

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

HOUSE

NO. 635

House of Representatives, March 21, 1913.

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

W. R. ROIX, Clerk.

STATE OF MAINE

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

AN ACT to incorporate the Pittsfield Water District.

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

Section 1. The territory of the town of Pittsfield in the
2 county of Somerset and the present and future inhabitants
3 thereof are hereby constituted a body politic and corporate
4 by the name of "Pittsfield Water District," for the public
5 purpose of supplying the aforesaid inhabitants of said dis-
6 trict with pure water for domestic, sanitary and municipal
7 purposes. Said water district is hereby authorized for the
8 purpose of this act to take water from any lake or pond
9 located wholly or partly in the towns of Pittsfield, Palmyra,
10 Hartland, Canaan, Detroit or St. Albans, or any river or

11 stream in either of said towns, or from wells or reservoirs
12 therein, provided, however, if water is taken from Starbird
13 pond, so called, in Hartland, none shall be taken which is
14 necessary for the use of the Hartland Water Company; or
15 said water district may obtain water by contract from any
16 person or corporation.

Sect. 2. Said water district may take and hold by pur-
2 chase or otherwise any land or real estate necessary for
3 erecting dams, power, pumping station, wells, reservoirs,
4 filter plant or for preserving the purity of the water and
5 watershed, and for laying and maintaining aqueducts or
6 pipe lines for taking, discharging and disposing of water.
7 Any person, firm or corporation legally entitled to and suf-
8 fering any damage by reason of the aforesaid rights granted
9 to said corporation, shall receive from said corporation just
10 compensation therefor, as hereinafter provided.

Said corporation shall cause to be prepared and file a plan
12 and description of the lands, easements, and other rights to
13 be taken as aforesaid with the county commissioners of the
14 county where the same are situate, and the clerk of their
15 board shall endorse the time of filing thereon and record
16 a description of said location and preserve such plan, and
17 the filing of such plan and description as aforesaid shall be
18 deemed and treated and constitute a taking of the property
19 therein described as aforesaid, and the legal owners thereof
20 shall be entitled to receive just compensation therefor in
21 the manner hereinafter provided.

If said corporation by said location fails to acquire the
23 property therein described, or the location as recorded is
24 defective or uncertain, it may at any time correct and per-
25 fect such location and file a new description thereof; and
26 in such case it is liable in damages by reason of such new
27 or amended location only for property embraced therein for
28 which the owner had not previously been paid.

Sect. 3. For the property so taken as aforesaid the own-
2 ers are entitled to damages to be paid by said corporation
3 and estimated by the said county commissioners, on written
4 application of either party made within one year after the
5 filing of the description and location as aforesaid, in the
6 manner and with the rights as are provided in the Revised
7 Statutes, chapter 51 as amended, sections 31 and 32, so far
8 as the same can be made applicable hereto; section 35 of
9 said chapter in regard to the commissioners' report of dam-
10 ages and expenses of the proceedings; section 36 in regard
11 to the right of appeal and proceedings thereunder; section
12 37 in regard to the deposit of damages and interest; section
13 38 in regard to injunction proceedings and the rights there-
14 under; section 39 in regard to the service of process; and
15 section 40 in regard to proceedings for breach of injunction,
16 so far as the same can be, are made applicable to the pro-
17 ceedings under this act and shall constitute the method of
18 procedure hereunder.

The state shall not demand or receive any consideration
20 for the use of any of the waters of any of the aforesaid

21 lakes or ponds of more than ten acres in extent known as
22 "great ponds."

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

Said water district may supply persons, firms or corpora-
12 tions residing or located beyond the limits of said district
13 with water.

Sect. 5. All the affairs of said water district shall be man-
2 aged by a board of trustees composed of three members, to
3 be chosen by ballot by the legal voters within said water
4 district, the first election to be at the meeting of the legal
5 voters of the said corporation to be called to accept this
6 act, one to serve until the annual meeting to be held in
7 1914, one to serve until the annual meeting to be held in
8 1915, and one to serve until the annual meeting in 1916.
9 Whenever the term of office of a trustee shall expire the
10 legal voters of the said water district shall elect a successor
11 to serve for a full term of three years, and if any other
12 vacancy occur it may be filled in like manner for the unex-

