the main object herein set forth are granted to the corporation hereby created.

Provided, however, that it shall not construct any system of pipe lines or development, without first having submitted its plans to the Public Utilities Commission, and obtained its advice therefor in writing, under power vested in said commission by the Revised Statutes of 1964, Title 35, section 13.

Sec. 2. Powers of Howland Water District. The said district, for the purposes of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from any surface or underground brook, well, lake, pond, river, stream, spring or vein of water in said Town of Howland, or in any adjacent town in the County of Penobscot.

Sec. 3. May exercise eminent domain. The said district, for the purpose of its incorporation, is hereby authorized to take and hold as for public uses, real estate and personal estate, and any interest therein necessary for such purposes, by purchase, lease or otherwise, and is hereby authorized to exercise

the right of eminent domain as hereinafter provided, to acquire for such purposes any land or interest therein or water rights necessary for erecting and maintaining dams, plants and works, for flowage, for power, for pumping, for supplying water through its mains, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining mains, aqueducts and other structures for taking, distributing, discharging and disposing of water, for forming basins and reservoirs, for erection of buildings for pumping works for use therein, for laying pipes and maintaining same, and for laying and maintaining conduits for carrying, collecting and discharging water, for filtering, rectifying and treating plants, works and facilities, for such other objects necessary, convenient and proper for the purposes of its incorporation and for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures, plants, works, facilities and lands.

The said district is hereby authorized to lay in and through the streets, roads, ways and highways within the town, and within any adjacent town in the County of Penobscot and across private lands therein, and to install, maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures as may be necessary and convenient for any of its corporate purposes and authorities, and whenever said district shall lay or install any pipes, aqueducts or fixtures 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 so replaced as to leave the surface in proper condition.

Provided, however, nothing herein contained shall be construed as authorizing said water district to take by right of eminent domain any of the property or facilities of any other public service corporation or district used or acquired for future use by the owner thereof in the performance of a public duty unless expressly authorized thereto herein, or by subsequent Act of the Legislature.

The trustees hereinafter provided for said district may exercise the right of eminent domain vested in said district for the purposes of this Act after hearing, notice of the time and place of the said hearing having been given by publication in a newspaper published in the County of Penobscot once a week for 2 successive weeks, the last publication to be at least 2 weeks previous to the time appointed for said hearing, and the clerk of said district shall keep a record of their proceedings, and their determination and decision, which shall set forth a description of the land or easement taken, and the owners, if known, and the amount of damages awarded therefor. In lieu of the notice for publication hereinbefore defined, said notice may be served in hand by an officer duly qualified to serve civil process in this State on the record owner or owners of the premises involved, the same to be served at least 14 days prior to the time appointed for said hearing. Upon the signing of said record of said trustees, and the filing of the same in the registry of deeds for the County of Penobscot, said trustees may enter upon such land and take possession of the same or an easement therein, as the case may be, for the purposes of this Act.

Sec. 4. Liability for damages. If any person, sustaining damages by any taking as aforesaid, shall not agree with said district upon the sum to be paid therefor, either party upon petition to the county commissioners of Penobscot County may have said damages assessed by them, the procedure and all subsequent proceedings and rights of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the determination of damages resulting from the laying out of highways.

Sec. 5. 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. 6. Board of trustees. All the affairs of said district shall be managed by a board of 3 trustees, at least 2 of whom shall be residents therein, who shall be appointed by the municipal officers of the Town of Howland. They shall hold office as hereinafter provided and until their respective successors are appointed and qualified. Whenever the term of office of a trustee expires, the municipal officers of the Town of Howland shall appoint a successor to serve the full term of 3 years and in case of any other vacancy arising from any cause, it shall be filled in like manner for the unexpired term. During his term of office, no selectman of said Town of Howland shall serve as a member of the board of trustees of the district.

Sec. 7. Trustees; how elected; meetings; officers; vacancies filled for the unexpired term. The first board of trustees shall be appointed within 10 days after the acceptance of this Act by the voters of said district, one to serve until the first annual meeting of the district, one until the 2nd and one until the 3rd such meeting. Thereafter, as terms expire, a member shall be appointed at the time of each annual meeting to serve for a term of 3 years. As soon as convenient after their appointment, the trustees first appointed shall hold a meeting at some convenient place in the district, to be called by any member thereof, in writing, designating the time and place, and delivered in hand to the other 2 members not less than 2 full days before the meeting; provided, however, that they may meet by agreement and waive such notice in writing. They shall then organize by the election of a chairman and clerk annually from their own number, adopt a corporate seal and bylaws, and perform any other acts within the powers delegated to them by law. As necessary, they may choose agents and other needful officers who shall serve at their pleasure, and whose compensation shall be fixed by said trustees, and who need not be residents of the district. They shall choose annually a treasurer to serve for a term of one year, fix the treasurer's salary, which shall in no case exceed \$200 per year, and fill vacancies in that office. The treasurer shall furnish a bond, issued in such sum and by a surety company as approved by the trustees, and the expense of securing the bond is to be borne by the district. Members of the board shall be eligible to any

office under the board, but shall not receive compensation therefor, except as trustee, unless authorized by vote of the municipal officers of the Town of Howland.

