

MAINE STATE LEGISLATURE

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Seventy-first Legislature.

HOUSE.

No. 98

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THREE.

AN ACT to incorporate the Gardiner Water District.

*Be it enacted by the Senate and House of Representatives in
Legislature assembled, as follows:*

Section 1. The following territory and the people within
2 the same, viz.: Wards one, two, three, four and five in the
3 city of Gardiner and that part of ward six in said city, which
4 is bounded on the north by ward three, on the east by Ken-
5 nebec river, on the south by Richmond and on the west by
6 the Marston road, so called, in said Gardiner, shall constitute
7 a body politic and corporate under the name of the Gardiner
8 Water District, for the purpose of supplying the inhabitants
9 of said district and of the towns of Randolph, Pittston and
10 Farmingdale, and such municipalities, together with the city
11 of Gardiner, with pure water for domestic and municipal
12 purposes.

Sect. 2. Said district is hereby authorized for the purposes
2 aforesaid to take and hold sufficient water of the Cobbossee-
3 contee river, and may take and hold by purchase or other-
4 wise any land or real estate necessary for erecting dams,
5 power, reservoirs, or for preserving the purity of the water
6 and water shed, and for laying and maintaining aqueducts
7 for taking, discharging and disposing of water.

Sect. 3. Said district shall be liable for all damages that
2 shall be sustained by any person or corporation in their prop-
3 erty by the taking of any land whatsoever, or water, or by
4 flowage, or by excavating through any land for the purpose
5 of laying pipes, building dams or constructing reservoirs.
6 If any person sustaining damage as aforesaid and said cor-
7 poration shall not mutually agree upon the sum to be paid
8 therefor, such person may cause his damages to be ascer-
9 tained in the same manner and under the same conditions,
10 restrictions and limitations as are or may be prescribed in
11 the case of damages by the laying out of highways.

Sect. 4. Said district is hereby authorized to lay in and
2 through the streets and highways thereof and of said towns
3 of Pittston, Randolph and Farmingdale, and to take up,
4 repair and replace all such pipes, aqueducts and fixtures as
5 may be necessary for the objects above set forth, and when-
6 ever said district shall lay any pipes or aqueducts in any
7 street or highway it shall cause the same to be done with as
8 little obstruction as possible to the public travel, and shall at
9 its own expense without unnecessary delay cause the earth
10 and pavement removed by it to be replaced in proper con-
11 dition.

Sect. 5. All the affairs of said water district shall be man-
2 aged by a board of trustees composed of three members to
3 be chosen by the municipal officers of the city of Gardiner,
4 but no member of the city council shall during the term for

5 which he is elected be chosen one of said board of trustees.
6 As soon as convenient after the members of said board have
7 been chosen, said trustees shall hold a meeting at the city
8 rooms in the city of Gardiner, and organize by the election
9 of a president and clerk, adopt a corporate seal and when
10 necessary may choose a treasurer and all other needful offi-
11 cers and agents for the proper conduct and management of
12 the affairs of said district. At said first meeting they shall
13 determine by lot the term of office of each trustee so that one
14 shall serve for one year, one for two years and one for three
15 years; and whenever the term of office of a trustee expires
16 the said municipal officers of the city of Gardiner shall
17 appoint a successor to serve the full term of three years; and
18 in case any other vacancy arises it shall be filled in like man-
19 ner for the unexpired term. They may also ordain and
20 establish such by-laws as are necessary for their own con-
21 venience and the proper management of the affairs of the
22 district. The term of office of trustees shall begin on the
23 first Monday of April. Said trustees may procure an office
24 and incur such expenses as may be necessary. Each mem-
25 ber shall receive in full compensation for his services an
26 allowance of one hundred dollars per annum.

Sect. 6. Said water district is hereby authorized and
2 empowered to acquire by purchase or by the exercise of the
3 right of eminent domain, which right is hereby expressly
4 delegated to said district for said purpose, the entire plant,
5 property and franchises, rights and privileges now held by
6 the Maine Water Company within said district and said
7 towns of Pittston, Randolph and Farmingdale, including all
8 lands, waters, water rights, dams, reservoirs, pipes, machin-
9 ery, fixtures, hydrants, tools and all apparatus and appliances
10 owned by said company and used or usable in supplying
11 water in said district and towns and any other real estate in
12 said district.

