

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

HOUSE

NO. 4

House of Representatives, Jan. 9, 1913.

*Tabled pending reference to a Committee, by Mr. Wheeler
and ordered printed.*

W. R. ROIX, Clerk.

STATE OF MAINE

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

AN ACT to provide for the Creation of Drainage Districts, the
Supervision of the Construction of Dams, and the Control
and regulation of Storage Reservoirs.

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 drainage
3 districts by watershed lines for the purpose of controlling
4 and regulating all great ponds of the State and all resevoirs
5 created or hereafter created in part or in whole on any State
6 lands or public lots of the State; and said commission is
7 hereby authorized and empowered to mark by permanent
8 monuments and bench marks the heights to which water

9 may be raised or lowered on the great ponds of the State
10 and on all reservoirs created or hereafter created on any
11 State lands or public lots of the State; and, furthermore, the
12 said commission is hereby authorized and empowered to su-
13 pervise and control the times and extent of the drawing of wa-
14 ter from all great ponds and from the reservoirs created or
15 hereafter created on any State lands or public lots of the State.

All reservoirs under the supervision and control of the
17 State Water Storage Commission shall be regulated by said
18 commission so that all the water users shall derive the great-
19 est benefit.

Provided, however, that if any water user feels himself
21 aggrieved as to the manner of said regulation, he may appeal
22 to a board of arbitration to consist of three hydraulic engi-
23 neers to be appointed by a judge of the Supreme Judicial
24 Court, the cost of said arbitration to be paid by the party
25 requesting the arbitration.

The term reservoir, as used in this section, shall mean any
27 storage basin having an available capacity of over 200,000,-
28 000 cubic feet, provided, however, that this limiting capacity
29 shall not apply to any reservoir created on any great pond
30 of the State.

Sect. 2. The term "concession" as used in this act shall
2 mean and embrace every certificate issued by the State
3 through the State Water Storage Commission in its approval
4 of any plans and statements filed with it in accordance with
5 the provisions of section 6 of this act, or of every certificate

6 issued by the said commission as provided for in sections 7,
7 8, and 14 of this act.

Sect. 3. Every person, firm, or corporation, their heirs,
2 executors, administrators, successors, assigns, lessees, trus-
3 tees, or receivers appointed by any court whatsoever, who ac-
4 cepts, takes and holds a concession for the erection and
5 operation of a water storage reservoir under the provisions
6 of this act, is hereby declared a public utility.

Sect. 4. The drainage districts created under the pro-
2 visions of section one of this act shall be in charge of dis-
3 trict superintendents who shall report to and receive their
4 instructions from the chief engineer of the State Water
5 Storage Commission. Said district superintendents shall be
6 appointed by the State Water Storage Commission from
7 lists of persons recommended by the water users, including
8 the log-driving associations, the water power users and the
9 dam and reservoir owners of the respective drainage dis-
10 tricts. Provided, that one district superintendent may have
11 charge of more than one drainage district.

Sect. 5. For the purpose of carrying out the provisions of
2 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 concession granted under the terms of this act, and
8 may take any measurements and observations, and may have

9 access to and copy from, all books, accounts, plans and rec-
10 ords of said owner or owners, as are necessary for the pur-
11 poses of this act.

Sect. 6. 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 pow-
4 er in this State, or the creation or improvement of a water
5 storage basin or reservoir for the purpose of controlling the
6 waters of any of the great ponds or rivers of the State, shall
7 file with the State Water Storage Commission for its infor-
8 mation and use, copies of plans for the construction of any
9 such dam or storage basin or reservoir, and a statement giv-
10 ing the location, height and nature of the proposed dam and
11 appurtenant structures and the estimated power to be de-
12 veloped thereby and also the name of the river, stream, lake,
13 pond, or other body of water from which it is proposed to
14 use water power, or on which it is proposed to store water,
15 and as near as may be, the points on said river, stream, lake,
16 pond, or other body of water, between which said water
17 power or storage of water is proposed to be taken or used
18 or developed, and such other information as said commis-
19 sion may require, and until said plans and statements are
20 filed with and have received the approval of a majority of
21 the members of said commission, and until a certificate to
22 this effect has been issued, and the concession granted, it
23 shall be unlawful to start construction on any such said
24 dam or dams or appurtenant structures; and, furthermore,

