

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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# SEVENTY-FOURTH LEGISLATURE

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HOUSE.

No. 420

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## STATE OF MAINE.

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

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AN ACT to incorporate the Brewer Water District.

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

Section 1. The territory and people constituting the city  
2 of Brewer shall constitute a public municipal corporation  
3 under the name of the Brewer Water District for the pur-  
4 pose of supplying the inhabitants of Brewer and of the  
5 towns of Veazie, Orrington, Eddington, and Holden, and  
6 all said municipalities, with pure water for domestic, sani-  
7 tary, and municipal purposes.

Sect. 2. The said district, for the purposes of its incor-  
2 poration, is hereby authorized to take, hold, divert, use, and  
3 distribute water from any or all of the following ponds:  
4 Hopkins pond, Parks pond, and Fitz pond, in the town of

5 Clifton; Hatcase pond, in the town of Dedham; Thurston,  
6 and Williams or Douglass, in the town of Bucksport.

Sect. 3. The said district, for the purposes of its incor-  
2 poration, is hereby authorized to erect and maintain all  
3 dams, reservoirs, and structures necessary and convenient  
4 for its corporate purposes, and to take and hold, as for  
5 public uses, by purchase or otherwise, any land or interest  
6 therein or water rights necessary for erecting and main-  
7 taining dams, for flowage, for power, for pumping its water  
8 supply through its mains, for reservoirs, for preserving the  
9 purity of the water and water shed, for laying and main-  
10 taining aqueducts and other structures for taking, distribut-  
11 ing, discharging, and disposing of water, and for rights  
12 or way or roadways to its sources of supply, dams, power  
13 stations, reservoirs, mains, aqueducts, structures, and lands.

Sect. 4. Said district is hereby authorized to lay in and  
2 through the streets, roads, ways, and highways of the city  
3 of Brewer and of the towns of Veazie, Orrington, Edding-  
4 ton, Holden, Clifton, Dedham, and Bucksport, and across  
5 private lands therein, and to maintain, repair, and replace  
6 all such pipes, aqueducts, and fixtures as may be necessary  
7 and convenient for its corporate purposes, and whenever  
8 said district shall lay any pipes or aqueducts in any street,  
9 road, way, or highway, it shall cause the same to be done  
10 with as little obstruction as practicable to the public travel,  
11 and shall, at its own expense, without unnecessary delay,  
12 cause the earth and pavement removed by it to be replaced  
13 in proper condition.

Sect. 5. In exercising any right of eminent domain conferred upon it by law, from time to time, or any rights of eminent domain through or under the franchises of any water company by it acquired, the said district shall file in the office of the county commissioners of the county in which the property is situated, and record, in the registry of deeds in said county, plans of the location of all lands or interests therein or water rights to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire the property authorized to be taken, and which is described in such location, or the location recorded is defective or uncertain, it may, at any time, correct and perfect such location and file a new description thereof, and in such case the district is liable in damages only for property for which the owner has not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any acts which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of ten days from such filing, whereon possession may be had of all said lands or interests therein or water rights so taken, but title thereto shall not vest in said district until payment therefor.

Sect. 6. 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

4 commissioners of the county in which the property is situ-  
5 ated, may have said damages assessed by them; the pro-  
6 cedure and all subsequent proceedings and right of appeal  
7 thereon shall be had under the same restrictions, conditions,  
8 and limitations as are or may be by law prescribed in the  
9 case of damages by the laying out of highways.

Sect. 7. In case of any crossing of a railroad, unless con-  
2 sent is given by the company owning or operating such rail-  
3 road as to place, manner, and conditions of the crossing,  
4 within thirty days after such consent is requested by said  
5 district, the railroad commissioners shall determine the place,  
6 manner, and conditions of the crossing; and all work with-  
7 in the limits of such railroad location shall be done under the  
8 supervision and to the reasonable satisfaction of such rail-  
9 road company, but at the expense of said district.

Sect. 8. All the affairs of said district shall be managed  
2 by a board of trustees composed of five members to be  
3 chosen by the municipal officers of said Brewer. As soon  
4 as convenient after the members of said board have been  
5 chosen, said trustees shall hold a meeting at the city rooms  
6 in the city of Brewer, and organize by the election of a  
7 president and clerk, adopt a corporate seal, and when neces-  
8 sary may choose a treasurer and all other needful officers  
9 and agents for the proper conduct and management of the  
10 affairs of said district. At said first meeting said trustees  
11 shall determine by lot the term of office of each trustee,  
12 so that one shall serve for one year, one for two years, one

13 for three years, one for four years, and one for five years;  
14 and whenever the term of a trustee expires, the body which  
15 appointed said trustee shall appoint a successor to serve the  
16 full term of five years; and in case any other vacancy arises  
17 it shall be filled in like manner for the unexpired term.  
18 Said trustees may also ordain and establish such by-laws as  
19 are necessary for their own convenience and the proper  
20 management of the affairs of the district. The term of  
21 office of trustees shall begin on the first Monday of April.  
22 Said trustees may procure an office and incur such expenses  
23 as may be necessary. They shall render their services with-  
24 out compensation, but shall receive an allowance of two  
25 dollars apiece for each meeting of the board actually at-  
26 tended.

