

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-SEVENTH LEGISLATURE

HOUSE

NO. 892

House of Representatives, March 20, 1915.

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

C. C. HARVEY, Clerk.

STATE OF MAINE

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

AN ACT to Incorporate The Bath Water District.

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

Section 1. The following territory and the people within
2 the same, all being included within the corporate limits of
3 the City of Bath, namely: Wards one, two, three, four, five
4 six, and so much of ward seven as lies southerly of Whis-
5 keag Street and southerly of the road connecting with said
6 street which extends westerly from Whiskeag Stream to
7 the Brunswick east line, shall constitute a body politic and
8 corporate under the name of the Bath Water District, for
9 the purpose of supplying the inhabitants of said district and
10 municipality and of the adjoining towns of West Bath,

11 Phippsburg and Woolwich, with pure water for domestic,
12 sanitary, mechanical and municipal purposes.

Sect. 2. Said district is hereby authorized for the purposes
2 aforesaid to take, hold, divert, use and distribute sufficient
3 water from any sources of supply within the County of Sag-
4adahoc or within the territory of the town of Brunswick
5 in the County of Cumberland; provided that no under-
6ground waters shall be taken within a radius of two miles
7 from the present pumping station of the Brunswick and
8 Topsham Water District.

Sect. 3. The said district, for the purposes of its incor-
2poration 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
8 through its mains, for reservoirs, for preserving the purity
9 of the water and water sheds, for laying and maintaining
10 aqueducts and other structures for taking, distributing, dis-
11 charging and disposing of water, and for rights of way or
12 roadways to its sources of supply, dams, power stations, res-
13ervoirs, mains, 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 by them; the procedure and all subsequent proceedings and right of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

Sect. 5. Said district is hereby authorized to lay in and through the streets, roads, ways and roadways of the City of Bath and the towns of West Bath, Phippsburg, Brunswick and Woolwich, and across private lands therein, and to maintain, repair and replace, all such pipes, aqueducts and fixtures as may be necessary and convenient for its corporate purposes, and whenever said district shall lay any pipes or aqueducts in any street, road, way or highway, it shall cause the same to be done with as little obstruction as practicable to the public travel, and shall, at its own expense, without unnecessary delay, cause the earth and pavement removed by it to be replaced in proper condition.

Sect. 6. In case of any crossing of a railroad, unless consent is given by the company owning or operating such railroad as to place, manner and conditions of the crossing, within thirty days after such consent is requested by said district, the Public Utilities Commission shall determine the place, manner and condition of such crossing; and all work within the limits of such railroad location shall be done under the supervision and to the satisfaction of said railroad company, but at the expense of said district.

Sect. 7. All the affairs of said water district shall be managed by a board of trustees composed of three members, to be chosen by the municipal officers of Bath, within thirty days after the acceptance of this act by the inhabitants of said water district as hereinafter provided; but no member of the city council shall, during the term for which he is elected, be chosen one of said board of trustees. As soon as convenient after the members of said board have been chosen, said trustees shall hold a meeting in the city building in Bath, and organize by the election of a president and clerk, adopt a corporate seal and when necessary may choose a treasurer and all other needful officers and agents for the proper conduct and management of the affairs of said district. At said first meeting they shall determine by lot the term of office of each trustee so that one shall serve for one year, one for two years and one for three years; and whenever the term of office of a trustee expires, the body which appointed said trustee shall appoint a successor to serve the full term of three years, and in case any other vacancy arises it shall be filled in like manner for the unexpired term. They may also ordain and establish such by-laws as are necessary for their own convenience and the proper management of the affairs of the district. The term of office of the trustees shall begin on the first Monday of November in the year one thousand nine hundred and fifteen. Said trustees may procure an office and incur such expense as may be necessary. Each member shall receive in full com-

28 pension 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 Sagada-
7 hoc and within the town of Brunswick in the County of
8 Cumberland, now used or held by it for the purpose of sup-
9 plying water to the city of Bath, and including all other
10 lands, waters, water rights, dams, reservoirs, pipes, machin-
11 ery, fixtures, hydrants, tools, apparatus and appliances in
12 said territory, owned by said company and used or usable
13 in supplying water therein, and any other real estate in said
14 territory.

