

# MAINE STATE LEGISLATURE

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SEVENTY-SEVENTH LEGISLATURE

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HOUSE

NO. 104

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*House of Representatives, Feb. 9, 1915.*

*Ordered, That five hundred copies be printed and that the same be referred to the Committee on Judiciary.*

*Committee on Reference.*

*Presented by Mr. Corliss of Bath.*

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND FIFTEEN

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AN ACT to Incorporate the Bath 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 constituting the city  
2 of Bath shall constitute a body politic and corporate under  
3 the name of the Bath Water District, for the purpose of  
4 supplying the inhabitants of said district and municipality  
5 and of the adjoining towns of West Bath, Phippsburg and  
6 Woolwich, with pure water for domestic, sanitary, mechan-  
7 ical and municipal purposes.

Sect. 2. Said district is hereby authorized for the pur-  
2 poses aforesaid to take, hold, divert, use and distribute suffi-  
3 cient water from any sources of supply within the county

4 of Sagadahoc or within the territory of the town of Bruns-  
5 wick in the county of Cumberland, so far as it may be done  
6 without encroachment upon the reasonable requirements of  
7 existing water supply companies or water districts.

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

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

Sect. 5. Said district is hereby authorized to lay in and  
2 through the streets, roads, ways and roadways of the city  
3 of Bath and the towns of West Bath, Phippsburg, Bruns-  
4 wick and Woolwich, and across private lands therein, and  
5 to maintain, repair and replace, all such pipes, aqueducts and  
6 fixtures as may be necessary and convenient for its corpo-  
7 rate purposes, and whenever said district shall lay any pipes  
8 or aqueducts in any street, road, way or highway, it shall  
9 cause the same to be done with as little obstruction as prac-  
10 ticable to the public travel, and shall, at its own expense,  
11 without unnecessary delay, cause the earth and pavement  
12 removed by it to be replaced in proper condition.

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

Sect. 7. 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 the municipal officers of Bath, within thirty  
4 days after the acceptance of this act by the inhabitants of  
5 said city as hereinafter provided; but no member of the city  
6 council shall, during the term for which he is elected, be

7 chosen one of said board of trustees. As soon as convenient  
8 after the members of said board have been chosen, said trus-  
9 tees shall hold a meeting in the city building in Bath, and  
10 organize by the election of a president and clerk, adopt a  
11 corporate seal and when necessary may choose a treasurer  
12 and all other needful officers and agents for the proper con-  
13 duct and management of the affairs of said district. At  
14 said first meeting they shall determine by lot the term of  
15 office of each trustee so that one shall serve for one year,  
16 one for two years and one for three years; and whenever  
17 the term of office of a trustee expires, the body which ap-  
18 pointed said trustee shall appoint a successor to serve the  
19 full term of three years, and in case any other vacancy  
20 arises it shall be filled in like manner for the unexpired term.  
21 They may also ordain and establish such by-laws as are  
22 necessary for their own convenience and the proper man-  
23 agement of the affairs of the district. The term of office  
24 of the trustees shall begin on the first Monday of November  
25 in the year one thousand nine hundred and fifteen. Said  
26 trustees may procure an office and incur such expense as  
27 may be necessary. Each member shall receive in full com-  
28 pensation for his services an allowance of two hundred dol-  
29 lars per annum.

Sect. 8. 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 district for said purpose, the entire plant,

5 property and franchises, rights and privileges now held by  
6 the Maine Water Company within the county of Sagadahoc  
7 and within the town of Brunswick in the county of Cum-  
8 berland, now used or held by it for the purpose of supply-  
9 ing water to the city of Bath, and including all other lands,  
10 waters, water rights, dams, reservoirs, pipes, machinery, fix-  
11 tures, hydrants, tools, apparatus and appliances in said ter-  
12 ritory, owned by said company and used or usable in sup-  
13 plying water therein, and any other real estate in said ter-  
14 ritory.

Sect. 9. In case said trustees fail to agree with said Maine  
2 Water Company upon the terms of purchase of the above  
3 mentioned rights and properties on or before the thirty-first  
4 day of December, in the year nineteen hundred and fifteen,  
5 said water district through its trustees is hereby authorized  
6 and empowered to take such plant, property and franchises  
7 for public uses by petition therefor in the manner herein-  
8 after provided. The said water district through its trustees  
9 is hereby authorized, on or before the first day of February,  
10 nineteen hundred and sixteen, to file a petition in the clerk's  
11 office of the supreme judicial court for the county of Saga-  
12 hoc, in term time or in vacation, addressed to any justice  
13 of said court, who after notice to said Maine Water Com-  
14 pany and its mortgagees, if any, shall after hearing, and  
15 within thirty days after the filing of said petition, appoint  
16 three disinterested appraisers, none of whom shall be resi-  
17 dents of the county of Sagadahoc, or of the town of Bruns-

