

# MAINE STATE LEGISLATURE

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SEVENTY-SEVENTH LEGISLATURE

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HOUSE NO. 208

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*In House of Representatives, Feb. 17, 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. Pollard of Solon.*

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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 Amend Chapter one hundred and twenty-one of the Private and Special Laws of Nineteen Hundred and Thirteen, entitled "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:*

That sections two, seven, nine, ten, fifteen and sixteen of chapter one hundred and twenty-one of the private and special laws of nineteen hundred and thirteen, be and the same are hereby amended so as to read as follows:

Sect. 2. Said district is hereby authorized for the purposes aforesaid to take, hold, divert, use and distribute sufficient water of the Kennebec river, Madison pond or Hayden lake, so called, Embden pond, or of any of their tribu-

9 tary lakes or streams; and also sufficient water of any sur-  
10 face or underground brooks, streams and springs and the  
11 land in or on which the same are located, within or without  
12 the limits of said district.

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

36 office of a trustee expires his successor shall be elected by  
37 a plurality vote by the legal voters of said district for the  
38 term of three years; and in case any vacancy shall arise it  
39 shall be filled for the remainder of the year by appoint-  
40 ment by the remaining members of the board of trustees,  
41 and at the next regular meeting of the district the vacancy  
42 shall be filled for the remainder of the term in the manner  
43 hereinbefore set forth. The assessors of Madison Village  
44 Corporation for the time being shall be eligible to election  
45 to the board of trustees, and treasurer of Madison Village  
46 Corporation shall be eligible to election as treasurer of said  
47 trustees or district. The trustees, treasurer and clerk shall  
48 receive for their services as such such compensation as the  
49 district by vote shall from time to time determine.

‘Provided, however, that if that part of Anson formerly  
51 comprising school district number thirteen in said town shall  
52 by a majority of the legal voters of said district, at a meet-  
53 ing specially called and held for the purpose on or before  
54 the first Monday of July, one thousand nine hundred and  
55 sixteen, vote to accept the provisions of this act, it shall  
56 thereby become a part of said water district and entitled  
57 to all its rights and privileges and subject to all the liabili-  
58 ties and obligations thereof, and in such case said part of  
59 said Anson shall have the right to and shall choose by a  
60 plurality vote two trustees to act with and become a part  
61 of the board of trustees as hereinbefore provided for the  
62 management of all of the affairs of said district. The term

63 of office of such trustees first chosen shall be considered to  
64 begin on the first Monday of July, of the year of the ac-  
65 ceptance of this act by said part of said district and, to-  
66 gether with the three trustees chosen as hereinbefore set  
67 forth, form a joint board for the management of the affairs  
68 of said district and have a right to take part in the organ-  
69 ization and all of the meetings and business of said board.  
70 The two trustees first elected shall serve one for one year  
71 and one for two years, and annually thereafter at the reg-  
72 ular annual meeting of the legal voters of that part of  
73 Anson constituting what was formerly school district num-  
74 ber thirteen shall elect one trustee to serve for the term  
75 of two years. The two trustees first so elected shall decide  
76 by lot their respective terms of office. Any vacancy occur-  
77 ring in the terms of either of said two trustees shall be  
78 filled for the remainder of the term at a special meeting  
79 of the legal voters of said part of said district in said An-  
80 son legally called and held.

‘Said trustees may also ordain and establish such by-laws  
82 as are necessary for their own convenience and the proper  
83 management of the affairs of the district. At the close of  
84 each fiscal year the trustees shall make a detailed report  
85 of their doings, of the receipts and expenditures of said  
86 water district, of its financial and physical conditions, and  
87 of such other matters and things pertaining to said district  
88 as shall show to the inhabitants of said district a full and  
89 true standing of its conditions and how said trustees are

90 fulfilling the duties and obligations of their trust. Said  
91 report shall be either written or printed for distribution to  
92 the inhabitants of said district. The books and accounts  
93 pertaining to the receipts and expenditures of money shall  
94 be audited by the auditor of Madison Village Corporation  
95 for the time being.

