

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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SEVENTY-SIXTH LEGISLATURE

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HOUSE

NO. 404

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*House of Representatives, Mar. 3, 1913.*

*Reported by Mr. Smith from Committee on Judiciary, and  
ordered printed under joint rules.*

*W. R. ROIX, Clerk.*

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STATE OF MAINE

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

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AN ACT to incorporate the Madison 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 thereon comprising  
2 Madison Village Corporation in the town of Madison shall  
3 constitute a body politic and corporate under the name of  
4 the Madison Water District, for the purpose of supplying  
5 the inhabitants of said district and of the towns of Madison,  
6 Anson and Embden, or parts thereof, and all of said munici-  
7 palities with pure water for domestic, sanitary, manufact-  
8 uring and municipal purposes. Provided, however, that the  
9 territory and people in the town of Anson constituting what

10 was formerly school district number thirteen in said town  
11 may and shall become a part of said water district to all  
12 intents and purposes, provided a majority of the legal  
13 voters residing within the limits of said school district num-  
14 ber thirteen shall at a legal meeting, regularly called for the  
15 purpose as hereinafter provided, vote so to do.

Sect. 2. Said district is hereby authorized for the pur-  
2 poses aforesaid to take, hold, divert, use and distribute suffi-  
3 cient water of the Kennebec river, Madison pond or Hayden  
4 lake, so called, Embden pond, or of any of their tributary  
5 lakes or streams.

Sect. 3. The said district for the purposes of its incorpo-  
2 ration is hereby authorized to take and hold as for public  
3 uses, by purchase or otherwise, any land or interest therein,  
4 or water rights and mill privileges necessary for erecting  
5 and maintaining dams for flowage, for power, for reservoirs,  
6 for pumping its water supply through its mains, for pre-  
7 serving the purity of the water and water shed, for laying  
8 and maintaining pipes, aqueducts and other structures for  
9 taking, distributing, discharging and disposing of water,  
10 and for rights of way or roadways to its source or sources  
11 of supply, dams, power-stations, reservoirs, mains, aque-  
12 ducts, structures and lands.

Sect. 4. If any person sustaining damages by any taking  
2 as aforesaid, shall not agree with said district upon the sum  
3 to be paid therefor, either party, upon petition to the county  
4 commissioners of the county where said lands or water

5 rights are situated, may have said damages assessed by  
6 them; the procedure and all subsequent proceedings and  
7 right of appeal thereon shall be had under the same restric-  
8 tion, conditions and limitations as are or may be by law  
9 prescribed in the case of damages by the laying out of  
10 highways.

Sect. 5. Said district is hereby authorized to lay in and  
2 through the streets, roads, ways and highways thereof and  
3 of the towns of Madison, Anson and Embden, and to take  
4 up, repair and replace all such pipes, aqueducts and fixtures  
5 as may be necessary for the objects herein set forth. And  
6 whenever said district shall lay any pipes in any street, road,  
7 way or highway, it shall cause the same to be done with as  
8 little obstruction as practicable to the public travel, and shall,  
9 at its own expense, without unnecessary delay, cause the  
10 earth and pavement removed by it to be replaced in proper  
11 condition.

Sect. 6. 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 crossing,  
4 within thirty days after such consent is requested by said  
5 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  
8 under the supervision and to the satisfaction of said rail-  
9 road company, but at the expense of said district.

Sect. 7. All the affairs of said district shall be managed  
2 by a board of trustees of three members, to be elected by  
3 a plurality vote of the legal voters within said district at  
4 an election to be specially called and held within thirty days  
5 after the approval of this act by the legal voters of said  
6 district. Such special election shall be called, held and con-  
7 ducted in the same manner as meetings of Madison Village  
8 Corporation are now called and held. All records of the  
9 meetings and other business of the district shall be kept by  
10 the clerk of said Madison Village Corporation for the time  
11 being. The term of office of the trustees first chosen shall  
12 be considered to begin on the first Monday of July of the  
13 year of the acceptance of this act by said district. As soon  
14 as convenient after the members of said board have been  
15 chosen said trustees shall hold a meeting at some convenient  
16 place within said Madison Village Corporation and organ-  
17 ize by the election of a president, adopt a corporate seal,  
18 and when necessary may choose a treasurer and all other  
19 needful officers and agents for the proper conduct and man-  
20 agement of the affairs of said district. At said first meet-  
21 ing they shall determine by lot the term of office of each  
22 trustee so that one shall serve for one year, one for two  
23 years, and one for three years; and whenever the term of  
24 office of a trustee expires his successor shall be elected by a  
25 plurality vote by the legal voters of said district for the  
26 term of three years; and in case any vacancy shall arise it  
27 shall be filled for the remainder of the year by appointment

