

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

SENATE

NO. 303

In Senate, Feb. 13, 1913.

Laid on table for printing, on motion by Senator Hersey of Aroostook, pending reference to the Committee on Interior Waters in concurrence.

W. E. LAWRY, Secretary.

STATE OF MAINE

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

AN ACT to provide for a commission to be known as the
People's Water Rights and Power Commission of the State
of Maine.

Whereas, the people of the State of Maine who are inhabitants and householders are the legal owners of all great ponds and rivers to the flow and ebb of the tides, and that the inhabitants may receive a revenue from the same as their just due, therefore,

Be it enacted by the Senate and House of Representatives of Maine:

Section 1. That there is and is hereby created a commission to be known as the People's Water Right and Power

3 Commission of the State of Maine and shall consist of five
4 men, one of whom shall be an experienced civil engineer
5 and one shall be an expert hydraulic and electrical engineer,
6 two experienced dam builders and one capable business man.
7 These men shall pass a civil service examination before a
8 board of examiners, composed of four professors of science,
9 one from each of the colleges of the state and shall be desig-
10 nated by the president of each college. This board shall
11 meet at such time as they shall be notified by the governor
12 and at such place as he may appoint, there to hear and ex-
13 amine thoroughly as to the competency of the applicants to
14 fill any of the positions as prescribed by each of the mem-
15 bers of the commission. But no political test shall be ap-
16 plied. The men must be appointed for their ability for the
17 office to be filled, not for any political party affiliation. After
18 the examination the examining board shall at once report
19 to the governor giving the names of the men who passed a
20 satisfactory examination, and all vacancies in the commis-
21 sion shall be filled in the same manner.

Sect. 2. On receipt of the report of the board of exam-
2 iners the governor shall, with the consent of the council
3 appoint the men so recommended as commissioners, who
4 shall hold office so long as they shall faithfully perform the
5 duties required of them, and if at any time the governor
6 and council become convinced that any one or more of the
7 said commissioners are proving incompetent they shall no-
8 tify such in writing and order him before the council for a

9 hearing, and if found that the accused is incompetent, neg-
10 lectful or dishonest, the council shall declare the office va-
11 cant, and the governor shall proceed to fill the vacancy as
12 prescribed in section 1.

Sect. 3. The duty of the commission is first to ascertain
2 the amount and location of all unoccupied water power
3 privileges in the state as well as all occupied water powers,
4 they shall proceed to take personal possession at once of all
5 of the water powers unoccupied and shall advertise power
6 to let in such a manner as to best reach manufacturers in
7 want of cheap power and when a sufficient and reliable
8 contract is received the commission shall proceed to loca-
9 tion desired and shall acquire by purchase as much land
10 each side of said water power as they deem necessary for
11 the construction of a suitable dam and power house. If
12 the owners of said land ask what in the minds of the com-
13 mission is an unreasonable and unjust sum per acre, the
14 commissioners shall cause the land to be condemned and
15 the county commissioners of the county in which land is
16 located shall fix a just value, and under the same process
17 the commission shall acquire as much of the riparian rights,
18 as the erection of such a dam will cause the water to over-
19 flow and in all cases where practicable such dam shall be
20 built with its full capacity as a storage for water, as the
21 formation of the land will allow.

Sect. 4. The commissioners shall take possession of all
2 occupied water power in the state belonging to the people

3 by first causing a notice to be given to any person, company
4 or corporation, who claims to own such water powers, by
5 giving such claimant a proper notice in writing sixty days,
6 in which to vacate and deliver over to the commission all
7 supervision of said water power, and the commissioners
8 may acquire as much land on each end of the dams, as
9 would be necessary to the repairs and maintenance and care
10 of the same, the commissioners shall and are hereby em-
11 powered to take possession of said land by due process of
12 condemnation and eminent domain.

Sect. 5. Any person, company or corporation in posses-
2 sion of any occupied water power who are using said power
3 for manufacturing purposes or generating electric light,
4 power or heat, shall have the preference in entering into a
5 contract with the state through the commissioners so that
6 by paying such a sum or fee per horse power per annum
7 for all horse power used by them, the said amount of power
8 to be determined by the commissioners, but in no case shall
9 they pay less than twenty dollars per horse power per an-
10 num. Any person, company or corporation in possession
11 of such water powers, who sell this power to others, direct,
12 shall not be allowed a lease of said powers.

Sect. 6. Any person, company or corporation, who desires
2 to improve and lease any unoccupied water power may on
3 application to the commissioners, setting forth the desire,
4 may be allowed to do so, but said parties must build and
5 maintain such a dam as the commissioners shall determine,

6 and said builders shall have a lease of the water power not
7 to exceed ten years and may be renewed in periods of ten
8 years each, and said parties shall pay to the state only twen-
9 ty dollars per horse power per annum for the first term of
10 lease, and thereafter such a sum as the commissioners may
11 deem proper.