‘Sect. 9. In case the said trustees fail to agree with said  
97 Madison Water Company and any other company organ-  
98 ized or doing business in said district for said purpose upon  
99 the terms of purchase of the above mentioned rights and  
100 properties on or before the first Monday of September,  
101 one thousand nine hundred and sixteen, said water district  
102 through its trustees is hereby authorized and empowered  
103 to take such plant, property and franchises for public uses  
104 by petition therefor in the manner hereinafter provided.  
105 The said water district through its trustees is hereby au-  
106 thorized, on or before the eighth day of September, one  
107 thousand nine hundred and sixteen, to file a petition in the  
108 clerk’s office of the supreme judicial court for the county  
109 of Somerset, in term time or in vacation, addressed to any  
110 justice of said court, who, after notice to said Madison  
111 Water Company and its mortgagees, if any, and to any  
112 other company or companies organized and doing business  
113 for said purpose in said district, shall, after hearing, and  
114 within thirty days after the filing of said petition, appoint  
115 three disinterested appraisers, none of whom shall be resi-  
116 dents either of the county of Somerset or Kennebec, one

117 of whom shall be learned in the law, for the purpose of  
118 fixing the valuation of said plant or plants, property and  
119 franchises as described in section eight hereof. Said peti-  
120 tion shall not be dismissed after filing but may and shall  
121 be amended in any manner required to enable the court  
122 to make all necessary decrees thereon. At the hearing  
123 aforesaid, such justice, upon motion of the petitioner, may  
124 order the production and filing in court, for the inspection  
125 of the petitioner, of all books and papers pertinent to the  
126 issue and necessary for a full understanding of the mat-  
127 ter to be heard by said appraisers, the terms and condi-  
128 tions of so producing and filing such books and papers  
129 to be determined by said justice in his order therefor and  
130 to be enforced from time to time as any justice of said  
131 supreme judicial court, in term time or in vacation, upon  
132 motion of either party, may deem reasonable and proper  
133 in the premises. At such hearing, such justice upon mo-  
134 tion of the petitioner, may fix a time at which the said  
135 water company or companies shall file in the clerk's office  
136 of the supreme judicial court for the county of Somerset,  
137 for the inspection of the petitioner, the following: First,  
138 schedules showing the names, residences and water service  
139 of all customers on the first day of July in the year of  
140 the filing of said petition, with the rate charged therefor;  
141 second, copies of all contracts in force on said July first;  
142 third, an itemized statement of the gross income earned  
143 during its last complete fiscal year and all operating ex-

144 penses and fixed charges, paid or incurred during such  
145 year and properly chargeable thereto; fourth, a memo-  
146 randum of all real estate, water rights, or interest there-  
147 in, owned or controlled on said July first, with such brief  
148 description thereof as will reasonably identify the same;  
149 fifth, brief descriptions, specifications and plans of all res-  
150 ervoirs, mains, pipes, service pipes, hydrants, gates, gate  
151 boxes, shut-off boxes, fixtures and machinery and all the  
152 physical elements in such water system, giving in detail  
153 quantities, sizes, lengths, and specifying the streets, roads  
154 or ways where situated; sixth, an itemized list of all tools,  
155 apparatus, appliances and supplies used or usable in sup-  
156 plying water on said July first. Such orders may be en-  
157 forced from time to time by any justice of said supreme  
158 judicial court, in term time, or in vacation, upon motion  
159 of either party, as such justice may deem reasonable and  
160 proper in the premises. At such hearing the justice then  
161 sitting may, upon motion of the petitioner, make all such  
162 decrees as he deems reasonable and proper to enable the  
163 petitioner, through its servants and employees, to ascertain  
164 the true condition of the mains and pipes of the said wa-  
165 ter company or companies, externally and internally, in  
166 the presence of the officers or agents of said water com-  
167 pany or companies. The said appraisers shall have the  
168 power of compelling attendance of witnesses and the pro-  
169 duction of all books, accounts and papers pertinent to the  
170 issue and necessary for a full understanding by them of



