

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)

SEVENTY-FIFTH LEGISLATURE

HOUSE

NO. 317

House of Representatives, Feb. 28, 1911.

*Introduced by Mr. Pattangall of Waterville, who moved its
reference to the Committee on Legal Affairs. By him tabled
for printing pending reference to a committee.*

C. C. HARVEY, Clerk.

STATE OF MAINE

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

AN ACT for the creation of water districts and the control and
regulation of water power and water storage companies.

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

Section 1. The State Water Storage Commission is hereby
2 authorized and empowered to divide the state into water
3 districts by water-shed lines for the purpose of controlling
4 and regulating all great ponds and lakes of the state and all
5 reservoirs created or hereafter created on any state lands or
6 public lots or on the navigable rivers of the state; and said
7 commission is hereby authorized and empowered to mark
8 by permanent monuments and bench marks the heights to
9 which water may be raised or lowered on the great ponds
10 and lakes of the state and on all reservoirs created or here-

11 after created on any state lands or public lots or on the nav-
12 igrable rivers of the state; and furthermore, the said commis-
13 sion is hereby authorized and empowered to supervise and
14 control the times and extent of the drawing of water from
15 all great ponds and lakes and from the reservoirs created or
16 hereafter created on any state lands or public lots or on the
17 navigable rivers of the state, and to compel the maintenance
18 of all reservoirs established.

All reservoirs under the supervision and control of the
20 State Water Storage Commission shall be regulated by said
21 commission in a reasonable manner for all the water users
22 below.

Sect. 2. In order to carry out the provisions of this act,
2 the State Water Storage Commission may employ a com-
3 petent engineer, with the title of chief engineer, who shall
4 have charge, under the direction of the commission, of the
5 operations under this act. The chief engineer is hereby
6 authorized and empowered to employ, subject to the ap-
7 proval of the commission, such engineers, clerks, stenog-
8 raphers and other subordinates as he may find necessary to
9 carry out the provisions of this act, and fix and pay the
10 reasonable salaries and expenses of such employees. The
11 commission shall present and publish an annual report of
12 its operations and include any data that it may collect bear-
13 ing on the water powers and water resources of the state.

Sect. 3. The water districts created under the provisions
2 of section one of this act shall be in charge of district super-

3 intendents who shall report to and receive their instructions
4 from the chief engineer of the State Water Storage Com-
5 mission. Said district superintendents shall be appointed
6 by the State Water Storage Commission on the recom-
7 mendation of the water users, including the log-driving
8 associations, the water power users and the dam and reser-
9 voir owners of the respective water districts.

Sect. 4. For the purpose of carrying out the provisions
2 of this act, or for any other lawful purpose, the State Water
3 Storage Commission, the chief engineer, or any other en-
4 gineer, or other person appointed by said commission for
5 that purpose, shall have free access to all parts of the build-
6 ings, structures or grounds utilized by the owner or owners
7 of any franchise granted under the terms of this act, and
8 may take any measurements and observations, and may
9 have access to and copy therefrom, all books, accounts,
10 plans and records of said owner or owners.

Sect. 5. Every person, firm or corporation, before com-
2 mencing the erection of a dam, or the enlargement of any
3 existing dam, for the purpose of developing any water
4 power in this state, or the creation or improvement of a
5 water storage basin or reservoir for the purpose of con-
6 trolling the waters of any of the lakes or rivers of the state,
7 shall file with the State Water Storage Commission for its
8 information and use, copies of plans for the construction
9 of any such dam or storage basin or reservoir, and a state-
10 ment giving the location, height and nature of the proposed

11 dam and appurtenant structures and the estimated power to
12 be developed thereby and such other information as said
13 commission may require, and in case a dam is to be con-
14 structed, or any existing dam is to be enlarged, solely for
15 the purpose of water storage and not for the development
16 of a water power at its site, plans and statements shall be
17 filed with the commission showing the extent of the land
18 to be flowed, the estimated number of cubic feet of water
19 that may be stored and the estimated effect upon the flow
20 of the stream or streams to be affected thereby, and such
21 other information as said commission may require, and un-
22 til said plans and statements are filed with and have re-
23 ceived the approval of a majority of the members of said
24 commission, and until a certificate to this effect has been
25 issued, it shall be unlawful to start construction on any
26 such said dams or appurtenant structures. Every person,
27 firm, or corporation shall, as soon as practical, after this
28 act takes effect, file similar plans, reports and estimates in
29 relation to any dam or storage basin or reservoir then in
30 process of construction by them.

