

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

NEW DRAFT.

---

---

# Seventy-first Legislature.

---

---

HOUSE.

No. 205

---

---

## STATE OF MAINE.

---

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

---

AN ACT to incorporate the Brunswick and Topsham Water  
District.

---

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

Section 1. The territory and people constituting the towns  
2 of Brunswick and Topsham shall constitute a body politic  
3 and corporate under the name of the Brunswick and Topsham  
4 Water District, for the purpose of supplying the inhabitants  
5 of said district and said municipalities with pure water for  
6 domestic and municipal purposes.

Sect. 2. Said district is hereby authorized for the purposes  
2 aforesaid to take and hold sufficient water of any surface or  
3 underground brooks, streams and springs in said district,  
4 excepting Thompson's brook and the tributaries thereof, and  
5 may take and hold by purchase or otherwise any land or real  
6 estate necessary for erecting dams, power, reservoirs, or for  
7 preserving the purity of the water and water shed, and for  
8 laying and maintaining aqueducts for taking, discharging  
9 and disposing of water.

Sect. 3. Said district shall be liable for all damages that  
2 shall be sustained by any persons or corporations in their  
3 property by the taking of any land whatsoever, or water, or  
4 by flowage, or by excavating through any land for the pur-  
5 pose of laying pipes, building dams or constructing reser-  
6 voirs. If any person sustaining damage as aforesaid said  
7 corporation 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 the  
11 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 to take up,  
3 repair and replace all such pipes, aqueducts and fixtures as  
4 may be necessary for the objects above set forth, and when-  
5 ever said district shall lay any pipes or aqueducts in any street  
6 or highway it shall cause the same to be done with as little  
7 obstruction as possible to the public travel, and shall at its  
8 own expense without unnecessary delay cause the earth and  
9 pavement removed by it to be replaced in proper condition.

Sect. 5. All the affairs of said water district shall be man-  
2 aged by a board of trustees composed of three members, two  
3 to be chosen by the municipal officers of Brunswick, and one  
4 by the municipal officers of Topsham. As soon as convenient

5 after the members of said board have been chosen, said trust-  
6 tees shall hold a meeting at the town building at Brunswick,  
7 and organize by the election of a president and clerk, adopt  
8 a corporate seal and when necessary may choose a treasurer  
9 and all other needful officers and agents for the proper con-  
10 duct and management of the affairs of said district. At said  
11 first meeting they shall determine by lot the term of office of  
12 each trustee so that one shall serve for one year, one for two  
13 years and one for three years; and whenever the term of  
14 office of a trustee expires, the body which appointed said  
15 trustee shall appoint a successor to serve the full term of three  
16 years, and in case any other vacancy arises it shall be filled  
17 in like manner for the unexpired term. They may also  
18 ordain and establish such by-laws as are necessary for their  
19 own convenience and the proper management of the affairs  
20 of the district. The term of office of trustees shall begin on  
21 the first Monday of April, A. D. 1903. Said trustees may  
22 procure an office and incur such expenses as may be neces-  
23 sary. Each member shall receive in full compensation for his  
24 services an 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, excepting  
7 the Thompson's brook plant, the pipe line easterly thereof  
8 and the waters of said brook and its tributaries, but including  
9 all other lands, waters, water rights, dams, reservoirs, pipes,  
10 machinery, fixtures, hydrants, tools, apparatus and appliances  
11 in said district, owned by said company and used or usable  
12 in supplying water therein, and any other real estate in said  
13 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 January first, nineteen hun-  
4 dred and four, said water district through its trustees is  
5 hereby authorized to take said plant, property and franchises  
6 as for public uses by petition therefor in the manner herein-  
7 after provided. And said water district through its trustees  
8 is hereby authorized on or after January first, nineteen hun-  
9 dred and four, to file a petition in the clerk's office of the  
10 supreme judicial court for the county of Cumberland or  
11 Sagadahoc in term time or in vacation, addressed to any  
12 justice of said court, who after notice to said Maine Water  
13 Company and its mortgagees, shall after hearing and within  
14 thirty days after the filing of said petition appoint three dis-  
15 interested appraisers, none of whom shall be residents of  
16 the town of Brunswick or the county of Sagadahoc, one of  
17 whom shall be learned in the law, for the purpose of fixing  
18 the valuation of said plant, property and franchises, and of  
19 assessing the additional damages, if any, suffered by the  
20 said Maine Water Company, by reason of the taking of said  
21 plant, property and franchises, and of the severance thereof  
22 from the entire water system and franchises as now operated,  
23 composed of Brunswick, Bath, West Bath and Woolwich ;  
24 it being the intent of this act that the amount of said valua-  
25 tion and of said additional damages, if any, taken together,  
26 shall be so fixed as to equal the difference between the valua-  
27 tion, before severance, of the entire plant, property and  
28 franchises of said company in Brunswick, West Bath, Bath  
29 and Woolwich, and the valuation, after severance, of the  
30 plant, property and franchises of said company in the east-  
31 erly part of Brunswick, and in West Bath, Bath and Wool-  
32 wich, as aforesaid, both said last-named valuations to be  
33 determined under the principles of eminent domain. The

