

MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

HOUSE

NO. 406

House of Representatives, Mar. 3, 1911.

Introduced by Mr. Bisbee of Rumford, who moved its reference to the Committee on Judiciary. 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 to incorporate the Rumford Water District.

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

Section 1. The following territory and the people with-
2 in the same, namely: that part of the Town of Rumford
3 described and known as the Rumford Falls Village Cor-
4 poration and such additions as may be made to it from time
5 to time, shall constitute a public municipal corporation un-
6 der the name of the Rumford Water District, for the pur-
7 pose of supplying the inhabitants of said District, and like-
8 wise the remaining portion of said Town of Rumford and
9 the Village of Hanover, in the town of Hanover, with pure
10 water for domestic, sanitary and municipal purposes.

Sect. 2. The said District, for the purpose of its incorporation is hereby authorized to take, hold, divert, use and distribute water from Howard Pond, so called, in the Town of Hanover and County of Oxford.

Sect. 3. The said District, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, by purchase or otherwise, any land or interest therein or water rights necessary for erecting and maintaining dams, for flowage, for power for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and water shed, for laying and maintaining aqueducts and other structures for taking, distributing, discharging and disposing of water and for rights of way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands.

Sect. 4. The said District is hereby authorized to lay in and through the streets, roads, ways and highways of the Towns of Rumford and Hanover and across private lands herein and to maintain, repair and replace all such pipes, aqueducts and fixtures as may be necessary and convenient for its corporate purposes, and whenever said district shall lay any pipes or aqueducts in any street, roadway or highway it shall cause the same to be done with as little obstruction as practicable to the public travel, and shall at its own expense, without unnecessary delay, cause the earth and pavement removed by it to be replaced in proper condition.

Sect. 5. The said District is hereby authorized, for the
2 purposes of its incorporation, to erect and maintain all dams,
3 reservoirs and structures necessary and convenient for its
4 corporate purposes.

Sect. 6. In exercising any right eminent domain con-
2 ferred upon it by law, from time to time, or any right of
3 eminent domain through or under the franchise of the wa-
4 ter companies by it acquired, the said District shall file in
5 the office of the county commissioners of the county where
6 such lands or water rights are situated and record in the
7 registry of deeds in said county, plans of the location of
8 all lands or interest therein or water rights, to be taken,
9 with an appropriate description and the names of the
10 owners thereof, if known. When for any reason the Dis-
11 trict fails to acquire the property authorized to be taken,
12 and which is described in such location, or the location re-
13 corded is defective or uncertain, it may, at any time, cor-
14 rect and perfect such location and file a new description
15 thereof, and in such case the district is liable in damages
16 only for property for which the owner had not previously
17 been paid, to be assessed as of the time of the original tak-
18 ing, and the district shall not be liable for any acts which
19 would have been justified if the original taking had been
20 lawful. No entry shall be made on any private lands, ex-
21 cept to make surveys, until the expiration of ten days from
22 such filing, whereon possession may be had of all said lands

23 or interests therein or water rights so taken, but title there-
24 to shall not vest in said district until payment therefor.

Sect. 7. If any person sustaining damages by any tak-
2 ing as aforesaid, shall not agree with said district upon the
3 sum to be paid therefor, either party, upon petition to the
4 county commissioners of the county where said lands or
5 water rights are situated, may have said damages assessed
6 by them; the procedure and all subsequent proceedings
7 and right of appeal thereon shall be had under the same re-
8 striction, conditions and limitations as are or may be by
9 law prescribed in the case of damages by the laying out of
10 highways.

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

Sect. 9. All the affairs of said water district shall be
2 managed by a board of trustees composed of three mem-
3 bers, to be chosen by ballot by the legal voters within said
4 water district, the first election to be at the meeting of the
5 legal voters of the said corporation to be called to accept this
6 act, one to serve until the annual meeting to be held in nine-

7 teen hundred and twelve, one to serve until the annual meet-
8 ing to be held in nineteen hundred and thirteen, and one to
9 serve until the annual meeting in nineteen hundred and four-
10 teen. Whenever the term of office of a trustee shall expire
11 the legal voters of the said water district shall elect a suc-
12 cessor to serve for a full term of three years, and if any oth-
13 er vacancy occur it may be filled in like manner for the
14 unexpired term. The annual election of officers shall be on
15 the fourth Tuesday of March. As soon as convenient after
16 the board of trustees has been chosen, the said trustees shall
17 hold a meeting and organize by the election of a Chairman
18 and Clerk, adopt a corporate seal, and when necessary, may
19 choose a Treasurer and all other needful officers and agents
20 for the proper management of the affairs of said water
21 district. Said trustees may procure an office and incur such
22 expenses as may be necessary. Each member shall re-
23 ceive in full compensation for his services an allowance of
24 one hundred dollars per year, or such other less sum as
25 the said water district at any legal meeting may prescribe.