18 wick in the county of Cumberland, one of whom shall be  
19 learned in the law, for the purpose of fixing the valuation  
20 of said plant or plants, property and franchises as described  
21 in section eight hereof. Said petition shall not be dismissed  
22 after filing but may and shall be amended in any manner  
23 required to enable the court to make all necessary decrees  
24 thereon. At the hearing aforesaid, such justice, upon mo-  
25 tion of the petitioner, may order the production and filing  
26 in court, for the inspection of the petitioner, of all books  
27 and papers pertinent to the issue and necessary for a full  
28 understanding of the matter to be heard by said appraisers,  
29 the terms and conditions of so producing and filing such  
30 books and papers to be determined by said justice in his  
31 order therefor and to be enforced from time to time as  
32 any justice of the supreme judicial court, in term time or  
33 in vacation, upon motion of either party, may deem reason-  
34 able and proper in the premises. At such hearing, such  
35 justice upon motion of the petitioner, may fix a time at  
36 which the said water company shall file in the clerk's office  
37 of the supreme judicial court for the county of Sagadahoc,  
38 for the inspection of the petitioner, the following: First,  
39 schedules showing the names, residences and water service  
40 of all customers on the first day of January in the year  
41 nineteen hundred and sixteen, with the rate charged there-  
42 for; second, copies of all contracts in force on said first day  
43 of January; third, an itemized statement of the gross income  
44 earned during its last complete fiscal year and up to said

45 January first, and all operating expenses and fixed charges,  
46 paid or incurred during such period and properly charge-  
47 able thereto; fourth, a memorandum of all real estate, water  
48 rights, or interest therein, owned or controlled on said first  
49 day of January, with such brief description thereof as will  
50 reasonably identify the same; fifth, brief descriptions, speci-  
51 fications and plans of all reservoirs, mains, pipes, service  
52 pipes, hydrants, gates, gate boxes, shut-off boxes, fixtures  
53 and machinery and all the physical elements in such water  
54 system, giving in detail quantities, sizes, lengths, and speci-  
55 fying the streets, roads or ways where situated; sixth, an  
56 itemized list of all tools, apparatus, appliances and supplies  
57 used or usable in supplying water on said first day of Jan-  
58 uary. Such orders may be enforced from time to time by  
59 any justice of said supreme judicial court, in term time or  
60 in vacation, upon motion of either party, as such justice may  
61 deem reasonable and proper in the premises. At such hear-  
62 ing the justice then sitting may, upon motion of the peti-  
63 tioner, make all such decrees as he deems reasonable and  
64 proper to enable the petitioner, through its servants and em-  
65 ployees, to ascertain the true condition of the mains and  
66 pipes of the said water company, externally or internally,  
67 in the presence of the officers or agents of said water com-  
68 pany. The said appraisers shall have the power of com-  
69 pelling attendance of witnesses and the production of all  
70 books, accounts and papers pertinent to the issue and nec-  
71 essary for a full understanding by them of the matter in



72 question, and may administer oaths; and any witness or per-  
73 son in charge of such books, accounts and papers refusing  
74 to attend or to produce the same shall be subject to the same  
75 penalties and proceedings, so far as applicable, as witnesses  
76 summoned to attend the supreme judicial court. Deposi-  
77 tions may be taken as in civil actions. The appraisers so  
78 appointed shall, after due notice and hearing, fix the valu-  
79 ation of said plant, property and franchises at what they  
80 are fairly and equitably worth, so that said water company  
81 shall receive just compensation for all the same. The first  
82 day of January, nineteen hundred and sixteen, shall be the  
83 date as of which the valuation aforesaid shall be fixed, from  
84 which date interest on said award shall run, and all rents  
85 and profits accruing thereafter shall belong to said water  
86 district. The report of said appraisers or a majority of  
87 them shall be filed in said clerk's office in term time or in  
88 vacation, within six months after their appointment, but a  
89 further time, not exceeding four months, shall be granted  
90 for good cause, upon motion of either party, by any justice  
91 of the supreme judicial court within which said appraisers  
92 shall file their report, and such single justice, or in case of  
93 his inability to act, then any justice designated for the pur-  
94 pose by the chief justice may, after notice and hearing, con-  
95 firm or reject the same, or recommit it or submit the sub-  
96 ject matter thereof to a new board of appraisers, if justice  
97 shall require, and in case of such rejection, recommitment or  
98 resubmission such justice may fix the times for new hear-