25 it shall be unlawful to change or modify any such plans or
26 any designs until the changes and modifications have re-
27 ceived the approval of a majority of the members of said
28 commission, and until a certificate to this effect has been
29 issued and the concession granted; provided, however, that
30 the rejection of any plan or plans shall be on the ground of
31 the inadequacy of the engineering features of the plans, un-
32 less a great pond or state land or public lot or lots are in-
33 volved; and provided, further, that in case of the rejection
34 of plan or plans on account of inadequacy of the engineering
35 features, recourse may be had to a board of arbitration as
36 provided for in section one. Every person, firm, or cor-
37 poration shall, as soon as practicable, after this act takes
38 effect, file similar plans, reports and estimates in relation to
39 any dam or storage basin or reservoir then in process of
40 construction by them.

Sect. 7. No certificate of incorporation, among the pur-
2 poses of which are the development of water storage or wa-
3 ter power in this State, shall be approved by the attorney-
4 general unless said certificate is first filed with the State
5 Water Storage Commission; nor unless said certificate of
6 incorporation shall contain, in addition to the statements
7 now required to be made, the name of the river, stream, lake,
8 pond, or other body of water from which it is proposed to
9 use water power, or on which it is proposed to store water,
10 and, as near as may be, the points on 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, and such other information as said commission
14 may require; nor until a certificate to this effect has been
15 issued by the State Water Storage Commission and the con-
16 cession granted.

Sect. 8. No sale, assignment, disposition, transfer, or con-
2 veyance of the franchises, and all the property, real, per-
3 sonal, and mixed, of any person or firm engaged in the de-
4 velopment of water storage or water power in this state, or
5 of any corporation heretofore or hereafter formed, for the
6 development of water storage or water power in this state,
7 to any other such corporation or to any person or firm, shall
8 be valid until a certificate, prepared and duly executed by
9 the president and secretary of the corporation so purchas-
10 ing, under the seal of said corporation, or by such person
11 or firm designating the river, stream, lake, pond, or other
12 body of water, and as near as may be, the points on the said
13 river, stream, lake, pond, or other body of water, between
14 which said water power or storage of water is proposed to
15 be taken, or used, or developed, and such other information
16 as the State Water Storage Commission may require, has
17 been filed with the said commission; nor until a certificate
18 to this effect has been issued by the State Water Storage
19 Commission and the concession granted.

Sect. 9. 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 in this state, or its successors
5 or assigns, at any time after this act shall take effect, under
6 and by virtue of the terms thereof, shall be subject to be
7 taken over by, and become the property of the state of
8 Maine, whenever said state shall determine by appropriate
9 legislation that the public interests require the same to be
10 done. Upon the taking effect of such legislation, the own-
11 ership of said property, rights, and franchises shall imme-
12 diately be transferred to, and vested in, said state of Maine,
13 and said state shall pay to the owner or owners thereof, the
14 fair value of all the same, excepting, however, such fran-
15 chises and rights as are conferred upon any said corpora-
16 tions under and by virtue of the provisions of any legisla-
17 tive act or acts or any special charter or charters owned or
18 controlled by any said corporations, which said franchises
19 and rights shall be wholly excluded in the determination of
20 the amount to be paid to any said corporations by said state
21 of Maine. Provided, that should the state proceed under
22 this section, it shall assume the contracts of the company or
23 companies whose property it takes.

The fair value of the property, rights, and franchises so
25 taken by the state of Maine, subject to the exceptions here-
26 inbefore mentioned shall be determined by agreement be-
27 tween any said corporations and such officers and agents
28 of said state as shall be thereunto authorized to act in its
29 behalf by the act which authorizes the taking of said prop-
30 erty, rights, and franchises; and such agreement failing

31 within six months after said act takes effect, then by such
32 fair and impartial tribunal and under such provisions as to
33 the manner of procedure and for full hearing of parties and
34 payment of damages awarded as shall be provided in said act.

Sect. 10. Any concession granted under the terms of this
2 act shall terminate within a period of from twenty-five to
3 sixty years from the date of approval of the concession, un-
4 less earlier taken over by the state under the provisions of
5 section seven of this act the period of termination being
6 determined by the State Water Storage Commission at the
7 time of their approval of the concession in question.