The said water district, at any legal meeting thereof, called
27 for the purpose, may adopt such by-laws and provisions,
28 not inconsistent with the laws and constitution of this State
29 and the United States, as they may deem expedient and
30 necessary for the better government and regulation of the
31 municipal affairs within said water district, in which case,
32 such by-laws and provisions so adopted shall extend to said
33 water district as fully, to all intents and purposes, as the

34 other provisions of this act, subject only to alterations or
35 additions by a two-thirds vote, at a legal meeting of the
36 water district called for the purpose.

Sect. 10. Said water district is hereby authorized and
2 empowered to acquire by purchase or by the exercise of
3 the right of eminent domain, which right is hereby express-
4 ly delegated to said water district for said purposes, the
5 entire plant, property, franchises, rights, and privileges now
6 held by The Union Construction Company, The Virginia
7 Spring Water Company and Rumford Falls Light & Wa-
8 ter Company within said district and the Town of Rum-
9 ford and adjoining towns, including all lands, waters, water
10 rights, dams, reservoirs, pipes, machinery, fixtures, hy-
11 drants, tools and all apparatus and appliances owned by
12 said companies, and used or usable in supplying water in
13 said District or in the Town of Rumford or adjoining towns,
14 together with all real estate so used or usable. The said
15 water Companies are hereby authorized to sell and transfer
16 their franchises and property to said Water District.

Sect. 11. In case the said trustees fail to agree with said
2 water companies upon terms of purchase, on or before July
3 first, nineteen hundred and eleven, then said water dis-
4 trict, through its trustees, is hereby authorized to take the
5 plant, property and franchises of such water companies as
6 authorized in Section ten as for public uses, by petition
7 therefor in the manner hereinafter provided wherein such
8 water companies and their mortgagees shall be the party

9 defendants. And said water district, through its trustees,
10 is hereby authorized on or before August fifteenth, nine-
11 teen hundred and eleven, to file a petition in the Clerk's
12 office of the Supreme Judicial Court, for the County of
13 Oxford, in term time or in vacation, addressed to any
14 justice thereof, who, after notice to said defendant water
15 companies and their mortgagees, shall after hearing and
16 within thirty days after the filing of said petition appoint
17 three disinterested appraisers none of whom shall be resi-
18 dents of the County of Oxford, one of whom shall be
19 learned in the law, for the purpose of fixing the valuation
20 of the plant, property and franchises of said defendant wa-
21 ter company as described in Section ten. Said petition shall
22 not be dismissed after filing but may and shall be amended
23 in any manner required to enable the court to make all
24 necessary decrees thereon. At the hearing aforesaid, such
25 justice, upon motion of the petitioner, may order the pro-
26 duction and filing in court, for the inspection of the pe-
27 titioner, of all books and papers pertinent to the issue to be
28 heard by said appraisers, the terms and conditions of so
29 producing and filing such books and papers to be deter-
30 mined by said justice in his order therefor and to be en-
31 forced from time to time as any justice of said Supreme
32 Judicial Court in term time or in vacation, upon motion of
33 either party, may deem reasonable and proper in the pre-
34 mises. At such hearing, such justice, upon motion of the
35 petitioner, may fix a time at which the said defendant water

36 companies shall file in the clerk's office of the Supreme Ju-
37 dicial Court for the county of Oxford, for the inspection of
38 the petitioner, the following: First, schedules showing the
39 names, residence, street number if any and water service of
40 each customer on July first, in the year of our Lord one thou-
41 sand nine hundred and eleven, with rate charged therefor;
42 second, copies of all contracts in force on said July first;
43 third, an itemized statement of the gross income earned dur-
44 ing its last complete fiscal year and all operating expenses
45 and fixed charges paid or incurred during such year and
46 properly chargeable thereto; fourth, a memorandum of all
47 real estate, or interest therein, owned or controlled on said
48 July first with such brief description thereof as will reason-
49 ably identify the same; fifth, a memorandum of all water
50 rights used or owned on said July first with a brief descrip-
51 tion thereof and a concise statement of the method of ac-
52 quiring the same; sixth, duplicate plans of all structures
53 owned in whole or in part on said July first with specifica-
54 tions thereof; seventh, descriptions and specifications of all
55 reservoirs and stand pipes owned on said July first; eighth, a
56 description of all pipes, service pipes, hydrants, gates, gate
57 boxes, shut off boxes, fixtures and machinery, and all the
58 physical elements in such water system, giving in detail all
59 quantities, sizes, lengths, specifying the streets, roads or ways
60 where situated; ninth, an itemized list of all tools, apparatus
61 and appliances used or usable in supplying water on said July
62 first. Such orders may be enforced from time to time by