Sect. 7. In case said trustees fail to agree with said Maine
2 Water Company upon the terms of purchase of the above
3 mentioned property on or before May first, nineteen hundred
4 and three, said water district through its trustees is hereby
5 authorized to take said plant, property and franchises as for
6 public uses by petition therefor in the manner hereinafter
7 provided. And said water district through its trustees is
8 hereby authorized on or before May fifth, nineteen hundred
9 and three, to file a petition in the clerk's office of the supreme
10 judicial court for the county of Kennebec in term time or in
11 vacation, addressed to any justice of said court, who after
12 notice to said Maine Water Company and its mortgagees,
13 shall after hearing and within thirty days after the filing of
14 said petition appoint three disinterested appraisers none of
15 whom shall be residents of the county of Kennebec, one of
16 whom shall be learned in the law, for the purpose of fixing
17 the valuation of said plant, property and franchises. The
18 said appraisers shall have the power of compelling attendance
19 of witnesses and the production of books and papers pertinent
20 to the issue, and may administer oaths; and any witness, or
21 person in charge of such books or papers, refusing to attend,
22 or to produce the same, shall be subject to the same penalties
23 and proceedings, so far as applicable as witnesses summoned
24 to attend the supreme judicial court. The appraisers so
25 appointed shall after due notice and hearing fix the valuation
26 of said plant, property and franchises at what they are fairly
27 and equitably worth, so that the said Maine Water Company
28 shall receive just compensation for all the same. The first
29 day of July, nineteen hundred and three, shall be the date
30 as of which the valuation aforesaid shall be fixed, from which
31 day interest on said award shall run and all net rents and
32 profits accruing thereafter shall belong to said water district.
33 The report of said appraisers, or of a majority of them, shall
34 be filed in said clerk's office in term time or vacation within

35 five months after their appointment, and such single justice,
36 or in case of his inability to act then any justice designated
37 for the purpose by the chief justice, may, after notice and
38 hearing, confirm or reject the same, or recommit it if justice
39 so requires. The award of the appraisers shall be conclusive
40 as to valuations. Upon the confirmation of said report the
41 court so sitting shall thereupon, after hearing, make final
42 decree upon the entire matter, including the application of
43 the purchase money, discharge of incumbrances and transfer
44 of the property, jurisdiction over which is hereby conferred,
45 with the same power to enforce said decree as in equity cases.
46 Upon request of either party the justice so making such final
47 decree shall make separate findings of law and fact. All
48 such findings of fact shall be final, but either party aggrieved
49 may take exceptions to any rulings of law so made, the same
50 to be accompanied only by such parts of the case as are
51 necessary to a clear understanding of the questions raised
52 thereby. Such exceptions shall be claimed on the docket
53 within ten days after such final decree is signed, entered and
54 filed, and notice thereof has been given by the clerk to the
55 parties or their counsel, and said exceptions so claimed shall
56 be made up, allowed and filed within said time unless further
57 time is granted by the court or by agreement of parties.
58 They shall be entered at the next term of the law court to
59 be held after the filing of said decree and there heard, unless
60 otherwise agreed, or the law court shall for good cause order
61 a further time for hearing thereon. Upon such hearing the
62 law court may confirm, reverse or modify the decree of the
63 court below, or remand the cause for further proceedings
64 as it deems proper. During the pendency of such exceptions
65 the cause shall remain on the docket of the court below
66 marked "law" and decree shall be entered thereon by a single
67 justice in term time or in vacation, in accordance with the
68 certificate and opinion of the law court. Before said plant,

69 property and franchises are transferred in accordance with
70 such final decree, and before payment therefor, the court sit-
71 ting in said county of Kennebec, by a single justice thereof
72 as hereinbefore provided, shall, upon motion of either party,
73 after notice and hearing, take account of all receipts and
74 expenditures properly had or incurred by the Maine Water
75 Company belonging to the period from and after July first,
76 1903, and all the net rents and profits accruing thereafter,
77 and shall order the net balance due to either party to be added
78 to or deducted from the amount to be paid under said final
79 decree, as the case may be. All findings of law or fact by
80 such single justice at such hearing shall be final. On pay-
81 ment or tender by said district of the amount so fixed and
82 the performance of all other terms and conditions so imposed
83 by the court, said entire plant, property and franchises shall
84 become vested in said water district and be free from all liens,
85 mortgages and incumbrances theretofore created by the Gar-
86 diner Water Company or the Maine Water Company. After
87 the filing of said petition it shall not be discontinued or with-
88 drawn by said water district, and the said Maine Water
89 Company may thereafterwards on its part cause said valu-
90 ation to be made as herein provided, and shall be entitled to
91 appropriate process to compel said water district to perform
92 the terms of the final decree, and to pay for said plant, prop-
93 erty and franchises in accordance therewith.