99 ings and new report thereon. The award of the appraisers  
100 shall be conclusive as to valuation. Upon the confirma-  
101 tion of said report, the court so sitting, shall thereupon,  
102 after hearing, make final decree upon the entire matter,  
103 including the application of the purchase money, discharge  
104 of incumbrances and transfer of property and franchises,  
105 jurisdiction over which is hereby conferred with the same  
106 power to enforce a decree as in equity cases. Upon re-  
107 quest of either party the justice so making such final de-  
108 cree shall make separate findings of law and fact. All such  
109 findings of fact shall be final, but either party aggrieved  
110 may take exceptions to any rulings of law so made, the  
111 same to be accompanied only by such parts of the case as are  
112 necessary to a clear understanding of the questions raised  
113 thereby. Such exceptions shall be claimed on the docket  
114 within ten days after such final decree is signed, entered  
115 and filed, and notice thereof shall be given by the clerk to  
116 the parties or their counsel, and said exceptions so claimed  
117 shall be made up, allowed and filed within said time unless  
118 further time is granted by the court or by agreement of  
119 the parties. They shall be entered at the next term of the  
120 law court held after the filing of such exceptions and there  
121 heard unless otherwise agreed, or the law court shall for  
122 good cause order a further time for hearing thereon. Upon  
123 such hearing the law court may confirm, reverse or modify  
124 the decree of the court below or remand the cause for  
125 further proceedings as it seems proper. During the pend-

126 ency of such exceptions the cause shall remain on the  
127 docket of the court below, marked "law," and decree shall  
128 be entered thereon by a single justice, in term time or in  
129 vacation, in accordance with the certificate and opinion of  
130 the law court. On payment or tender by said district of  
131 the amount so fixed and the performance of all terms and  
132 conditions so imposed by said court, said entire plant, prop-  
133 erty and franchises shall become vested in said water dis-  
134 trict and be free from all liens, mortgages and incum-  
155 brances theretofore created or assumed by the said Maine  
136 Water Company and its predecessors for said purpose, and  
137 either party shall be entitled to appropriate process to com-  
138 pel the other to perform the terms and conditions of said  
139 decree. All the costs and expenses arising under said peti-  
140 tion and appraisal shall be borne and paid by said water  
141 district and said water company equally. Any vacancy  
142 occurring in said board of appraisers shall be filled, in term  
143 time or in vacation, by any justice of the supreme judicial  
144 court on petition therefor, after notice and hearing.

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

Sect. 11. 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 district. Said rates shall be so established as to pro-  
5 vide revenue for the following purposes:

I. To pay the current running expenses for operating and  
7 maintaining the water system and to provide for such ex-  
8 tensions and renewals as may become necessary.

II. To provide for payment of the interest on the indebted-  
10 ness of the district.

III. To provide each year a sum equal to not less than  
12 one nor more than four per cent. of the entire indebtedness  
13 of the district, which sum shall be turned into a sinking fund  
14 to provide for the final extinguishment of the funded debt.  
15 The money set aside for the sinking fund shall be devoted  
16 to the retirement of the obligations of the district or invested  
17 in such securities as savings banks are allowed to hold.

Sect. 12. 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 Maine Water Company, and the purchase thereof, and for  
6 further extensions, additions and improvements of said plant,  
7 and to secure new sources of supply. Said bonds shall be  
8 a legal obligation of said water district, which is hereby  
9 declared to be a quasi municipal corporation within the mean-  
10 ing of section ninety-six, chapter forty-seven of the revised  
11 statutes, and all the provisions of said section shall be ap-  
12 plicable thereto. The said bonds shall be a legal investment  
13 for savings banks.

Sect. 13. The property of said district shall be exempt  
2 from taxation. All incidental powers, rights and privileges

3 necessary to the accomplishment of the main object herein  
4 set forth are granted to the public municipal corporation  
5 hereby created.

Sect. 14. This act shall not take effect unless accepted and  
2 approved by a majority vote of the legal voters of the city  
3 of Bath, voting at an election to be specially called and held  
4 for the purpose on the fifteenth day of September, in the  
5 year one thousand nine hundred and fifteen. Such special  
6 election shall be called, advertised, and conducted according  
7 to the law relating to municipal elections, provided, however,  
8 that the board of registration shall not be required to pre-  
9 pare for posting or the city clerk to post a new list of voters,  
10 and for the purpose of registration of voters said board  
11 shall be in session the three secular days next preceding  
12 such election, the first two days thereof to be devoted to  
13 registration of voters and the last day to enable the board  
14 to verify the correctness of said lists and to complete and  
15 close up its records of said session. The city clerk shall  
16 reduce the subject matter of this act to the following ques-  
17 tion: "Shall the act to incorporate the Bath Water District  
18 be accepted?" and the voters shall indicate by a cross placed  
19 over the words "yes" or "no" their option of the same. The  
20 result shall be declared by the mayor and aldermen and due  
21 certificate thereof filed by the clerk with the secretary of  
22 state.

Sect. 15. Sections two, three, four, five and six of this  
2 act shall be inoperative, null and void, unless the said water  
3 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 now held  
6 by the Maine Water Company within said county of Saga-  
7 dahoc and town of Brunswick.

Sect. 16. 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 election authorized  
4 by section fourteen herein provided.