Sect. 9. Said water district is hereby authorized and em-  
2 powered to acquire by purchase or by exercise of the right  
3 of eminent domain, which right is hereby expressly dele-  
4 gated to said district for said purpose, so much of the plant,  
5 property and franchises, rights and privileges, excluding  
6 cash on hand, within said district and the town of Veazie,  
7 used for the supplying of water to the inhabitants thereof  
8 for domestic, sanitary, and municipal purposes, including  
9 the extinguishment of fires, but not including power station,  
10 now held by the Public Works Corporation or any similar  
11 corporation or company doing business within said district  
12 and said towns of Veazie, Orrington, Eddington, and Hol-  
13 den, including all lands, water rights, waters, dams, reser-

14 voirs, pipes, machinery, fixtures, hydrants, tools, and all  
15 apparatus and appliances, which are located in said district  
16 and said towns, owned by said Public Works Corporation  
17 or other company or companies and used in supplying water  
18 in said district and in said towns of Veazie, Orrington, Ed-  
19 dington, and Holden, excepting said pumps and power sta-  
20 tion. The said Public Works Corporation or other com-  
21 panies are hereby authorized to sell and transfer their re-  
22 spective franchises and properties in said district and towns  
23 to said water district. All said franchises and properties  
24 in said district and towns shall be taken subject to all de-  
25 benture bonds, mortgages, liens, and encumbrances thereon,  
26 all of which debenture bonds, mortgages, liens, and encum-  
27 brances shall be assumed and paid by said Brewer Water  
28 District on any franchise and property in said district and  
29 towns, used for supplying water for the inhabitants thereof  
30 for domestic, sanitary, and municipal purposes, including  
31 the extinguishment of fires, except on said power station.

Sect. 10. Where the said trustees fail to agree with said  
2 Public Works Corporation or any of said water companies  
3 upon terms of purchase on or before July first, nineteen  
4 hundred and nine, then said water district through its trus-  
5 tees is hereby authorized to take all the plants, properties  
6 and franchises of such Public Works Corporation or water  
7 companies so failing to agree, subject, however, to all mort-  
8 gages, liens and encumbrances thereon as stated in section  
9 nine, as for public uses, by a petition therefor in the manner

10 hereinbefore provided, wherein such water companies and  
11 their mortgagees shall be the parties defendant. And said  
12 water district, through its trustees, is hereby authorized on  
13 or before July fifteenth, nineteen hundred and nine, to file  
14 a petition in the clerk's office of the supreme judicial court  
15 for the county of Penobscot in term time or vacation, ad-  
16 dressed to any justice thereof, who, after notice to said  
17 defendant water company and its mortgagees, shall, after  
18 hearing and within sixty days after the filing of said peti-  
19 tion, appoint three disinterested appraisers, none of whom  
20 shall be residents of the county of Penobscot, one of whom  
21 shall be learned in the law, for the purpose of fixing the  
22 valuations respectively of the plant, property and franchises  
23 of the said Public Works Corporation and of each of said  
24 defendant water companies described in section nine of this  
25 act. The time for so appointing said appraisers may be  
26 extended by the court an additional thirty days. Said peti-  
27 tion shall not be dismissed after filing, but may and shall  
28 be amended in any manner required to enable the court to  
29 make all necessary decrees thereon. At the hearing afore-  
30 said, such justice, upon motion of the petitioner, if the same  
31 are not voluntarily produced, may order under proper terms  
32 the production for inspection by the petitioner, of all books  
33 and papers pertinent to the issue to be heard by said ap-  
34 praisers. The said appraisers shall have the power of com-  
35 pelling attendance of witnesses and the production of books  
36 and papers pertinent to the issue and may administer oaths;