28 by the remaining members of the board of trustees, and at  
29 the next regular meeting of the district the vacancy shall  
30 be filled for the remainder of the term in the manner here-  
31 inbefore set forth. The assessors of Madison Village Cor-  
32 poration for the time being shall be eligible to election to  
33 the board of trustees, and the treasurer of Madison Village  
34 Corporation shall be eligible to election of treasurer of said  
35 trustees or district. The trustees, treasurer and clerk shall  
36 receive for their services as such such compensation as the  
37 district by vote shall from time to time determine.

Provided, however, that if that part of Anson formerly  
39 comprising school district number thirteen in said town shall  
40 by a majority of the legal voters of said district, at a meet-  
41 ing specially called and held for the purpose on or before the  
42 first Monday of July, one thousand nine hundred and four-  
43 teen, vote to accept the provisions of this act it shall thereby  
44 become a part of said water district and entitled to all its  
45 rights and privileges and subject to all the liabilities and  
46 obligations thereof, and in such case said part of said Anson  
47 shall have the right to and shall choose by a plurality vote  
48 two trustees to act with and become a part of the board of  
49 trustees as hereinbefore provided for the management of all  
50 of the affairs of said district. The term of office of such  
51 trustees first chosen shall be considered to begin on the first  
52 Monday of July, of the year of the acceptance of this act  
53 by said part of said district and, together with the three  
54 trustees chosen as hereinbefore set forth, form a joint board

55 for the management of the affairs of said district and have  
56 a right to take a part in the organization and all of the  
57 meetings and business of said board. The two trustees  
58 first elected shall serve one for one year and one for two  
59 years, and annually thereafter at the regular annual meet-  
60 ing of the legal voters of that part of Anson constituting  
61 what was formerly school district number thirteen shall  
62 elect one trustee to serve for the term of two years. The  
63 two trustees first so elected shall decide by lot their respec-  
64 tive terms of office. Any vacancy occurring in the terms  
65 of either of said two trustees shall be filled for the re-  
66 mainder of the term at a special meeting of the legal voters  
67 of said part of said district in said Anson legally called and  
68 held.

Said trustees may also ordain and establish such by-laws  
70 as are necessary for their own convenience and the proper  
71 management of the affairs of the district. At the close of  
72 each fiscal year the trustees shall make a detailed report of  
73 their doings, of the receipts and expenditures of said water  
74 district, of its financial and physical conditions, and of such  
75 other matters and things pertaining to said district as shall  
76 show to the inhabitants of said district a full and true  
77 standing of its conditions and how said trustees are fulfill-  
78 ing the duties and obligations of their trust. Said report  
79 shall be either written or printed for distribution to the  
80 inhabitants of said district. The books and accounts per-  
81 taining to the receipts and expenditures of money shall be

82 audited by the auditor of Madison Village Corporation for  
83 the time being.

Section 8. 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, franchises, rights and privileges of the Madison  
6 Water Company and those of any other company organized  
7 or doing business within said district, except cash assets,  
8 including all lands, waters, water rights, dams, reservoirs,  
9 pipes, machinery, fixtures, hydrants, tools and all apparatus  
10 and appliances owned by said Madison Water Company or  
11 any other company organized or doing business in said  
12 district for said purpose and used or usable in supplying  
13 water in said district and towns, and any other real estate  
14 owned by said Company or companies in said district.

Said water companies or any of them are hereby author-  
16 ized to sell and transfer their franchises and properties to  
17 said water district.

Section 9. In case the said trustees fail to agree with  
2 said Madison Water Company and any other company organ-  
3 ized or doing buisness in said district for said purpose upon  
4 the terms of purchase of the above mentioned rights and  
5 properties on or before the first Monday of September, one  
6 thousand nine hundred and fourteen, said water district  
7 through its trustees is hereby authorized and empowered to  
8 take such plant, property and franchises for public uses by



