

MAINE STATE LEGISLATURE

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NEW DRAFT.

Seventy-first Legislature.

HOUSE.

No. 427

STATE OF MAINE.

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

AN ACT to incorporate the Augusta 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, namely: Wards one, two, three, four, six, seven
3 and eight in the city of Augusta, shall constitute a body politic
4 and corporate under the name of the Augusta Water District,
5 for the purpose of supplying the inhabitants of said district
6 and of the towns of Chelsea, Vassalboro, China and Man-
7 chester, and such municipalities, together with the city of
8 Augusta, with pure water for domestic and municipal
9 purposes.

Sect. 2. Said district is hereby authorized for the purposes
2 aforesaid to take and hold sufficient water of the Kennebec
3 river and China lake, and may take and hold by purchase or
4 otherwise 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 for
7 taking, discharging and disposing of water. Nothing in this
8 act shall authorize said district to increase the present flowage
9 upon China lake.

Sect. 3. Said district shall be liable for all damages that
2 shall be sustained by any person or corporation 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 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 ascertained
9 in the same manner and under the same conditions, restric-
10 tions and limitations as are or may be prescribed in the case
11 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 Chelsea, Vassalborough, China and Manchester, and to
4 take up, repair and replace all such pipes, aqueducts and fix-
5 tures as may be necessary for the objects above set forth, and
6 whenever 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
2 managed by a board of trustees composed of three members

3 to be chosen by the municipal officers of the city of Augusta,
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 Augusta, and organize by the election of
9 a president and clerk, adopt a corporate seal and when neces-
10 sary may choose a treasurer and all other needful officers and
11 agents for the proper conduct and management of the affairs
12 of said district. At said first meeting they shall determine
13 by lot the term of office of each trustee so that one shall serve
14 for one year, one for two years and one for three years; and
15 whenever the term of office of a trustee expires the said muni-
16 cipal officers of the city of Augusta shall appoint a successor
17 to serve the full term of three years; and in case any other
18 vacancy arises it shall be filled in like manner for the unex-
19 pired term. There may also ordain and establish such by-
20 laws as are necessary for their own convenience and the
21 proper management of the affairs of the district. The term
22 of office of the trustees shall begin on the first Monday of
23 August. Said trustees may procure an office and incur such
24 expenses as may be necessary. Each member shall receive in
25 full compensation for his services an allowance of three hun-
26 dred 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 Augusta Water Company within said district and said
7 towns of Chelsea, Vassalborough, China and Manchester,
8 including all lands, waters, water rights, dams, reservoirs,
9 pipes, machinery, fixtures, hydrants, tools and all apparatus

10 and appliances owned by said company and used or usable in
11 supplying water in said district and towns and any other real
12 estate in said district.

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

31 shall be fixed, from which day interest on said award shall run
32 and all net rents and profits accruing thereafter shall belong
33 to said water district. The report of said appraisers, or of a
34 majority of them, shall be filed in said clerk's office in term
35 time or vacation within five months after their appointment,
36 and such single justice, or in case of his inability to act then
37 any justice designated for the purpose by the chief justice,
38 may, after notice and hearing, confirm or reject the same, or
39 recommit it if justice so requires. The award of the
40 appraisers shall be conclusive as to valuations. Upon the
41 confirmation of said report the court so sitting shall there-
42 upon, after hearing, make final decree upon the entire matter,
43 including the application of the purchase money, discharge
44 of incumbrances and transfer of the property, jurisdiction
45 over which is hereby conferred, with the same power to
46 enforce said decree as in equity cases. Upon request of
47 either party the justice so making such final decree shall make
48 separate findings of law and fact. All such findings shall be
49 final, but either party aggrieved may take exceptions to any
50 rulings of law so made, the same to be accompanied only by
51 such parts of the case as are necessary to a clear understand-
52 ing of the questions raised thereby. Such exceptions shall
53 be claimed on the docket within ten days after such final
54 decree is signed, entered and filed, and notice thereof has been
55 given by the clerk to the parties or their counsel, and said
56 exceptions so claimed shall be made up, allowed and filed
57 within said time unless further time is granted by the court
58 or by agreement of parties. They shall be entered at the next
59 term of the law court to be held after the filing of said decree
60 and there heard, unless otherwise agreed, or the law court
61 shall for good cause order a further time for hearing thereon.
62 Upon such hearing the law court may confirm, reverse or
63 modify the decree of the court below, or remand the cause