Sect. 8. All valid contracts now existing between the Gar-
2 diner Water Company or the Maine Water Company and
3 any person or corporations for supplying water within said
4 district and in the said towns of Pittston, Randolph and
5 Farmingdale, shall be assumed and carried out by said Gar-
6 diner Water District.

Sect. 9. For accomplishing the purposes of this act said
2 water district, through its trustees, is authorized to issue its

3 bonds to an amount sufficient to procure funds to pay the
4 expenses incurred in the acquisition of the property of said
5 Maine Water Company, and the purchase thereof, and for
6 further extensions, additions and improvements of said plant.
7 Said bonds shall be a legal obligation of said water district,
8 which is hereby declared to be a quasi municipal corporation
9 within the meaning of section fifty-five, chapter forty-six
10 of the Revised Statutes, and all the provisions of said section
11 shall be applicable thereto. The said bonds shall be a legal
12 investment for savings banks.

Sect. 10. All individuals, firms and corporations, whether
2 private, public or municipal, shall pay to the treasurer of
3 said district the rates established by said board of trustees
4 for the water used by them, and said rates shall be uniform
5 within the territory supplied by the district. Said rates
6 shall be so established as to provide revenue for the following
7 purposes:

I. To pay the current running expenses for maintaining
9 the water system and provide for such extensions and
10 renewals as may become necessary.

II. To provide for payment of the interest on the indebted-
12 ness of the district.

III. To provide each year a sum equal to not less than
14 one nor more than four per cent of the entire indebtedness
15 of the district, which sum shall be turned into a sinking fund
16 to provide for the final extinguishment of the funded debt.
17 The money set aside for the sinking fund shall be devoted
18 to the retirement of the obligations of the district or invested
19 in such securities as savings banks are allowed to hold.

IV. If any surplus remains at the end of the year it may
21 be paid to the city of Gardiner.

Sect. 11. The property of said district shall be exempt
2 from taxation.

Sect. 12. All incidental powers, rights and privileges
2 necessary to the accomplishment of the main object herein
3 set forth are granted to the corporation hereby created.

Sect. 13. This act shall take effect when approved by a
2 majority vote of the legal voters within said district at the
3 annual municipal election in March in the year one thousand
4 nine hundred and three, or at an election to be specially
5 called and held for the purpose within thirty days after the
6 approval of this act as the municipal officers of the city of
7 Gardiner may determine. The Board of Registration shall
8 make and provide a separate check list for such of the voters
9 within said district as are then legal voters within ward six
10 of said city and all warrants issued to said ward shall be
11 varied accordingly to show that only such voters therein are
12 entitled to vote hereon. Such election, if a special one, shall
13 be called, advertised and conducted according to the law
14 relating to municipal elections, provided, however, that the
15 Board of Registration shall not be required to prepare or the
16 city clerk to post a new list of voters and for this purpose
17 said board shall be in session the two secular days next pre-
18 ceding such election, the first day thereof to be devoted to
19 regulation of voters and the last day to enable the board to
20 verify the corrections of said lists and to complete and close
21 up its records of said sessions. The city clerk shall reduce
22 the subject matter of this act to the following question:
23 "Shall the act to incorporate the Gardiner Water District be
24 accepted?" and the voters shall indicate by a cross placed
25 against the words "yes" or "no" their opinion of the same.
26 The result shall be declared by the mayor and aldermen and
27 due certificate thereof filed by the city clerk with the secre-
28 tary of state. This act shall take effect when approved by
29 the governor so as necessary to empower the calling and
30 holding of such election.

Sect. 14. Sections two, three and four of this act shall be
2 inoperative, null and void, unless the said water district shall
3 first acquire by purchase, or by the exercise of the right of
4 eminent domain as in this act provided, the plant, property
5 and franchises, rights and privileges now held by the Maine
6 Water Company within said district and said towns of Pitts-
7 ton, Randolph and Farmingdale.

Section 15. All costs and expenses arising under the pro-
2 visions of this act shall be paid and borne as directed by the
3 court in the final decree provided by section seven.

Sect. 16. This act shall take effect when approved.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,

AUGUSTA, February 11, 1903.

Reported by Mr. ALLEN of Sanford, from Committee on the Judiciary, and ordered printed under joint rules.

W. S. COTTON, *Clerk*