9 petition therefor in the manner hereinafter provided. The  
10 said water district through its trustees is hereby authorized,  
11 on or before the eighth day of September, one thousand  
12 nine hundred and fourteen, to file a petition in the clerk's  
13 office of the supreme judicial court for the county of Somers-  
14 set, in term time or in vacation, addressed to any justice of  
15 said court, who, after notice to said Madison Water Com-  
16 pany and its mortgagees, if any, and to any other company  
17 or companies organized and doing business for said purpose  
18 in said district, shall, after hearing, and within thirty days  
19 after the filing of said petition, appoint three disinterested  
20 appraisers, none of whom shall be residents either of the  
21 county of Somerset or Kennebec, one of whom shall be  
22 learned in the law, for the purpose of fixing the valua-  
23 tion of said plant or plants, property and franchises as  
24 described in section eight hereof. Said petition shall not  
25 be dismissed after filing but may and shall be amended in  
26 any manner required to enable the court to make all neces-  
27 sary decrees thereon. At the hearing aforesaid, such jus-  
28 tice, upon motion of the petitioner, may order the pro-  
29 duction and filing in court, for the inspection of the peti-  
30 tioner, of all books and papers pertinent to the issue and  
31 necessary for a full understanding of the matter to be heard  
32 by said appraisers, the terms and conditions of so produc-  
33 ing and filing such books and papers to be determined by  
34 said justice in his order therefor and to be enforced from  
35 time to time as any justice of said supreme judicial court,

36 in term time or in vacation, upon motion of either party,  
37 may deem reasonable and proper in the premises. At such  
38 hearing, such justice, upon motion of the petitioner, may  
39 fix a time at which the said water company or companies  
40 shall file in the clerk's office of the supreme judicial court  
41 for the county of Somerset, for the inspection of the peti-  
42 tioner, the following: First, schedules showing the names,  
43 residences and water service of all customers on the first  
44 day of July in the year of the acceptance of this act, with  
45 the rate charged therefor; second, copies of all contracts  
46 in force on said July first; third, an itemized statement of  
47 the gross income earned during its last complete fiscal year  
48 and all operating expenses and fixed charges paid or in-  
49 curred during such year and properly chargeable thereto;  
50 fourth, a memorandum of all real estate, water rights, or  
51 interest therein, owned or controlled on said July first, with  
52 such brief description thereof as will reasonably identify  
53 the same; fifth, brief descriptions, specifications and plans  
54 of all reservoirs, mains, pipes, service pipes, hydrants,  
55 gates, gate boxes, shut off boxes, fixtures and machinery  
56 and all the physical elements in such water system, giving  
57 in detail quantities, sizes, lengths, and specifying the streets,  
58 roads or ways where situated; sixth, an itemized list of all  
59 tools, apparatus, appliances and supplies used or usable in  
60 supplying water on said July first. Such orders may be  
61 enforced from time to time by any justice of said supreme  
62 judicial court, in term time or in vacation, upon motion of

63 either party, as such justice may deem reasonable and  
64 proper in the premises. At such hearing the justice then  
65 sitting may, upon motion of the petitioner, make all such  
66 decrees as he deems reasonable and proper to enable the  
67 petitioner, through its servants and employees, to ascertain  
68 the true condition of the mains and pipes of the said water  
69 company or companies, externally and internally, in the  
70 presence of the officers or agents of said water company or  
71 companies. The said appraisers shall have the power of  
72 compelling attendance of witnesses and the production of  
73 all books, accounts and papers pertinent to the issue and  
74 necessary for a full understanding by them of the matter  
75 in question, and may administer oaths; and any witness or  
76 person in charge of such books, accounts and papers refus-  
77 ing to attend or to produce the same shall be subject to the  
78 same penalties and proceedings, so far as applicable, as wit-  
79 nesses summoned to attend the supreme judicial court.  
80 Depositions may be taken as in civil actions. The ap-  
81 praisers so appointed shall, after due notice and hearing,  
82 fix the valuation of said plant or plants, property and fran-  
83 chises at what they are fairly and equitably worth, so that  
84 said water company or companies shall receive just com-  
85 pensation for all the same. The first day of July, one thou-  
86 sand nine hundred and fourteen, shall be the date as of  
87 which the valuation aforesaid shall be fixed, from which  
88 date interest on said award shall run, and all rents and  
89 profits accruing thereafter shall belong to said water dis-