64 for further proceedings as it seems proper. During the
65 pendency of such exceptions the cause shall remain on the
66 docket of the court below marked "law" and decree shall be
67 entered thereon by a single justice in term time or in vacation,
68 in accordance with the certificate and opinion of the law
69 court. Before said plant, property and franchises are trans-
70 ferred in accordance with such final decree, and before the
71 payment therefor, the court sitting in said county of Kenne-
72 bec, by a single justice thereof as hereinbefore provided, shall,
73 upon motion of either party, after notice and hearing, take
74 account of all receipts and expenditures properly had or
75 incurred by the Augusta Water Company belonging to the
76 period from and after March first, nineteen hundred and four,
77 and all the net rents and profits accruing thereafter, and shall
78 order the net balance due to either party to be added to or
79 deducted from the amount to be paid under said final decree,
80 as the case may be. All findings of law or fact by such single
81 justice at such hearing shall be final. On payment or tender
82 by said district of the amount so fixed and the performance
83 of all other terms and conditions so imposed by the court,
84 said entire plant, property and franchises shall become vested
85 in said water district and be free from all liens, mortgages
86 and incumbrances theretofore created by the Augusta Water
87 Company. After the filing of said petition it shall not be
88 discontinued or withdrawn by said water district, and the
89 said Augusta Water Company may thereafterwards on its
90 part cause said valuation to be made as herein provided, and
91 shall be entitled to appropriate process to compel said water
92 district to perform the terms of the final decree, and to pay
93 for said plant, property and franchises in accordance there-
94 with.

Sect. 8. All valid contracts now existing between the
2 Augusta Water Company and any persons or corporations
3 for supplying water within said district and in the said towns

4 of Chelsea, Vassalborough, China and Manchester, shall be
5 assumed and carried out by said Augusta 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 Augusta 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 of
10 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 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 territory supplied by the district. Said rates shall be so
6 established as to provide 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 five per cent of the entire indebtedness of the
14 district, which sum shall be turned into a sinking fund to pro-
15 vide 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.

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

Sect. 11. All incidental powers, rights and privileges
2 necessary to the accomplishment of the main object herein set
3 forth are granted to the corporation hereby created.

Sect. 12. This act shall take effect when approved by a
2 majority vote of the legal voters within said district voting at
3 an election to be specially called and held for the purpose on
4 the fourth Monday of June, nineteen hundred and three.
5 The board of registration shall make and provide a separate
6 check list for such of the voters within said district as are
7 then legal voters of said city and all warrants issued to said
8 city shall be varied accordingly to show that only such voters
9 therein are entitled to vote hereon. Such special election,
10 shall be called, advertised and conducted according to the law
11 relating to municipal elections, provided, however, that the
12 board of registration shall not be required to prepare or the
13 city clerk to post a new list of voters and for this purpose
14 said board shall be in session the three secular days next pre-
15 ceeding such election, the first two days thereof to be devoted
16 to registration of voters and the last day to enable the board
17 to verify the corrections of said lists and to complete and
18 close up its records of said sessions. The city clerk shall
19 reduce the subject matter of this act to the following ques-
20 tion: "Shall the act to incorporate the Augusta Water Dis-
21 trict be accepted?" and the voters shall indicate by a cross
22 placed against the words "yes" or "no" their opinion of, the
23 same. The result shall be declared by the mayor and alder-
24 men and due certificate thereof filed by the city clerk with the
25 secretary of State. This act shall take effect when approved
26 by the governor so as necessary to empower the calling and
27 holding of such election.

Sect. 13. 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 Augusta
6 Water Company within said district and said towns of
7 Chelsea, Vassalborough, China and Manchester.

Sect. 14. 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. 15. This act shall take effect when approved.



STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,

AUGUSTA, March 18, 1903.

Reported by Mr. SMITH of Presque Isle, from Committee on the
Judiciary, and ordered printed under joint rules.

W. S. COTTON, *Clerk.*