37 and any witnesses or person in charge of such books or  
38 papers refusing to attend or to produce the same shall be  
39 subject to the same penalties and proceedings, so far as  
40 applicable, as witnesses summoned to attend the supreme  
41 judicial court. Depositions may be taken as in civil actions.  
42 The report of a stenographer, appointed by the appraisers,  
43 certified by said appraisers as correct, shall be filed with  
44 the award to be made by said appraisers and shall be legal  
45 evidence of all proceedings so reported. The appraisers so  
46 appointed, shall, after due notice and hearing, fix the re-  
47 spective valuations of the plants, properties and franchises,  
48 of said defendant water companies as described in section  
49 nine of this act at what they are fairly and equitably worth,  
50 so that said water companies shall severally receive just  
51 compensation for all the same. The first day of January,  
52 nineteen hundred and ten, shall be the date as of which the  
53 valuations aforesaid shall be fixed, from which date interest  
54 on said award at the rate of six per cent per annum shall  
55 run and all net rents and profits accruing thereafter shall  
56 belong to said water district. The report of said appraisers  
57 or of a majority of them, shall be filed in said clerk's office  
58 within six months after their appointment, unless the time  
59 is extended by the court for cause. After said report is  
60 filed, such single justice, so appointing said appraisers, or  
61 in case of his inability to act, then any justice designated  
62 for the purpose, by the chief justice, may, after notice and  
63 hearing, confirm or reject the same or recommit, if justice

64 so requires, and in case of such rejection or recommital such  
65 justice may order new hearing and new report thereon. The  
66 award of the appraisers shall be conclusive as to valuations.  
67 Upon the confirmation of their report, the court so sitting,  
68 in term time or vacation, shall thereupon, after hearing,  
69 make final decree upon the whole matter, including transfer  
70 of the properties and franchises, jurisdiction over which is  
71 hereby conferred with the same power to enforce said de-  
72 cree as in equity cases. All the costs and expenses arising  
73 under such petition and appraisal shall be paid and borne  
74 as directed by the court in said final decree. The findings  
75 of such justice as to such costs and expenses and their  
76 apportionment shall be final. In all other matters the jus-  
77 tice so making such final decree, shall, upon request of any  
78 of the parties, make separate findings of law and fact. All  
79 such findings of fact shall be final, but any party aggrieved  
80 may take exceptions to any rulings of law so made, the same  
81 be accompanied only by such parts of the case as are neces-  
82 sary to a clear understanding of the questions raised there-  
83 by. Such exceptions shall be claimed on the docket within  
84 ten days after such final decree is signed, entered and filed,  
85 and notice thereof has been given by the clerk to the parties  
86 or their counsel, and said exceptions so claimed shall be  
87 made up, allowed and filed within said time unless further  
88 time is granted by the court or by agreement of the parties.  
89 They shall be entered at the next term of the law court to  
90 be held after the filing of such exceptions and there heard

91 unless otherwise agreed, or the law court shall for good  
92 cause order a further time for hearing thereon. Upon such  
93 hearing the law court may confirm, reverse or modify the  
94 decree of the court below, or remand the cause for further  
95 proceedings as it seems proper. During the pendency of  
96 such exceptions the cause shall remain on the docket of the  
97 court below marked "law" and decree shall be entered there-  
98 on by a single justice, in term time or in vacation, in accord-  
99 ance with the certificate and opinion of the law court. Be-  
100 fore the aforesaid plants, properties and franchises or any  
101 of them are transferred in accordance with such final de-  
102 cree, and before the payment therefor, the court sitting in  
103 said county of Penobscot, by a single justice thereof, as  
104 hereinbefore provided, shall, upon motion of any party,  
105 after notice and hearing, take account of all receipts and  
106 expenditures properly had and incurred by each of said  
107 water companies belonging to the period from and after  
108 January first, nineteen hundred and ten, and all net rents  
109 and profits accruing thereafter, and shall order the net  
110 balance due to any party to be added to or deducted from  
111 the amount to be paid under said final decree as the case  
112 may be. All findings of law or fact by such single justice  
113 at such hearings shall be final. On payment or tender by  
114 said water district of the amounts so fixed and the per-  
115 formance of all other terms and conditions so imposed by  
116 the court, the entire plants, properties and franchises re-  
117 spectively of said water companies as described in section

118 nine, shall become vested in said water district, subject to  
119 all liens, mortgages and encumbrances theretofore created  
120 by said water companies, or either of them. After the  
121 filing of said petition it shall not be discontinued or with-  
122 drawn by said water district, and the said water companies,  
123 or either of them, may thereafterward cause said valua-  
124 tions to be made as herein provided, and shall be entitled  
125 to appropriate process to compel said water district to  
126 perform the terms of the final decree and to pay for said  
127 plants, properties and franchises in accordance therewith.  
128 If a vacancy occurs at any time in said board of appraisers,  
129 from any cause, any justice of the supreme judicial court,  
130 sitting in said county of Penobscot, may, in term time or  
131 in vacation, after notice and hearing, appoint a new ap-  
132 praiser or appraisers, and make all such orders for hear-  
133 ing said cause by the appraisers, anew or for any extension  
134 of time for making their award, or otherwise, as the cir-  
135 cumstances of the case may require.