171 the matter in question, and may administer oaths; and any  
172 witness or person in charge of such books, accounts and  
173 papers refusing to attend or to produce the same shall be  
174 subject to the same penalties and proceedings, so far as  
175 applicable, as witnesses summoned to attend the supreme  
176 judicial court. Depositions may be taken as in civil ac-  
177 tions. The appraisers so appointed shall, after due notice  
178 and hearing, fix the valuation of said plant or plants, prop-  
179 erty and franchises at what they are fairly and equitably  
180 worth, so that said water company or companies shall re-  
181 ceive just compensation for all the same. The first day  
182 of July of the year of the filing of said petition, shall be  
183 the date as of which the valuation aforesaid shall be fixed,  
184 from which date interest on said award shall run, and all  
185 rents and profits accruing thereafter shall belong to said  
186 water district. The report of said appraisers or a ma-  
187 jority of them shall be filed in said clerk's office in term  
188 time or in vacation, within six months after their appoint-  
189 ment, but a further time, not exceeding four months, shall  
190 be granted for good cause, upon motion of either party,  
191 by any justice of the supreme judicial court within which  
192 said appraisers shall file their report, and such single jus-  
193 tice, or in case of his inability to act, then any justice des-  
194 igned for the purpose by the chief justice may, after  
195 notice and hearing, confirm or reject the same, or recom-  
196 mit it or submit the subject matter thereof to a new board  
197 of appraisers, if justice shall require, and in case of such

198 rejection, recommittal or resubmission such justice may  
199 fix the times for new hearings and new report thereon.  
200 The award of the appraisers shall be conclusive as to valu-  
201 ation. Upon the confirmation of said report, the court so  
202 sitting, shall thereupon, after hearing, make final decree  
203 upon the entire matter, including the application of the  
204 purchase money, discharge or incumbrances and transfer  
205 of property and franchises, jurisdiction over which is here-  
206 by conferred with the same power to enforce a decree  
207 as in equity cases. Upon request of either party the jus-  
208 tice so making such final decree shall make separate find-  
209 ings of law and fact. All such findings of fact shall be  
210 final, but either party aggrieved may take exceptions to  
211 any rulings of law so made, the same to be accompanied  
212 only by such parts of the case as are necessary to a clear  
213 understanding of the questions raised thereby. Such ex-  
214 ceptions shall be claimed on the docket within ten days  
215 after such final decree is signed, entered and filed, and  
216 notice thereof shall be given by the clerk to the parties  
217 or their counsel, and said exceptions so claimed shall be  
218 made up, allowed and filed within said time unless further  
219 time is granted by court or by agreement of the parties.  
220 They shall be entered at the next term of the law court  
221 held after the filing of such exceptions and there heard  
222 unless otherwise agreed, or the law court shall for good  
223 cause order a further time for hearing thereon. Upon  
224 such hearing the law court may confirm, reverse or modify

225 the decree of the court below or remand the cause for  
226 further proceedings as it seems proper. During the pend-  
227 ency of such exceptions the cause shall remain on the  
228 docket of the court below, marked "law," and decree shall  
229 be entered thereon by a single justice, in term time or  
230 in vacation, in accordance with the certificate and opinion  
231 of the law court. On payment or tender by said district  
232 of the amount so fixed and the performance of all other  
233 terms and conditions so imposed by said court, said entire  
234 plant, property and franchises shall be come vested in said  
235 water district and be free from all liens, mortgages and  
236 incumbrances theretofore created by the said Madison Wa-  
237 ter Company or any other company or companies organ-  
238 ized or doing business in said district for said purpose,  
239 and either party shall be entitled to appropriate process  
240 to compel the other to perform the terms and conditions  
241 of said decree. All the costs and expenses arising under  
242 said petition and appraisal shall be borne and paid by said  
243 water district and water company or companies equally.  
244 Any vacancy occurring in said board of appraisers shall  
245 be filled, in term time or in vacation, by any justice of the  
246 supreme judicial court on petition therefor, after notice  
247 and hearing.