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 Feb-
10 ruary, nineteen hundred and sixteen, to file a petition in the
11 clerk's office of the supreme judicial court for the County

12 of Sagadahoc, in term time or in vacation, addressed to
13 any justice of said court, who, after notice to said Maine
14 Water Company and its mortgagees, if any, shall, after hear-
15 ing, and within thirty days after the filing of said petition,
16 appoint three disinterested appraisers, none of whom shall
17 be residents of the County of Sagadahoc, or of the town
18 of Brunswick in the County of Cumberland, one of whom
19 shall be learned in the law, for the purpose of fixing the val-
20 uation of said plant or plants, property and franchises as de-
21 scribed in section eight hereof. Said petition shall not be
22 dismissed after filing but may and shall be amended in any
23 manner required to enable the court to make all necessary
24 decrees thereon. At the hearing aforesaid, such justice,
25 upon motion of the petitioner, may order the production and
26 filing in court, for the inspection of the petitioner, of all
27 books and papers pertinent to the issue and necessary for a
28 full understanding of the matter to be heard by said ap-
29 praisers, the terms and conditions of so producing and filing
30 such books and papers to be determined by said justice in
31 his order therefor and to be enforced from time to time as
32 any justice of the supreme judicial court, in term time or in
33 vacation, upon motion of either party, may deem reason-
34 able and proper in the premises. At such hearing, such jus-
35 tice upon motion of the petitioner, may fix a time at which
36 the said water company shall file in the clerk's office of the
37 supreme judicial court for the County of Sagadahoc, for

38 the inspection of the petitioner, the following: First, sched-
39 ules showing the names, residences and water service of all
40 customers on the first day of January in the year nineteen
41 hundred and sixteen, with the rate charged therefor; sec-
42 ond, copies of all contracts in force on said first day of Jan-
43 uary; 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 chargeable
47 thereto; fourth, a memorandum of all real estate, water
48 rights, or interests therein, owned or controlled on said
49 first day of January, with such brief description thereof as
50 will reasonably identify the same; fifth, brief descriptions,
51 specifications and plans of all reservoirs, mains, pipes, serv-
52 ice pipes, hydrants, gates, gate boxes, shut-off boxes, fix-
53 tures and machinery and all the physical elements in such
54 water system, giving in detail quantities, sizes, lengths, and
55 specifying the streets, roads or ways where situated; sixth,
56 an itemized list of all tools, apparatus, appliances and sup-
57 plies used or usable in supplying water on said first day of
58 January. Such orders may be enforced from time to time
59 by any justice of said supreme judicial court, in term time
60 or in vacation, upon motion of either party, as such justice
61 may deem reasonable and proper in the premises. At such
62 hearing the justice then sitting may, upon motion of the pe-
63 titioner, make all such decrees as he deems reasonable and

64 proper to enable the petitioner, through its servants and
65 employees, 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 entire expense thereof to be borne by said water
69 district. The said appraisers shall have the power of com-
70 pelling attendance of witnesses and the production of all
71 books, accounts and papers pertinent to the issue and neces-
72 sary for a full understanding by them of the matter in ques-
73 tion and may administer oaths; and any witness or person
74 in charge of such books, accounts and papers refusing to at-
75 tend or to produce the same shall be subject to the same
76 penalties and proceedings, so far as applicable, as witnesses
77 summoned to attend the supreme judicial court. Deposi-
78 tions may be taken as in civil actions. The appraisers so ap-
79 pointed shall, after notice and hearing, fix the valuation of
80 said plant, property and franchises at what they are fairly
81 and equitably worth, so that said water company shall re-
82 ceive just compensation for all the same. The first day of
83 January, nineteen hundred and sixteen, shall be the date as
84 of which the valuation aforesaid shall be fixed, from which
85 date interest on said award shall run, and all rents and
86 profits accruing thereafter shall belong to said water district.
87 The report of said appraisers or a majority of them shall
88 be filed in said clerk's office in term time or in vacation,
89 within six months after their appointment, but a further
90 time, not exceeding four months, shall be granted for good