13 pired term. The annual election of officers shall be in the
14 month of March to be called and held in the manner here-
15 inafter provided for the first meeting of said water district.
16 As soon as convenient after the board of trustees has been
17 chosen, the said trustees shall hold a meeting at the office
18 of the selectmen in the town of Pittsfield and organize by
19 the election of a chairman and clerk, adopt a corporate seal,
20 and choose a treasurer and all other needful officers and
21 agents for the proper management of the affairs of said
22 water district. Said trustees may procure an office and in-
23 cur such expenses as may be necessary. Each member shall
24 receive in full compensation for his services such sum as
25 the said water district at any legal meeting may prescribe;
26 and at any legal meeting thereof called for the purpose,
27 may adopt such by-laws and provisions, not inconsistent
28 with the laws and constitution of this state and the United
29 States, as they may deem expedient and necessary for the
30 better government and regulation of the municipal affairs
31 within said water district, in which case such by-laws and
32 provisions so adopted, shall extend to said water district
33 as fully, to all intents and purposes, as the other provisions
34 of this act, subject only to alterations or additions by a two-
35 thirds vote, at a legal meeting of the water district called
36 for the purpose.

Sect. 6. Said water district is hereby authorized and em-
2 powered to acquire by purchase or by the exercise of the
3 right of eminent domain, which right is hereby expressly

4 delegated to said water district for said purpose, the entire
5 plant, property and franchises, rights and privileges now
6 held by the Hartland Water Company, including all lands,
7 waters, water rights, dams, reservoirs, pipes, machinery, fix-
8 tures, hydrants, tools and all apparatus and appliances owned
9 by said company and used or usable in supplying water.

Sect. 7. In case said trustees fail to agree with said Hart-
2 land Water Company upon the terms of purchase of the
3 above mentioned property on or before September first,
4 nineteen hundred and thirteen, said water district through
5 its trustees is hereby authorized to take said plant, property
6 and franchises as for public uses by petition therefor in the
7 manner hereinafter provided. And said water district
8 through its trustees is hereby authorized on or before Jan-
9 uary first, nineteen hundred and fifteen, to file a petition in
10 the clerk's office of the supreme judicial court for the county
11 of Somerset, in term time or vacation, addressed to any
12 justice of said court, who after notice to said Hartland
13 Water Company and its mortgagees shall after hearing, and
14 within thirty days after the filing of said petition, appoint
15 three disinterested appraisers, one of whom shall be learned
16 in the law, for the purpose of fixing the valuation of said
17 plant, property and franchises. The said appraisers shall
18 have the power of compelling attendance of witnesses and
19 the production of books and papers pertinent to the issue,
20 and may administer oaths; and any witness, or person in
21 charge of such books or papers, refusing to attend, or to

22 produce the same, shall be subject to the same penalties and
23 proceedings so far as applicable as witnesses summoned to
24 attend the supreme judicial court. The appraisers so ap-
25 pointed shall after due notice and hearing fix the valuation
26 of said plant, property and franchises at what they are fair-
27 ly and equitably worth, so that the said company shall re-
28 ceive just compensation for all the same. The date of filing
29 of said petition shall be the date as of which the valuation
30 aforesaid shall be fixed, from which day interest on said
31 award shall run, and all net rents and profits accruing there-
32 after shall belong to said water district. The report of said
33 appraisers or of a majority them, shall be filed in said clerk's
34 office in term time or vacation within five months after their
35 appointment, and such single justice, or in case of his in-
36 ability to act then, any justice designated for the purpose
37 by the chief justice, may, after notice and hearing, confirm
38 or reject the same, or recommit it if justice so requires.
39 The award of the appraisers shall be conclusive as to valu-
40 ations. Upon the confirmation of said report the court so
41 sitting shall thereupon, after hearing, make final decree upon
42 the entire matter, including the application of the purchase
43 money, discharge of incumbrances and transfer of the prop-
44 erty, jurisdiction over which is hereby conferred, with the
45 same power to enforce said decree as in equity cases. Upon
46 request of either party the justice so making such final de-
47 cree shall make separate findings of law and fact. All such
48 findings of fact shall be final, but either party aggrieved