At the expiration or earlier termination of any concession,
9 all rights under the concession shall revert to and become
10 the property of the state upon the state making just com-
11 pensation for the physical property to the person, firm, or
12 corporation, in accordance with the provisions of section
13 nine of this act; provided, however, that the State Water
14 Storage Commission may extend the concession under the
15 terms of this act, and if the holder of any such concession,
16 during the term thereof, has complied with all the laws and
17 regulations, said holder shall have a preference right to
18 renew the concession on reasonable terms laid down by the
19 commission, and in case said holder declines to accept the
20 new concession, the State Water Storage Commission shall
21 elect whether the state shall take over the physical prop-
22 erty in accordance with the provisions of section nine of
23 this act, or whether it shall grant another concession, in

24 which case the original concessioner shall have the priv-
25 ilege of selling or disposing of his buildings and machinery
26 to his successor in concession.

Sect. 11. Every person, firm, or corporation, except mu-
2 nicipal corporations, engaged in the development of water
3 power, shall, in lieu of all other forms of state taxation, pay
4 to the state of Maine an annual tax on or before the second
5 day of January of each year, of not less than one-half of
6 one per cent. or not more than five per cent. of the gross an-
7 nual income of said person, firm, or corporation, or if the
8 power is used by the owner and not sold, the annual tax
9 shall be at the above mentioned rates but based on an ap-
10 praisal of the value of said power as determined by the State
11 Water Storage Commission; provided, that, in the case of
12 a disagreement on said appraisal, recourse may be had to
13 a board of arbitration as provided for in section one. The
14 rate of taxation may be on a sliding scale but shall be fixed
15 by the State Water Storage Commission. The said com-
16 mission may also determine at what future dates the rates
17 may be readjusted within the above limits.

Sect. 12. If any person, firm, or corporation shall fail to
2 pay the annual franchise tax as provided for in section ten
3 of this act within ninety days after the same is due and
4 payable, 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 enforce the lien and collect any unpaid fees in the
9 same manner as other liens on property are enforced.

Sect. 13. It shall be the duty of every person, firm, or
2 corporation granted a concession 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 over affidavit,
6 as may be required by said commission on suitable blanks
7 to be furnished by the commission and at such times and
8 dates as may be specified by said commission. The failure
9 upon the part of any said person, firm, or corporation to
10 comply with the provisions of this section shall be deemed
11 a substantial non-compliance with the provisions of this act,
12 and of the concession granted to such person, firm or cor-
13 poration.

Sect 14. Whenever the owner or owners of any dam or
2 dams used for the purpose of developing water power in
3 this state, or the creation or improvement of any water
4 storage basin or reservoir, find that, for the purpose of cre-
5 ating, acquiring, maintaintaining and operating their dam or
6 dams and other works, it is necessary to overflow certain
7 lands, said owner or owners shall apply to the State Water
8 Storage Commission for the right to take and use any lands,
9 riparian or other rights, that may be required for the cre-
10 ation, construction and maintenance of any and all reser-
11 voirs, dams, and other structures and improvements that
12 may be necessary to accomplish the purposes of their char-

13 ter, and after the approval of the majority of the members
14 of the State Water Storage Commission has been given and
15 a certificate has been issued stating that said commission
16 does approve the taking or overflow for the particular pur-
17 pose stated, then and not until then, the said owner or own-
18 ers of the said dam or dams may proceed to exercise the
19 right of eminent domain for the particular purposes stated
20 in accordance with the provisions of Chapter 94 of the Re-
21 vised Statutes and laws amendatory and supplementary
22 thereto; provided, however, that the rejection of the appli-
23 cation for the said taking or overflow shall be on the ground
24 of the inadequacy of the engineering features of the plans,
25 unless a great pond or state land or public lot or lots are
26 involved; and provided, further, that in the case of the re-
27 jection of the said application for the said taking or over-
28 flow on the ground of the inadequacy of the engineering
29 features, recourse may be had to a board of arbitration as
30 provided for in section one.