63 any justice of said Supreme Judicial Court in term time or
64 in vacation, upon motion of either party, as such justice
65 may deem reasonable and proper in the premises. At such
66 hearing the justice then sitting may, upon motion of the
67 petitioner, make all such decrees as he deems reasonable
68 and proper to enable the petitioner, through its servants
69 and employees, to ascertain the condition of the mains, and
70 pipes of the defendant water companies, externally and in-
71 ternally, all work connected therewith to be in the presence
72 of the agents of the water companies, but wholly at the
73 expense of said water district, said decree to fix the num-
74 ber of such examinations and to impose such conditions as
75 may to the court seem just and proper in the premises. The
76 said appraisers shall have the power of compelling attend-
77 ance of witnesses and the production of books and papers
78 pertinent to the issue and may administer oaths; and any
79 witness or person in charge of such books or papers re-
80 fusing to attend or to produce the same shall be subject to
81 the same penalties and proceedings, so far as applicable,
82 as witnesses summoned to attend the Supreme Judicial
83 Court. Depositions may be taken as in civil actions. The
84 said appraisers may appoint a sufficient number of stenog-
85 raphers to enable a full report of the proceedings of each
86 day to be in readiness for use the following day, each of
87 said appraisers to so have one copy thereof, and the parties
88 to receive such number of copies as the appraisers may
89 deem necessary. The compensation and expenses of said

90 stenographers shall be taxed and allowed by the appraisers
91 and be paid and borne as hereinafter provided. Their re-
92 ports, certified by said appraisers as correct, shall be filed
93 with the award to be made by said appraisers and shall be
94 legal evidence of all proceedings so reported. They shall
95 make full report as required in trials had in the Supreme
96 Judicial Court. The appraisers so appointed shall, after
97 due notice and hearing, fix the valuation of the plant, prop-
98 erty and franchises of said defendant water companies at
99 what they are fairly and equitably worth, so that said water
100 companies shall receive just compensation for all the same.
101 The first day of October, nineteen hundred and eleven,
102 shall be the date as of which the valuation aforesaid shall
103 be fixed, from which date interest on said award at the
104 rate of five per cent. per annum shall run and all net
105 rents and profits accruing thereafter shall belong to said
106 water district. The report of said appraisers or of a ma-
107 jority of them, shall be filed in said clerk's office within
108 six months after their appointment, but, if at the expira-
109 tion of said six months the hearing before said appraisers
110 should then be in progress and unfinished, their report
111 may be so filed within thirty days after close of said hear-
112 ing. After said report is filed, such single justice, so ap-
113 pointing said appraisers, or in case of his inability to act,
114 then any justice designated for the purpose by the chief
115 justice, may, after notice and hearing, confirm or reject
116 the same or recommend, if justice so requires, and in case

117 of such rejection or recommittal such justice may fix the
118 times for new hearings and new report thereon. The
119 award of the appraisers shall be conclusive as to valua-
120 tions. Upon confirmation of their report, the court so
121 sitting, in term time or in vacation, shall thereupon, after
122 hearing, make final decree upon the whole matter, in-
123 cluding the transfer of the properties and franchises,
124 jurisdiction, over which is hereby conferred with the same
125 power to enforce said decree as in equity cases. All the
126 costs and expenses arising under such petition and ap-
127 praisal shall be paid and borne as directed by the court
128 in said final decree. The findings of such justice as to
129 such costs and expenses and their apportionment shall be
130 final. In all other matters the justice so making such final
131 decree shall, upon request of any of the parties, make
132 separate findings of law and fact. All such findings of
133 fact shall be final, but any party aggrieved may take ex-
134 ceptions to any rulings of law so made, the same to be
135 accompanied by only such parts of the case as are neces-
136 sary to a clear understanding of the questions raised there-
137 by. Such exceptions shall be claimed on the docket within
138 ten days after such final decree is signed, entered and filed,
139 and notice thereof has been given by the clerk to the par-
140 ties or their counsel, and said exceptions, so claimed shall
141 be made up, allowed and filed within said time unless
142 further time is granted by the court or by agreement of
143 the parties. They shall be entered at the next term of