‘Sect. 10. All valid contracts existing on the first day of  
249 July of the year of the filing of the petition named in sec-  
250 tion two of this act between the Madison Water Company  
251 and any person or corporations for supplying water within

252 said district shall be assumed and carried out by the Madi-  
253 son Water District.

‘Sect. 15. This act shall take effect when approved by a  
255 majority of the legal voters of that portion of said water  
256 district comprised by the Madison Village Corporation and  
257 by a majority vote of the legal voters of that portion of  
258 said water district comprised by that part of the town of  
259 Anson hereinbefore designated, at special meetings re-  
260 spectively in said part of said Anson and in Madison  
261 Village Corporation, to be held on or before the first  
262 Monday of July in the year one thousand nine hundred  
263 and sixteen. Said special meetings shall be called re-  
264 spectively by the assessors for the time being of Madi-  
265 son Village Corporation and the selectmen for the time  
266 being of the town of Anson, and shall be called, warned  
267 and conducted according to law regulating municipal elec-  
268 tions, but the selectmen of the town of Anson shall pre-  
269 pare a list of the legal voters residing within the limits  
270 of that part of Anson included within said water district  
271 as hereinbefore described. The clerk of the Madison Vil-  
272 lage Corporation and the selectmen of town of Anson  
273 shall reduce the subject matter of this act to the follow-  
274 ing question: “Shall the act to incorporate the Madison  
275 Water District be accepted?” and the voters shall indi-  
276 cate by the written words “Yes” or “No” their opinion  
277 of the same. The result of the balloting in each case  
278 shall be respectively declared by the assessors of said

279 Madison Village Corporation and the selectmen of the  
280 town of Anson and recorded, and certificates thereof shall  
281 be filed by the clerk of said Madison Village Corporation  
282 and the selectmen of the town of Anson with the secre-  
283 tary of state. All other meetings of said water district  
284 and parts thereof shall be called, notified and conducted  
285 in the manner hereinbefore provided, or said district and  
286 the parts thereof may by vote or by-laws prescribe the  
287 manner of calling their respective future meetings. A full  
288 and complete record shall be made and preserved of all  
289 meetings of said water district and the parts thereof.

‘Sect. 16. Should the legal voters of the Anson section  
291 of said water district at said special election to be held  
292 on or before the first Monday of July, one thousand nine  
293 hundred and sixteen, refuse to accept or approve the act  
294 incorporating said water district, then that portion of said  
295 town of Anson hereinbefore described together with the  
296 inhabitants thereof shall not become a part of said water  
297 district; unless a majority of the legal voters of said An-  
298 son section shall at some subsequent special meeting, to  
299 be called and held in the manner hereinbefore provided on  
300 or before the first day of January in the year one thou-  
301 sand nine hundred and seventeen vote to accept or ap-  
302 prove the act incorporating said water district and to be-  
303 come a part of it. Then in such case said Anson section  
304 shall become a part of said water district provided mutual  
305 arrangements can be made to that effect with said Madi-

306 son section, and if this is done, said Anson section shall  
307 become a part of said water district to all intents and pur-  
308 poses as provided by this act and entitled to all its rights  
309 and privileges, and subject to all its duties and obliga-  
310 tions as if it had at the first special election voted to be-  
311 come a part of said water district; but if the Madison  
312 Village Corporation section of said water district shall  
313 accept or approve said act to incorporate said water dis-  
314 trict by a majority vote of the legal voters thereof at said  
315 special election to be held on or before the first Monday  
316 of July in the year one thousand nine hundred sixteen,  
317 then the territory within said Madison Village Corpora-  
318 tion and the people thereof shall constitute the water dis-  
319 trict hereby created and as hereinbefore provided.'