The compensation of the trustees shall not exceed \$50 each per year, unless otherwise provided by vote, as above provided.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member as clerk or clerk pro tempore. They shall make and publish an annual report, which shall also contain a report of the treasurer.

Sec. 8. District and town authorized to make contracts. Said district, through its trustees, is authorized to contract with persons and corporations, including the Town of Howland, and said Town of Howland is authorized to contract with it, for the supply of water for municipal purposes.

Sec. 9. Authorized to negotiate temporary loans; and to issue notes and bonds; declared a quasi-municipal corporation; notes and bonds legal investment for savings banks. For accomplishing the purposes of this Act, said district, through its trustees, without district vote, is authorized to borrow money from time to time, and to issue therefor the interest-bearing negotiable notes of the district, maturing serially or otherwise, and to make subsequent renewals of the same in whole or in part, and for said purposes and for the purpose of refunding any notes, bonds or other lawful indebtedness to establish a fund therefor. For the purpose of obtaining or providing money to pay or to meet any necessary expenses and liabilities under this Act, including expenses in the creation of this district, in securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant, and making extensions, additions and improvements to the same, the said district, through its trustees, may from time to time issue bonds of the district to an amount not exceeding \$250,000, maturing and payable at such time or times, in uniform or varying installments, with or without such call provisions, and with or without such a premium or premiums, as said trustees shall determine. Said notes and bonds shall be legal obligations of said district, which is hereby declared to be a quasi-municipal corporation within the meaning of the Revised Statutes of 1964, Title 30, section 5053. The said notes and bonds shall be legal investments for savings banks.

All bonds or notes issued by said district shall bear the district seal, and shall be signed by the treasurer and countersigned by the chairman of the trustees of said district, and if coupon bonds be issued, each coupon shall bear the facsimile signature of the treasurer.

Sec. 10. Property tax exempt. The property of said district shall be exempt from all taxation by any town.

Sec. 11. Water rates; application of revenue; 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 services used by them, said rates shall be uniform within the

territory supplied by the district, and said rates shall be subject to the approval of the Public Utilities Commission. Said rates shall be so established as to provide revenue for the following purposes:

1. To pay current expenses for operating and maintaining the water system.
2. To provide for the payment of the interest on the indebtedness created by the district.
3. 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 are now or hereafter allowed to hold. Provided, however, that 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. If any surplus remains at the end of the year, it may be turned into the sinking fund.

Sec. 12. 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, except those referred to in section 9, 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. This Act shall take effect 90 days after adjournment of the Legislature, only for the purpose of permitting its submission to the legal voters of the district at a special election or elections called and held for the purpose. Said elections shall be called by the municipal officers of the Town of Howland and shall be held at the regular voting place in the town; the dates of said elections shall be determined by said municipal officers, but the first such meeting shall not be later than the first day of November, 1975. The registrar of voters shall prepare and furnish separate check lists for such of the voters within said district as are then legal voters of said town and reside in said district, and all notices, warrants or other proceedings shall be varied accordingly so as to show that only such voters as reside in said district as aforesaid are entitled to vote upon the above question. Such special elections shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, the registrar of voters shall not be required to prepare nor the town clerk to post a new list of voters; and for this purpose said registrar of voters shall be in session on the 3 secular days next preceding said election, the first and 2nd days thereof to be devoted to registration of voters and the last day to enable the board to verify the correction of said lists and to complete and close up its records of said session.

The town clerk shall reduce the subject matter of this Act to the following question: "Shall the Act to incorporate the Howland Water District, passed by the 107th 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. This Act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at such election; but only if the total number of votes cast for and against acceptance of this Act in said special election equals or exceeds 20% of the total number of names on the check list of voters of said district provided for herein, which check list shall be used at such election; but failure of approval by the necessary percentage of voters shall not prevent subsequent elections.

The result of such elections shall be declared by the municipal officers of the Town of Howland and due certificates thereof filed by the town clerk with the Secretary of State.

STATEMENT OF FACT

The purpose of this bill is to incorporate the Howland Water District.