144 the law court to be held after the filing of such exceptions
145 and there heard unless otherwise agreed, or the law court
146 shall for good cause order a further time for hearing there-
147 on. Upon such hearing the law court may confirm, re-
148 verse or modify the decree of the court below or remand
149 the cause for further proceedings, as it seems proper. Dur-
150 ing the pendency of such exceptions the cause shall re-
151 main on the docket of the court below, marked "law,"
152 and decree shall be entered thereon by a single justice,
153 in term time or in vacation, in accordance with the certifi-
154 cate and opinion of the law court. Before the aforesaid
155 plant, property and franchises are transferred in accord-
156 ance with such final decree, and before the payment there-
157 for, the court sitting in said county of Oxford, by a single
158 justice thereof, as hereinbefore provided, shall, upon mo-
159 tion of any party, after notice and hearing, take account
160 of all receipts and expenditures properly had and incurred
161 by said water companies belonging to the period from and
162 after October first, nineteen hundred and eleven, and all
163 net rents and profits accruing thereafter, and shall order
164 the net balance due to any party to be added to or de-
165 ducted from the amount to be paid under said final de-
166 cree, as the case may be. All findings of law or fact by
167 such single justice at such hearings shall be final. On
168 payment or tender by said water district of the amount
169 so fixed and the performance of all other terms and con-
170 ditions so imposed by the court, the entire plant, property

171 and franchises of said water companies as described in
172 Section ten shall become vested in said water district and
173 be free from all liens, mortgages and encumbrances there-
174 tofore created by the Rumford Falls Light & Water Com-
175 pany, Union Construction Company or Virginia Spring
176 Water Company. After the filing of said petition it shall
177 not be discontinued or withdrawn by said water district,
178 and the said water companies may thereafterwards cause
179 said valuation to be made as herein provided, and shall
180 be entitled to appropriate process to compel said water
181 district to perform the terms of the final decree and to
182 pay for said plant, property and franchises in accordance
183 therewith. If a vacancy occurs at any time in said board
184 of appraisers, from any cause, any justice of the Supreme
185 Judicial Court, sitting in said county of Oxford, may, in
186 term time or in vacation, after notice and hearing, ap-
187 point a new appraiser or appraisers, and make all such or-
188 ders for hearing said cause by the appraisers anew or for
189 any extension of time for making their award, or other-
190 wise, as the circumstances of the case may require.

Sect. 12. All valid contracts, made in good faith, now
2 existing between said water company and any person or
3 corporations for supplying water within the towns named
4 in Section one shall be assumed and carried out by said
5 Rumford Water District.

Sect. 13. 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 Rumford Falls Light & Water Company, Union Con-
10 struction Company and Virginia Spring Water Company,
11 by purchase or otherwise, or in the purchase or acquisition
12 of the property and franchises of said water companies,
13 of securing sources of supply, taking water and lands, pay-
14 ing damages, laying pipes, constructing, maintaining and
15 operating a water plant, and making renewals, extensions,
16 additions and improvements to the same, the said water dis-
17 trict, through its trustees, may from time to time issue bonds
18 of the district to an amount or amounts necessary in the
19 judgment of the trustees therefor. Said notes and bonds
20 shall be legal obligations of the water district, which is
21 hereby declared to be a quasi municipal corporation within
22 the meaning of Section ninety-six, Chapter forty-seven of
23 the Revised Statutes, and all the provisions of said section
24 shall be applicable thereto. The said notes and bonds shall
25 be legal investments for savings banks.

Sect. 14. The property of said district shall be exempt
2 from taxation.

Sect. 15. 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 in-
11 debtedness created 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 by the district, which sum shall be turned into a
15 sinking fund and there kept to provide for the extinguish-
16 ment of such indebtedness. The money set aside for the
17 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 Rumford Falls Village Corporation.

Sect. 16. 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 here-
4 by created.

Sect. 17. This act shall take effect when approved by a
2 majority vote of the legal voters of the Rumford Falls
3 Village corporation voting by ballot at an election to be
4 especially called and held for the purpose on the second

5 Monday of May, nineteen hundred and eleven. Such spe-
6 cial election shall be called, warned and conducted accord-
7 ing to the law relating to municipal elections in said town,
8 provided, however, that the assessors shall not be required
9 to prepare for posting or the clerk of the corporation to
10 post a new list of voters, and for the purpose of registra-
11 tion of voters said assessors shall be in session the secular
12 day next preceding such election. The clerk of the corpora-
13 tion shall reduce the subject matter of this act to the follow-
14 ing question: "Shall the act to incorporate the Rumford
15 Water District be accepted " and the voters shall in-
16 dicate by a cross placed upon their ballots over the words
17 "Yes" or "No" their opinion of the same. The result shall
18 be declared by the assessors and due certificate thereof filed
19 by the clerk of the corporation with the secretary of state.

Sect. 18. Sections two, three, four, five, six, seven and
2 eight shall be inoperative, null and void unless the said wa-
3 ter 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 Rumford Falls Light & Water Company, Union Construc-
7 tion Company and Virginia Spring Water Company.

Sect. 19. 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 seventeen
4 hereof.