Sect. 6. No application for a charter for the development
2 of water storage or water power in this state shall be re-
3 ceived by the Secretary of State, unless said application is
4 first submitted to, and has received the approval of, a ma-
5 jority of the members of the State Water Storage Commis-
6 sion, and until a certificate has been issued stating that said
7 commission does approve said charter; nor unless said ap-

8 plication shall contain, in addition to the statements now
9 required to be made, the name of the river, stream, lake,
10 pond, or other body of water from which it is proposed to
11 use water power, or on which it is proposed to store water.
12 and, as near as may be, the points on said river, stream,
13 lake, pond, or other body of water, between which said
14 water power or storage of water is proposed to be taken or
15 used or developed, and such other information as said com-
16 mission may require.

Sect. 7. No agreement for the merger and consolidation
2 of two or more corporations heretofore or hereafter formed
3 for the development of water storage or water power in
4 this state shall be received by the Secretary of State, nor
5 shall letters patent be issued creating and erecting the par-
6 ties to said agreement into a new corporation, unless said
7 agreement is first submitted to, and has received the ap-
8 preval of, a majority of the members of the State Water
9 Storage Commission, and until a certificate has been issued
10 stating that said commission does approve of the proposed
11 merger and consolidation, nor unless said agreement shall
12 designate the river, stream, lake, pond, or other body of
13 water from which it is proposed to use water power, or on
14 which it is proposed to store water, and, as near as may be,
15 the points on said river, stream, lake, pond, or other body
16 of water, between which said water power or storage of
17 water is proposed to be taken or used or developed, and
18 such other information as said commission may require.

Sect. 8. No sale, assignment, disposition, transfer, and
2 conveyance of the franchises, and all the property, real, per-
3 sonal, and mixed, of any corporation heretofore or here-
4 after formed, for the development of water storage or
5 water power in this state, to any other such corporation,
6 shall be valid until a certificate, prepared and duly executed
7 by the president and secretary of the corporation so pur-
8 chasing, under the seal of said corporation, designating the
9 river, stream, lake, pond, or other body of water, and, as
10 near as may be, the points on the said river, stream, lake,
11 pond, or other body of water, between which said water
12 power or storage of water is proposed to be taken, or used,
13 or developed, shall have been approved by a majority of
14 the members of the State Water Storage Commission and
15 filed in the office of the Secretary of State, and until a cer-
16 tificate has been issued stating that said commission does
17 approve the proposed sale, assignment, disposition, trans-
18 fer and conveyance of the franchise and all the property,
19 real, personal and mixed, of this corporation.

Sect. 9. Any corporation, heretofore or hereafter formed
2 for the development of water storage or water power in
3 this state, requiring a new or additional source of supply
4 for its water storage or water power, may make application
5 therefor by filing in the office of the State Water Storage
6 Commission a certified copy of a resolution of its stock-
7 holders, under the seal of said corporation, setting forth
8 the necessity for such new or additional source of supply,

9 and the river, stream, lake, pond, or other body of water,
10 and, as near as may be, the points on said river, stream,
11 lake, pond, or other body of water between which said
12 power or storage of water is proposed to be taken, or used,
13 or developed, and such other information as said commis-
14 sion may require, and if the application shall be approved
15 by a majority of the members of the State Water Storage
16 Commission, it shall then be forwarded to the Secretary of
17 State.