49 may take exceptions to any rulings of law so made, the
50 same to be accompanied only by such parts of the case as
51 are necessary to a clear understanding of the questions
52 raised thereby. Such exceptions shall be claimed on the
53 docket within ten days after such final decree is signed, en-
54 tered and filed, and notice thereof has been given by the
55 clerk to the parties or their counsel, and said exceptions so
56 claimed shall be made up, allowed and filed within said time
57 unless further time is granted by the court or by agreement
58 of parties. They shall be entered at the next term of the
59 law court to be held after the filing of said decree, and there
60 heard unless otherwise agreed, or the law court shall for
61 good cause order a further time for hearing thereon. Upon
62 such hearing the law court may confirm, reverse or modify
63 the decree of the court below, or remand the cause for fur-
64 ther proceedings as it seems proper. During the pendency
65 of such exceptions the cause shall remain on the docket of
66 the court below marked "law" and decree shall be entered
67 thereon by a single justice in term time or in vacation, in
68 accordance with the certificate and opinion of the law court.
69 Before said plant, property and franchises are transferred
70 in accordance with such final decree, and before the pay-
71 ment therefor, the court sitting in said county of Somerset,
72 by a single justice thereof as hereinbefore provided, shall,
73 upon motion of either party, after notice and hearing, take
74 account of all receipts and expenditures properly had or
75 incurred by the Hartland Water Company belonging to the

76 period from and after the date of filing said petition, and
77 all the net rents and profits accruing thereafter; and shall
78 order the net balance due to either party to be added to or
79 deducted from the amount to be paid under said final decree,
80 as the case may be. All findings of law or fact by such
81 single justice at such hearing shall be final. On payment
82 or tender by said water district of the amount so fixed and
83 the performance of all other terms and conditions so im-
84 posed by the court, said entire plant, property and franchises
85 shall become vested in said water district and be free from
86 all liens, mortgages and incumbrances theretofore created
87 by the Hartland Water Company. After the filing of said
88 petition it shall not be discontinued or withdrawn by said
89 water district, and the said Hartland Water Company may
90 thereafterwards on its part cause said valuation to be made
91 as herein provided, and shall be entitled to appropriate pro-
92 cess to compel said water district to perform the terms of
93 the final decree, and to pay for said plant, property and
94 franchises in accordance therewith.

Sect. 8. All valid contracts now existing between the Hart-
2 land Water Company and any persons or corporations for
3 supplying water, and all duties imposed by law on said Hart-
4 land Water Company, shall be assumed and carried out by
5 said water district after it has acquired the property of said
6 Hartland Water Company.

Sect. 9. For accomplishing the purposes of this act said
2 water district, through its trustees, is authorized to issue its

3 bonds to an amount sufficient to procure funds to pay the
4 expenses, incurred in the acquisition of the property of said
5 Hartland Water Company, and the purchase thereof, to pay
6 off obligation incurred by taking over the water works of
7 the town of Pittsfield, and to secure a new source of supply,
8 or the improvement of the present supply, and to make such
9 extensions of the present system as the interests of the said
10 water district shall demand. Said bonds shall be a legal
11 obligation of said water district, which is hereby declared
12 to be a quasi-municipal corporation within the meaning of
13 section ninety-six, chapter forty-seven of the Revised Stat-
14 utes, and all the provisions of said section shall be applicable
15 thereto. The said bonds shall be a legal investment for
16 savings banks.

Sect. 10. All individuals, firms and corporations, whether
2 private, public, or municipal, shall pay to the treasurer of
3 said water district the rates established by said board of
4 trustees for the water used by them, and said rates shall be
5 uniform within the territory supplied by the water district.

Said rates shall be so established as to provide revenue for
7 the following purposes:

(1) To pay the current running expenses for maintain-
9 ign the water system and provide for such extensions and
10 renewals as may become necessary.

(2) To provide for payment of the interest on the in-
12 debtedness of the water district.

(3) To provide each and every year after April first, nine-

14 teen hundred and fourteen, a sum equal to, not less than
15 one per cent nor more than five per cent of the entire in-
16 debtedness of the water district, which sum shall be turned
17 into a sinking fund to provide for the final extinguishment
18 of the funded debt. The money set aside for the sinking
19 fund shall be devoted to the retirement of the obligations
20 of the water district or invested in such securities as sav-
21 ings banks are allowed to hold.

(4) If in any year there remain a surplus at the end of
23 the year, the amount of such surplus shall be paid to the
24 town of Pittsfield, and if in any year there be a deficit, the
25 water district may raise by assessment such sum of money
26 as may be necessary and sufficient to liquidate such deficit.