90 trict. The report of said appraisers or a majority of them  
91 shall be filed in said clerk's office in term time or in vaca-  
92 tion within six months after their appointment, but a further  
93 time, not exceeding four months, shall be granted for good  
94 cause, upon motion of either party, by any justice of the  
95 supreme judicial court within which said appraisers shall  
96 file their report, and such single justice, or in case of his  
97 inability to act, then any justice designated for the pur-  
98 pose by the chief justice may, after notice and hearing, con-  
99 firm or reject the same, or recommit it or submit the sub-  
100 ject matter thereof to a new board of appraisers, if jus-  
101 tice shall require, and in case of such rejection, recommit-  
102 tal or resubmission such justice may fix the times for new  
103 hearings and new report thereon. The award of the ap-  
104 praisers shall be conclusive as to valuation. Upon the  
105 confirmation of said report, the court so sitting, shall  
106 thereupon, after hearing, make final decree upon the en-  
107 tire matter, including the application of the purchase  
108 money, discharge of incumbrances and transfer of prop-  
109 erty and franchises, jurisdiction over which is hereby con-  
110 ferred with the same power to enforce a decree as in  
111 equity cases. Upon request of either party the justice so  
112 making such final decree shall make separate findings of  
113 law and fact. All such findings of fact shall be final, but  
114 either party aggrieved may take exceptions to any rulings  
115 of law so made, the same to be accompanied only by such  
116 parts of the case as are necessary to a clear understanding

117 of the questions raised thereby. Such exceptions shall be  
118 claimed on the docket within ten days after such final  
119 decree is signed, entered and filed, and notice thereof shall  
120 be given by the clerk to the parties or their counsel, and  
121 said exceptions so claimed shall be made up, allowed and  
122 filed within said time unless further time is granted by the  
123 court or by agreement of the parties. They shall be en-  
124 tered at the next term of the law court held after the  
125 filing of such exceptions and there heard unless otherwise  
126 agreed, or the law court shall for good cause order a  
127 further time for hearing thereon. Upon such hearing the  
128 law court may confirm, reverse or modify the decree of  
129 the court below or remand the cause for further proceed-  
130 ings as it seems proper. During the pendency of such  
131 exceptions the cause shall remain on the docket of the  
132 court below, marked "law," and decree shall be entered  
133 thereon by a single justice, in term time or in vacation,  
134 in accordance with the certificate and opinion of the law  
135 court. On payment or tender by said district of the  
136 amount so fixed and the performance of all other terms  
137 and conditions so imposed by said court, said entire plant,  
138 property and franchises shall become vested in said water  
139 district and be free from all liens, mortgages and incum-  
140•brances theretofore created by the said Madison Water  
141 Company or any other company or companies organized  
142 or doing business in said district for said purpose, and  
143 either party shall be entitled to appropriate process to com-

144 pel the other to perform the terms and conditions of said  
145 decree. All the costs and expenses arising under said  
146 petition and appraisal shall be borne and paid by said  
147 water district and water company or companies equally.  
148 Any vacancy occurring in said board of appraisers shall  
149 be filled in term time or in vacation by any justice of the  
150 supreme judicial court on petition therefor, after notice  
151 and hearing.

Sect. 10. All valid contracts now existing between the  
2 Madison Water Company and any person or corporations  
3 for supplying water within said district shall be assumed  
4 and carried out by the Madison Water District.

Sect. 11. The property of said district shall be exempt  
2 from all taxation in the town or towns or municipalities  
3 where said water district is located.

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 pay-  
5 ing or refunding the indebtedness so created, of paying any  
6 necessary expenses and liabilities incurred under the pro-  
7 visions of this act, including the expenses incurred in the  
8 creation of the district, in acquiring the property and fran-  
9 chises of the said water company or companies, by purchase  
10 or otherwise, or in the purchase or acquisition of the prop-  
11 erty and franchises of said company or companies, of secur-  
12 ing sources of supply, taking water and lands, 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 the water district, which is hereby  
20 declared to be a quasi municipal corporation within the mean-  
21 ing of section ninety-six, chapter forty-seven of the revised  
22 statutes, and all the provisions of said section shall be appli-  
23 cable thereto. The said notes and bonds shall be legal in-  
24 vestments for savings 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 running expenses for operating and main-  
9 taining the water system and provide for such extensions  
10 and renewals as may become necessary.

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

III. To provide each year a sum equal to not less than  
14 one-half of one per cent. nor more than five per cent. of  
15 the entire indebtedness of the district, which sum shall be

16 turned into a sinking fund providing for the final extinguish-  
17 ment of said indebtedness. The money set aside for the  
18 sinking fund shall be devoted to the retirement of the obli-  
19 gations of the district or invested in such securities as sav-  
20 ings banks are allowed to hold.

IV. If any surplus remains at the end of any year, it may  
22 be divided between the parts of the district accepting this  
23 act and so composing the district in the same proportion as  
24 each contributed to the gross earnings of the district, and  
25 in order that these proportions may be readily determined,  
26 the moneys received for water from the two parts of said  
27 district shall be entered in separate accounts so that the  
28 total amount thereof may be easily ascertained.