Sect. 15. Whenever any person, firm or corporation contem-
2 plating the erection or the enlargement of any dam or dams
3 for the purpose of developing water power in this state, or
4 the creation or improvement of any water storage basin or
5 reservoir, find, that for the purpose of creating, acquiring,
6 maintaining, and operating their dam or dams and other
7 works, it is necessary to overflow any great pond or take
8 or overflow any public lot, lots or state lands, said owner
9 or owners shall apply to the State Water Storage Commis-

10 sion for such rights of taking or overflow.

The said commission may make an engineering investiga-
12 tion of the desirability or necessity of such taking or over-
13 flow, and report to the next legislature the results of its in-
14 vestigations together with its recommendations for or
15 against the said taking or overflow and include in said re-
16 port its estimates of damages if any state land or public lot
17 or lots are involved.

Sect. 16. In case the owner or owners of any dam or
2 dams used for the purpose of developing water power in
3 this state, or the creation or improvement of any water stor-
4 age basin or reservoir, shall create, improve or increase stor-
5 age on any great pond or any reservoir created for the stor-
6 age of water, said owner or owners shall be entitled to be
7 reimbursed by the treasurer of the state of Maine on war-
8 rants drawn and approved by the Governor with the advice
9 and consent of the Council for all reasonable costs of op-
10 eration and maintenance and a net annual return for twen-
11 ty years of five per cent. on the cash actually spent in creat-
12 ing, improving, or increasing said storage. All owners or
13 lessees of each and every improved water power operated
14 for over eight months in the year, located below said reser-
15 voir or reservoirs or storage basin or basins and benefited
16 thereby, shall pay into the treasury of the state of Maine
17 his or their proportionate share of all the reasonable costs
18 of operation and maintenance and a net annual return for
19 twenty years of five per cent. on the cash actually spent in

20 creating, improving, or increasing said storage, including
21 the cost to the state of the supervision and regulation of
22 said reservoir or reservoirs or storage basin or basins. The
23 apportionment of the said reasonable costs and the said an-
24 nual return of five per cent. shall be made by the State
25 Water Storage Commission in proportion to the resulting
26 benefits.

If any said owner or lessee of any improved and operated
28 water power fail to pay his or their proportionate share of
29 all the reasonable costs of operation and maintenance and
30 a net annual return of five per cent. on the cash actually
31 spent in creating, improving, or increasing storage from
32 which they are benefited, within ninety days after the same
33 is due and payable, the state shall have a preference lien
34 therefor, prior to other liens or claims, except for taxes,
35 upon all the property of said owner or lessee, and upon
36 notice from the State Water Storage Commission, the at-
37 torney-general shall proceed to enforce the lien and collect
38 any unpaid fees in the same manner as other liens on prop-
39 erty are enforced.

Sect. 17. Every person, firm, or corporation engaged in
2 the generation of electric current in this state shall install,
3 within three months of the date of approval of this act, suit-
4 able and accurate meters and other instruments approved by
5 the State Water Storage Commission, adequate for the
6 measurement of the electric energy generated, and such
7 person, firm, or corporation shall keep accurate and suffi-

8 cient records showing the quantity of electric energy gen-
9 erated each day in the year and the number of hours run
10 per day, and report same to the State Water Storage Com-
11 mission on blanks prescribed by, and at such time as shall
12 be determined by, said commission; provided, that in case
13 any person, firm, or corporation engaged in the generation
14 of electric current in this state fails to install suitable and
15 accurate meters and other instruments within the time above
16 specified, such person, firm, or corporation shall be subject
17 to a penalty of \$10 per day for each and every day over
18 the above limit of three months, during which they have
19 not made the necessary installation, said penalty or penal-
20 ties to be paid into the treasury of the state of Maine; and
21 provided further, that the State Water Storage Commis-
22 sion may extend the time before the penalty attaches in
23 which to install the suitable and accurate meters and other
24 instruments.

Sect. 18. Any party, feeling himself aggrieved by any
2 act done, or failure to act, or by any findings or rulings
3 made by the State Water Storage Commission, subsequent
4 to the granting and acceptance of the concession as provided
5 in this act, shall have the right to appeal to the Supreme
6 Judicial Court in the county in which its dam is located, or
7 at its option in Kennebec County.