Any money raised by said water district for the purpose
28 aforesaid shall be assessed upon the property and polls with-
29 in the aforesaid territory, by the trustees of said corporation,
30 in the same manner as is provided by law for the assessment
31 of county and town taxes; and said trustees may copy the
32 last valuation of said property by the assessors of the town
33 of Pittsfield, and assess the taxes thereon if said water dis-
34 trict shall so direct, and may abate any tax by them so as-
35 sessed, the tax on polls not to exceed, at any one assessment,
36 the sum of one dollar to any one person in any one year.

(5) Upon a certificate being filed with the trustees of
38 said water district by the clerk thereof, of the amount of
39 money raised at any meeting for the purpose aforesaid, it
40 shall be the duty of said trustees, as soon as may be, to

41 assess said amount upon the estate and polls of persons
42 residing on the territory of said water district, and upon
43 the estates of non-resident proprietors thereof, and the trus-
44 tees to certify and to deliver to the treasurer of said water
45 district, whose duty it shall be to collect the same in like
46 manner as county and town taxes are, by law, collected by
47 towns, and said water district shall have power to direct
48 the mode of collection of said taxes as towns have in the col-
49 lection of town taxes.

Sect. 11. All the incidental powers, rights and privileges
2 necessary to the accomplishment of the main objects herein
3 set forth are granted to the corporation hereby created.

Sect. 12. This act shall take effect when accepted by a
2 majority vote of the legal voters within said water district,
3 voting at a meeting to be specially called and held for the
4 purpose on the second day of August, nineteen hundred
5 and thirteen. Such special meeting, or any other, shall be
6 called by the selectmen of Pittsfield, advertised and con-
7 ducted according to the law relating to town meetings in
8 said Pittsfield, provided, however, that the board of regis-
9 tration shall not be required to prepare, or the town clerk
10 to post a new list of voters, and for this purpose said board
11 shall be in session the three secular days next preceding
12 such meeting, the first two days thereof to be devoted to
13 registration of voters, and the last day to enable the boards
14 to verify the corrections of said lists and to complete and
15 close up its records of said sessions. The town clerk shall

16 reduce the subject matter of this act to the following ques-
17 tion: "Shall the act to incorporate the Pittsfield Water Dis-
18 trict be accepted?" and the voters shall indicate by a cross
19 placed against the words "yes" and "no" their opinion of
20 the same. The result shall be declared by the selectmen of
21 Pittsfield, and due certificate thereof filed by the town clerk
22 with the secretary of state.

Sect. 13. For this act to take effect a majority of said
2 voters voting at said special election shall also vote in favor
3 of granting to said Pittsfield Water District the water works
4 plant of said town of Pittsfield, its pumping station and all
5 machinery, tools and paraphernalia therein, its land and
6 buildings connected therewith, mains and other pipes and
7 pipe lines, its standpipe or water tower and the lot on which
8 the same stands, and all other property, real or personal,
9 and of every description, wherever the same may be situate,
10 used in connection with or in the operation of said water
11 works plant.

The town clerk shall reduce the subject matter of such
13 vote to the following question: "Shall the town of Pittsfield
14 grant its water works system to Pittsfield Water District?"
15 And the voters shall indicate by a cross placed against the
16 words "yes" or "no" their vote upon the question.

The declaration of the vote aforesaid in favor of such
18 proposition shall constitute a grant of all the property afore-
19 said and the title thereto shall at once pass to and vest in
20 said Pittsfield Water District; and as the consideration there-

21 for the trustees of said district shall at once and before en-
22 tering into the possession thereof, by instrument in writing
23 under their hands and under the seal of said corporation,
24 assume and agree to pay on or before maturity, all the in-
25 debtedness of said town of Pittsfield then incurred on ac-
26 count of said water works system, both principal and inter-
27 est, and in accordance with the terms of the obligation of
28 said town; and to at once take over the possession, manage-
29 ment and control of said water works system, and to operate
30 and continue to operate, and to keep the same in repair and
31 in good working order.

Sect. 14. Said water district shall not acquire said prop-
2 erty of the Hartland Water Company until a majority of
3 the qualified voters of said water district voting at said spe-
4 cial meeting, or at any other special or regular meeting shall
5 have voted in favor thereof.

Sect. 15. The trustees of said Pittsfield Water District
2 shall, each year prepare a detailed report for the past year
3 of their doings, of the receipts and expenditures of said
4 water district, of its financial and physical condition, and
5 of such other matters and things pertaining to said corpo-
6 ration as shall show the inhabitants of said district how said
7 trustees are fulfilling the duties and obligations of their
8 trust.