Sect. 11. All valid contracts now existing between said  
2 Public Works Corporation, or other similar corporation, and  
3 any municipal corporation for supplying water within the  
4 city of Brewer or the towns of Orrington, Eddington, and  
5 Holden, shall be assumed and carried out by said Brewer  
6 Water District.

Sect. 12. For accomplishing the purposes of this act, said  
2 water district, through its trustees, is authorized to borrow

3 money temporarily and to issue therefor the interest-bearing  
4 negotiable notes of the district, and for the purpose of re-  
5 funding the indebtedness so created, of paying any neces-  
6 sary expenses and liabilities, incurred under the provisions  
7 of this act, including the expenses incurred in the creation  
8 of the district, in acquiring the property and franchises of  
9 the said Public Works Corporation, by purchase or other-  
10 wise, or assuming and paying the mortgages, liens, and  
11 encumbrances thereon as provided in section nine, of secur-  
12 ing sources of supply, taking water and land, paying dam-  
13 ages, laying pipes, constructing, maintaining, and operating  
14 a water plant, and making renewals, extensions, additions,  
15 and improvements to the same, the said water district,  
16 through its trustees, may from time to time, issue bonds of  
17 the district, to an amount or amounts necessary in the judg-  
18 ment of the trustees therefor. Said notes and bonds shall  
19 be legal obligations of said water district, which is hereby  
20 declared to be a quasi municipal corporation within the  
21 meaning of section ninety-six, chapter forty-seven of the  
22 revised statutes, and all the provisions of said section shall  
23 be applicable thereto. The said notes and bonds shall be  
24 legal investments for banks.

Sect. 13. 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 follow-  
7 ing purposes:

I. To pay the current expenses for operating and main-  
9 taining the water system.

II. To provide for the payment of the interest on the  
11 indebtedness created or assumed by the district.

III. To provide each year a sum equal to not less than  
13 one nor more than five per cent of the entire indebtedness  
14 created or assumed by the district, which sum shall be turned  
15 into a sinking fund and there kept to provide for the extin-  
16 guishment of such indebtedness. The money set aside for  
17 the sinking fund shall be devoted to the retirement of the  
18 obligations of the district or invested in such securities as  
19 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 Brewer.

Sect. 14. All incidental powers, rights, and privileges nec-  
2 essary to the accomplishment of the main object herein set  
3 forth are granted to the public municipal corporation hereby  
4 created.

Sect. 15. This act, so far as it includes the territory and  
2 people constituting the Brewer Water District, as provided  
3 in section one hereof, shall not take effect unless accepted  
4 and approved by a majority vote of the legal voters of the  
5 city of Brewer, voting at an election to be specially called

6 and held for the purpose on the second Monday of June,  
7 nineteen hundred and nine. Such special election shall be  
8 called, advertised, and conducted according to the law re-  
9 lating to municipal elections, provided, however, that the  
10 board of registration shall not be required to prepare for  
11 posting or the city clerk to post a new list of voters and  
12 for the purpose of registration of voters said board shall  
13 be in session the three secular days next preceding such  
14 election, the first two days thereof to be devoted to regis-  
15 tration of voters and the last day to enable the board to  
16 verify the corrections of said lists and to complete and close  
17 up its records of said session. The city clerk shall reduce  
18 the subject matter of this act to the following question:  
19 "Shall the act to incorporate the Brewer Water District be  
20 accepted?" and the voters shall indicate by a cross placed  
21 over the words "Yes" or "No" their option of the same.  
22 The result shall be declared by the mayor and aldermen and  
23 due certificate thereof filed by the city clerk with the secre-  
24 tary of state.

Sect. 16. Sections two, three, four, five, six, and seven  
2 shall be inoperative, null, and void, unless the said water  
3 district shall first acquire by purchase, or by the exercise  
4 of the right of eminent domain as in this act provided, the  
5 plant, property, and franchises, rights and privileges of the  
6 Public Works Corporation, or other similar corporation, in

7 said district, and said town of Veazie, excepting said power  
8 station, so far as the same pertain to the purposes of this  
9 corporation.

Sect. 17. This act shall take effect when approved by the  
2 governor, so far as necessary to empower the calling and  
3 holding of the election authorized in section fifteen hereof.



**STATE OF MAINE.**

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HOUSE OF REPRESENTATIVES,

Augusta, March 3, 1909.

Reported by Mr. ANDREWS from Committee on Judiciary  
and ordered printed under joint rules.

E. M. THOMPSON, *Clerk.*