Sect. 10. All the property, rights and franchises within
2 the State of Maine, acquired, erected, owned, held or con-
3 trolled by any corporation hereafter organized for the de-
4 velopment of water storage or water power in this state,
5 or its successors or assigns at any time after this act shall
6 take effect, shall be subject to be taken over and become
7 the property of the State of Maine. Upon the taking effect
8 of such legislation, the ownership of said property, rights
9 and franchises shall immediately be transferred to and vest-
10 ed in said state, and said state shall make just compensation
11 to the owner or owners thereof by paying therefor, the
12 actual value of the physical properties so taken over and
13 without any allowance for franchises or good will of the
14 business. The actual value of the physical properties taken
15 over by the state, subject to the exemption hereinbefore
16 mentioned, shall be determined by agreement between the
17 owner or owners thereof, and such officers and agents of
18 the state as shall hereunto be authorized to act in its behalf

19 by the act which authorizes the taking of said property,
20 rights and privileges; and failing of such agreement within
21 six months after said act takes effect, the supreme judicial
22 court in either county where any of the property, rights
23 and privileges so taken are situated, may, upon petition of
24 either party, appoint three disinterested persons as apprais-
25 ers to fix and determine the amount of money to be paid for
26 the actual value of the physical properties so taken, subject
27 to the exemption aforesaid, the method of procedure and
28 the duties and powers of the appraisers to be determined by
29 the act authorizing such taking.

Sect. 11. Any franchise granted under the terms of this
2 act, shall terminate within a period of from 50 to 90 years
3 from the date of approval of the franchise, unless earlier
4 taken over by the state under the provisions of section 10
5 of this act, the period of termination being determined by
6 the State Water Storage Commission at the time of their
7 approval of the franchise in question.

At the expiration or sooner termination of any franchise,
9 all rights under the franchise, exclusive of the physical
10 property, shall revert to and become the property of the
11 state, in trust for all of the people. The owner or owners
12 shall be allowed a reasonable time, to be fixed by the State
13 Water Storage Commission, in which to remove all build-
14 ings and machinery employed by him or them, in the de-
15 velopment and use of the water power privilege, failing
16 such removal, such buildings or machinery shall be subject

17 to condemnation, and disposition as the state may see fit to
18 take.

Sect. 12. Every person, firm, or corporation, their heirs,
2 executors, administrators, successors, assigns, lessees, trus-
3 tees or receivers appointed by any court whatsoever, who
4 accepts, takes and holds a franchise under the provisions of
5 this act, is hereby declared to be a public utility.

Sect. 13. All companies heretofore or hereafter formed
2 for the purpose of storing water or creating reservoirs are
3 hereby declared to be public utilities.

Sect. 14. Every person, firm, or corporation, except mu-
2 nicipal corporations, who shall hereafter obtain a charter
3 from the state for the development of water power, shall,
4 during the life of the franchise and in lieu of all other forms
5 of state taxation, pay to the State of Maine an annual tax
6 on or before the second day of January of each year, not
7 less than one-tenth of one per cent or not more than one
8 per cent of the gross annual income or if the power is used
9 without compensation, the annual tax shall be at the above
10 mentioned rates but based on an appraisal of the value of
11 said power as determined by the State Water Storage Com-
12 mission. The rate of taxation may be on a sliding scale
13 but shall be fixed at the time of the granting of the fran-
14 chise and may be readjusted every five years within the
15 above limits of rate.

Section 15. If any person, firm, or corporation shall fail
2 to pay the annual franchise tax as provided for in section

3 14 of this act within 90 days after the same is due and pay-
4 able, the state shall have a preference lien therefor, prior
5 to all other liens or claims, upon all the property of said
6 person, firm or corporation, and upon notice from the State
7 Water Storage Commission, the attorney general shall pro-
8 ceed to foreclose the lien and collect any unpaid fees in the
9 same manner as other liens on property are foreclosed.

Sect. 16. It shall be the duty of every person, firm, or
2 corporation granted a franchise under the terms of this
3 act, to keep such accounts and records as may be required
4 by the State Water Storage Commission, and to report the
5 same together with such other information as may be re-
6 quired by said commission on suitable blanks to be furnished
7 by the commission, and at such times and dates as may be
8 specified by said commission. The failure upon the part
9 of any said person, firm, or corporation to comply with the
10 provisions of this section shall be deemed a substantial non-
11 compliance with the provisions of this act, and of the fran-
12 chise granted to such person, firm or corporation.