Sect. 7. The price of rental for water power throughout
2 the state shall be not less than twenty dollars nor more than
3 fifty dollars per each and every horse power used during
4 one year, and said money for the use of power shall be paid
5 every three months, and any party who fails to pay the
6 contract price, within three months after it becomes due,
7 shall be given thirty days notice in writing, declaring that
8 they have broken the contract and that the lease will be
9 declared null and void, and that they must vacate the power.

Sect. 8. No person, company or corporation shall be al-
2 lowed to cut any ice on any of the great ponds or rivers,
3 down to the ebb and flow of the tides for commercial pur-
4 poses or large cold storages for meats, fish or creamery
5 purposes without first getting a permit of the commissioners
6 and paying to the state for the use of the people a sum not
7 less than twenty-five cents and not more than one dollar
8 for each and every ton of ice cut and taken from any great
9 ponds or rivers. Municipal ice plants shall be deemed a
10 corporation in the above, and shall receive a certificate from
11 the commission, to enter on to any great pond and river
12 to cut and take ice therefrom, and may pass another man's

13 land to get to said pond or river, without trespass, provided
14 they do the land or fences no damage.

Sect. 9. All farmers and private individuals may cut ice
2 for home use or family consumption free of cost, but shall
3 not cut or interfere upon any ice field of any parties who
4 have received a license from the commission and have as-
5 signed the boundary of their ice field.

Sect. 10. There shall be such a sum of money raised,
2 either by an appropriation, or by bond issue, as the Legis-
3 lature may determine to be used in taking up the riparian
4 rights adjacent to the water powers or any buildings or
5 dams and defraying the expense of the commission until the
6 income from the rental of the water privileges shall be suffi-
7 cient to pay expenses and take care of all bond issues, then
8 the surplus income or as much as may be necessary shall
9 be used in developing other water power as soon as they
10 may be needed. After the development of all required pow-
11 er the balance of the income for water rentals shall be
12 applied to pay the reasonable expense of the state, cities
13 and town. Any balance then left shall be applied to the
14 construction of good permanent roads of the most solid and
15 enduring construction.

The commission shall each receive a salary of \$1800.00
17 a year and all necessary traveling expenses while on duty
18 for the state. The governor and council shall see that the
19 commission have a suitable room in the state house for an
20 office, and shall appoint a suitable person to act as a per-

21 manent secretary and clerk, for the commissioners, and do
22 such clerical work as may be assigned him and shall re-
23 ceive \$1200.00 a year for his services, and if sent to any
24 exposition or fair, in the states, for the purpose of adver-
25 tising the water powers of Maine he shall receive a sum
26 sufficient to cover all actual expenses. The governor and
27 council may provide the commissioners, with all necessary
28 clerical office help necessary, to properly conduct the busi-
29 ness of the office properly, the compensation of the same
30 shall be fixed by the governor and the council.

Sect. 11. The commissioners shall keep an itemized ac-
2 count of all moneys received and from what source and also
3 for all money paid out, taking a voucher for the same which
4 shall be filed with the governor and council to be approved
5 by the state auditor. They shall make a financial statement
6 to the governor and council once in three months and at
7 the end of the year shall make a full statement and a full
8 and complete report of all the proceeding, as well as an
9 itemized financial report, and the governor and council may
10 order as many copies of the report to be printed as they
11 may deem necessary. All moneys received by the commis-
12 sioners for any source shall be paid to the treasurer of the
13 state each week and receive his voucher for the same.

Sect. 12. The commission shall have power to make such
2 rules and regulations of the letting or leasing of water pow-
3 ers and permits for the cutting of ice or storage of logs or
4 pulp wood on the great ponds and rivers, also for power

5 boats carrying passengers on any interior waters. They
6 shall have power to stop the pollution of any water by the
7 turning of refuse from any saw mill, factory or pulp mill
8 into said waters, by due process of law.

Sect. 13. No person, company or corporation shall be
2 allowed to lease or hire any water privilege, water power
3 or any part thereof, with the intention of manufacturing
4 electricity to be carried outside of the state lines. Any
5 person, company, or corporation leasing power in the state
6 attempting to so carry the wires or conductors outside of
7 the state line shall have the lease revoked without notice and
8 shall forfeit all their rights to any franchise, power building,
9 and machinery to the state.

Sect. 14. So much of chapter 212, Section 4, laws of 1909
2 of the state water storage commission in letting any party
3 take any water power and build dams is hereby repealed.
4 All great ponds and rivers down to the ebb and flow of the
5 tide, are inherited rights of the people, who are inhabitants
6 and householders, and the state has no right to dispose of
7 the same, and this right is acquired by the charter deed from
8 the commonwealth of Massachusetts, to the people of Maine.

Sect. 15. All riparian lands necessary for the construc-
2 tion of all dams, power houses, flowage purposes which
3 cannot be bought at a reasonable sum shall be taken under
4 the law provided for taking over lands by right of eminent
5 domain and paid for as that law provides.

This act shall take effect ninety days after the approval
7 by the governor and the adjournment of the Legislature.