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

Sect. 15. This act shall take effect when approved by a  
2 majority vote of the legal voters of that portion of said  
3 water district comprised by the Madison Village Corpora-  
4 tion and by a majority vote of the legal voters of that por-  
5 tion of said water district comprised by that part of the  
6 town of Anson hereinbefore designated, at special meetings  
7 respectively in said part of said Anson and in Madison Vil-  
8 lage Corporation, to be held on or before the first Monday  
9 of July in the year one thousand nine hundred and fourteen.  
10 Said special meetings shall be called respectively by the as-



11 sorsors for the time being of Madison Village Corporation  
12 and the selectmen for the time being of the town of Anson,  
13 and shall be called, warned and conducted according to law  
14 regulating municipal elections, but the selectmen of the town  
15 of Anson shall prepare a list of the legal voters residing  
16 within the limits of that part of Anson included within said  
17 water district as hereinbefore described. The clerk of the  
18 Madison Village Corporation and the selectmen of the town  
19 of Anson shall reduce the subject matter of this act to the  
20 following question: "Shall the act to incorporate the Madi-  
21 son Water District be accepted?" and the voters shall indi-  
22 cate by the written words "Yes" or "No" their opinion of  
23 the same. The result of the balloting in each case shall be  
24 respectively declared by the assessors of said Madison Vil-  
25 lage Corporation and the selectmen of the town of Anson  
26 and recorded, and certificates thereof shall be filed by the  
27 clerk of said Madison Village Corporation and the select-  
28 men of the town of Anson with the secretary of state. All  
29 other meetings of said water district and parts thereof shall  
30 be called, notified and conducted in the manner hereinbefore  
31 provided, or said district and the parts thereof may by vote  
32 or by-laws prescribe the manner of calling their respective  
33 future meetings. A full and complete record shall be made  
34 and preserved of all meetings of said water district and the  
35 parts thereof.

Sect. 16. Should the legal voters of the Anson section of  
2 said water district at said special election to be held on or

3 before the first Monday of July, one thousand nine hundred  
4 and fourteen, refuse to accept or approve the act incorpo-  
5 rating said water district, then that portion of said town of  
6 Anson hereinbefore described together with the inhabitants  
7 thereof shall not become a part of said water district; unless  
8 a majority of the legal voters of said Anson section shall  
9 at some subsequent special meeting, to be called and held  
10 in the manner hereinbefore provided on or before the first  
11 day of January in the year one thousand nine hundred fif-  
12 teen, vote to accept or approve the act incorporating said  
13 water district and to become a part of it. Then in such case  
14 said Anson section shall become a part of said water district  
15 provided mutual arrangements can be made to that effect  
16 with said Madison section, and if this is done, said Anson  
17 section shall become a part of said water district to all in-  
18 tents and purposes as provided by this act and entitled to  
19 all its rights and privileges, and subject to all its duties and  
20 obligations as if it had at the first special election voted to  
21 become a part of said water district; but if the Madison  
22 Village Corporation section of said water district shall ac-  
23 cept or approve said act to incorporate said water district  
24 by a majority vote of the legal voters thereof at said special  
25 election to be held on or before the first Monday of July  
26 in the year one thousand nine hundred fourteen, then the  
27 territory within said Madison Village Corporation and the  
28 people thereof shall constitute the water district hereby cre-  
29 ated and as hereinbefore provided.

Sect. 17. The annual meetings of said water district and  
2 the respective sections thereof shall be held on the first Mon-  
3 day of July in each year after the acceptance of this act  
4 for the choice of one or more trustees and such other offi-  
5 cers as said water district or sections thereof shall by vote  
6 or by-laws determine, and for the transaction of any other  
7 business that may legally come before such meetings; special  
8 meetings of said water district and of the respective sections  
9 thereof shall be called at any time upon written application  
10 to the assessors of Madison Village Corporation and the  
11 selectmen of Anson respectively by the trustees or ten or  
12 more legal voters of said water district or of the respective  
13 sections thereof. The written application for such meet-  
14 ings shall contain in separate articles the business to be  
15 acted on and no other business shall be transacted at said  
16 meeting except such as is contained in the articles of the  
17 warrant calling such special meetings. All meetings, except  
18 the first, of said water district and of the respective sections  
19 thereof may be held jointly or separately as said sections  
20 may by vote or by-law determine.

Sect. 18. Sections two, three, four, five and six 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 provided in this act the plants, properties,  
5 franchises, rights and privileges of the Madison Water Com-  
6 pany.

Sect. 19. This act shall take effect in ninety days after the  
2 adjournment of the legislature, so far as it is necessary to  
3 empower the calling and holding of the elections authorized  
4 in section fifteen herein provided for.