Sect. 17. Whenever the owner or owners of any franchise
2 that has received the approval of the State Water Storage
3 Commission, as provided in this act, find that, for the pur-
4 pose of creating, acquiring, maintaining and operating their
5 dam or dams and other works, it is necessary to overflow
6 certain lands, said owner or owners are hereby authorized
7 to take and use any lands, riparian or other rights, that may
8 be required for the creation, construction and maintenance

9 of any and all reservoirs, dams, and other structures and
10 improvements that may be necessary to accomplish the pur-
11 poses of their charter, and whenever said owner or owners
12 of said franchise cannot agree with the owner or owners
13 of any such required lands, or other property for the pur-
14 pose thereof and for the compensation to be paid therefor,
15 the said owner or owners of said franchise may apply to the
16 State Water Storage Commission for the right of eminent
17 domain for the particular purposes stated, and after the
18 approval of the majority of the members of the State Water
19 Storage Commission has been given and a certificate has
20 been issued stating that said commission does approve the
21 granting of the right of eminent domain for the particular
22 purposes stated, then and not until then, the said owner or
23 owners of the said franchise may proceed to exercise the
24 right of eminent domain for the particular purposes stated
25 in accordance with the provisions of law applicable thereto.

Sect. 18. Whenever the owner or owners of any franchise
2 that has received the approval of the State Water Storage
3 Commission as provided in this act, find that, for the pur-
4 pose of creating, acquiring, maintaining and operating their
5 dam or dams and other works, it is necessary to overflow
6 any great pond or lake or take or overflow any public lot,
7 lots, or state lands, said owner or owners may apply to the
8 State Water Storage Commission for such rights of taking
9 or overflow. The said commission shall appraise and fix
10 the damage to be caused by such taking or overflow and the

11 amount thereof shall be paid into the state treasury by the
12 said owner or owners before the taking or overflow shall
13 occur.

Sect. 19. In case the owner or owners of any franchise
2 that has received the approval of the State Water Storage
3 Commission as provided in this act shall create, improve or
4 increase storage on any great pond or lake or any reservoir
5 created for the storage of water, said town or owners
6 shall be entitled to be reimbursed by the treasurer of the
7 State of Maine on warrants drawn and approved by the
8 Governor with the advice and consent of the Council for
9 all reasonable costs of operation and maintenance and a
10 net annual return of six per cent on the cash actually spent
11 in creating, improving or increasing said storage. All own-
12 ers or lessors of each and every improved and operated
13 water power located below said reservoir or reservoirs or
14 storage basin or basins and benefited thereby, shall pay into
15 the treasury of the State of Maine his or their proportion-
16 ate share of all the reasonable costs of operation and main-
17 tenance and a net annual return of six per cent on the cash
18 actually spent in creating, improving or increasing said stor-
19 age. The apportionment of the said reasonable costs shall
20 be made by the State Water Storage Commission.

If any said owner or lessee of any improved and operated
22 water power fail to pay his or their proportionate share of
23 all the reasonable costs of operation and maintenance and
24 a net annual return of six per cent on the cash actually

25 spent in creating, improving or increasing storage from
26 which they are benefited, within 90 days after the same is
27 due and payable, the state shall have a preference lien there-
28 for, prior to other liens or claims, except for taxes, upon
29 all the property of said owner or lessee, and upon notice
30 from the State Water Storage Commission, the attorney
31 general shall proceed to foreclose the lien and collect any
32 unpaid fees in the same manner as other liens on property
33 are foreclosed.

Sect. 20. Any party, feeling himself aggrieved by any
2 act done, or by any findings or rulings made by the State
3 Water Storage Commission, subsequent to the granting and
4 acceptance of the franchise as provided in this act, shall
5 have the right to appeal to the supreme judicial court in the
6 county in which its dam is located, or at its option in Ken-
7 nebec county.