34 said appraisers shall have the power of compelling the  
35 attendance of witnesses and the production of books and  
36 papers pertinent to the issue, and may administer oaths; and  
37 any witness, or person in charge of such books and papers  
38 refusing to attend, or to procure the same, shall be subject  
39 to the same penalties and proceedings, so far as applicable,  
40 as witnesses summoned to attend the supreme judicial court.  
41 The appraisers so appointed shall, after due notice and  
42 hearing, fix all valuations of plants, properties and fran-  
43 chises and assess all damages, if any, in the manner hereto-  
44 fore detailed by this act, so that said Maine Water Company  
45 shall receive just compensation for the taking of said Bruns-  
46 wick plant, property and franchises and for the severance  
47 thereof from the entire water system and franchises above  
48 described. The first day of January, nineteen hundred and  
49 four, shall be the date as of which the valuation aforesaid  
50 shall be fixed, from which day interest on said award shall  
51 run and all net rents and profits accruing thereafter shall  
52 belong to said water district. The report of said appraisers,  
53 or of a majority of them, shall be filed in said clerk's office  
54 in term time or vacation as soon as may be after their  
55 appointment, and such single justice, or in case of his ina-  
56 bility to act, then any justice designated for the purpose by  
57 the chief justice, may, after notice and hearing, confirm or  
58 reject the same, or recommit it if justice so requires. Before  
59 a commission is issued to the appraisers, either party may  
60 ask for instructions to the appraisers, and all questions of  
61 law arising upon said requests for instructions or upon any  
62 other matters in issue may be reported to the law court for  
63 determination before the appraisers proceed to fix the valua-  
64 tion of the property and assess the additional damages, if  
65 any. The award of the appraisers shall be conclusive as to  
66 valuations and damages. Upon the confirmation of said

67 report the court so sitting shall thereupon, after hearing,  
68 make final decree upon the entire matter, including the  
69 application of the purchase money, discharge of incum-  
70 brances and transfer of the property, jurisdiction over which  
71 is hereby conferred, with the same power to enforce said  
72 decree as in equity cases. Upon request of either party the  
73 justice so making such final decree shall make separate find-  
74 ings of law and fact. All such findings of fact shall be  
75 final, but either party aggrieved may take exceptions to any  
76 rulings of law so made, the same to be accompanied only  
77 by such parts of the case as are necessary to a clear under-  
78 standing of the questions raised thereby. Such exceptions  
79 shall be claimed on the docket within ten days after such  
80 final decree is signed, entered and filed, and notice thereof  
81 has been given by the clerk to the parties or their counsel,  
82 and said exceptions so claimed shall be made up, allowed  
83 and filed within said time unless further time is granted by  
84 the court or by agreement of parties. They shall be entered  
85 at the next term of the law court to be held after the filing of  
86 said decree and there heard, unless otherwise agreed, or the  
87 law court shall for good cause order a further time for hear-  
88 ing thereon. Upon such hearing the law court may con-  
89 firm, reverse or modify the decree of the court below, or  
90 remand the cause for further proceedings as it deems proper.  
91 During the pendency of such exceptions the cause shall  
92 remain on the docket of the court below marked "law" and  
93 decree shall be entered thereon by a single justice in term  
94 time or in vacation, in accordance with the certificate and  
95 opinion of the law court. Before said plant, property and  
96 franchises are transferred in accordance with such final  
97 decree, and before payment therefor, the court sitting in said  
98 county of Cumberland or Sagadahoc, by single justice  
99 thereof as hereinbefore provided, shall, upon motion of

100 either party, after notice and hearing, take account of all  
101 receipts and expenditures properly had or incurred by the  
102 Maine Water Company belonging to this period, from and  
103 after January first, 1904, and all net rents and profits accu-  
104 ing thereafter, and shall order the net balance to be added  
105 to, or deducted from, the amount to be paid under such final  
106 decree, as the case may be. All findings of law or fact by  
107 such single justice at such hearing shall be final. On pay-  
108 ment or tender by said district of the amount so fixed,  
109 including such additional damages, if any, and the perform-  
110 ance of all other terms and conditions so imposed by the  
111 court, said entire plant, property and franchises in said dis-  
112 trict westerly of the Thompson's brook plant shall become  
113 vested in said water district and be free from all liens,  
114 mortgages and incumbrances theretofore created by the  
115 Pejepscot Water Company, the Bath Water Supply Com-  
116 pany, or the Maine Water Company. After the filing of  
117 said petition it shall not be discontinued or withdrawn by  
118 said water district, and the said Maine Water Company may  
119 thereafterwards on its part cause said valuation and assess-  
120 ment to be made as herein provided, and shall be entitled  
121 to appropriate process to compel said water district to per-  
122 form the terms of the final decree, and to pay for said plant,  
123 property and franchises in accordance therewith.

Sect. 8. All valid contracts now existing between the  
2 Pejepscot Water Company or the Maine Water Company and  
3 any persons or corporations for supplying water within said  
4 district shall be assumed and carried out by said Brunswick  
5 and Topsham 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 and to secure a new source of supply. Said bonds shall be a  
8 legal obligation of said water district, which is hereby  
9 declared to be a quasi municipal corporation within the mean-  
10 ing of section fifty-five, chapter forty-six of the Revised  
11 Statutes, and all the provisions of said section shall be appli-  
12 cable thereto. The said bonds shall be a legal investment for  
13 savings banks.

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

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

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

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

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

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

Sect. 13. This act shall take effect when approved by a  
2 majority vote by ballot of the inhabitants of each of said  
3 towns, at their annual meeting in March in the year one thou-  
4 sand nine hundred and three or at a special meeting to be  
5 called and held for the purpose within sixty days after the  
6 approval of this act. This act shall take effect when  
7 approved by the governor so far as necessary to empower the  
8 calling and holding of such meeting. The approval of this  
9 act in the manner provided by this section shall constitute an  
10 acceptance by said water district of the methods of appraisal  
11 prescribed by section seven hereof, and shall bind said water  
12 district and said water company thereto.

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.

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





STATE OF MAINE.

---

IN HOUSE OF REPRESENTATIVES,

AUGUSTA, February 26, 1903.

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

W. S. COTTON, *Clerk.*