91 cause upon motion of either party, by any justice of the su-
92 preme judicial court within which said appraisers shall file
93 their report, and such single justice, or in case of his inabil-
94 ity to act, then any justice designated for the purpose by the
95 chief justice may, after notice and hearing, confirm or reject
96 the same, or recommit it or submit the subject matter there-
97 of to a new board of appraisers, if justice shall require, and
98 in case of such rejection, recommitment or resubmission such
99 justice may fix the times for new hearings and new report
100 thereon. The award of the appraisers shall be conclusive
101 as to valuation. Upon the confirmation of said report, the
102 court so sitting, shall thereupon, after hearing, make final
103 decree upon the entire matter, including the application of
104 the purchase money, discharge of incumbrances and trans-
105 fer of property and franchises, jurisdiction over which is
106 hereby conferred with the same power to enforce a decree
107 as in equity cases. Upon request of either party the jus-
108 tice so making such final decree shall make separate find-
109 ings of law and fact. All such findings of fact shall be
110 final, but either party aggrieved may take exceptions to any
111 rulings of law so made, the same to be accompanied only by
112 such parts of the case as are necessary to a clear under-
113 standing of the questions raised thereby. Such exceptions
114 shall be claimed on the docket within ten days after such
115 final decree is signed, entered and filed, and notice thereof
116 shall be given by the clerk to the parties or their counsel,
117 and said exceptions so claimed shall be made up, allowed

118 and filed within said time unless further time is granted by
119 the court or by agreement of the parties. They shall be
120 entered at the next term of the law court held after the
121 filing of such exceptions and there heard unless otherwise
122 agreed, or the law court shall for good cause order a fur-
123 ther time for hearing thereon. Upon such hearing the
124 law court may confirm, reverse or modify the decree of the
125 court below or remand the cause for further proceedings
126 as it seems proper. During the pendency of such excep-
127 tions the cause shall remain on the docket of the court
128 below, marked "law," and decree shall be entered thereon
129 by a single justice, in term time or in vacation, in accord-
130 ance with the certificate and opinion of the law court. On
131 payment or tender by said district of the amount so fixed
135 free from all liens, mortgages and incumbrances thereto-
133 posed by said court, said entire plant, property and fran-
134 chises shall become vested in said water district and be
135 free from all liens, mortgages and incumbrances thereto-
136 fore created or assumed by the said Maine Water Com-
137 pany and its predecessors, and either party shall be enti-
138 tled to appropriate process to compel the other to perform
139 the terms and conditions of said decree. All the costs and
140 expenses arising under said petition and appraisal shall be
141 borne and paid by said water district and said water com-
142 pany equally. Any vacancy occurring in said board of
143 appraisers shall be filled, in term time or in vacation, by

144 any justice of the supreme judicial court on petition there-
145 for, 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
5 provide revenue for the following:

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 indebt-
10 edness 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 in-
17 vested in such securities as savings banks are allowed to
18 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 de-
9 clared 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 appli-
12 cable 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 take effect when approved by a
2 majority vote of the legal voters within said district voting
3 at an election to be specially called and held for the purpose
4 on the second Monday of September, nineteen hundred and
5 fifteen. The board of registration shall make and provide
6 a separate check list for such of the voters within said dis-
7 trict as are then legal voters of said city and all warrants
8 issued to said city shall be varied accordingly to show that
9 only such voters therein are entitled to vote hereon. Such
10 special election shall be called, advertised and conducted
11 according to the law relating to municipal elections, pro-
12 vided, however, that the board of registration shall not be

13 required to prepare or the city clerk to post a new list of
14 voters, and for this purpose said board shall be in session
15 the three secular days next preceding such election, the first
16 two days thereof to be devoted to registration of voters and
17 the last day to enable the board to verify the correctness of
18 said lists and to complete and close up its records of said
19 sessions. The city clerk shall reduce the subject matter of
20 this act to the following question: "Shall the act to incor-
21 porate the Bath Water District be accepted?" and the voters
22 shall indicate by a cross placed against the words "yes" or
23 "no" their opinion of the same. The result shall be declared
24 by the mayor and aldermen and due certificate thereof filed
25 by the city clerk with the secretary of 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 of
4 the right of eminent domain, as in this act provided, the
4 plant, property and franchises, rights and privileges now held
6 by the Maine Water Company within said county of Sagu-
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.