

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-SEVENTH LEGISLATURE

SENATE

NO. 442

In Senate, March 26, 1915.

*Reported by Sen. Walker from Committee on Legal Affairs
and ordered printed under joint rules.*

W. E. LAWRY, Secretary.

STATE OF MAINE

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

AN ACT to Incorporate the Hartland Water District.

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

Section 1. The territory of the town of Hartland in the
2 County of Somerset and the inhabitants thereof are hereby
3 constituted a body politic and corporate under the name of
4 the Hartland Water district for the purpose of supplying
5 the inhabitants of said municipality with pure water for de-
6 mestic, sanitary and municipal purposes.

Sect. 2. Said Water District is hereby authorized and em-
2 powered to acquire by purchase the entire system, property,
3 rights, privileges and franchises now held by the Hartland
4 Water Company within the limits of said district used by
5 the said Hartland Water Company in supplying water to the

6 said town of Hartland, including lands, waters, water rights,
7 dams, reservoirs, pipes, machinery, hydrants, tools, appli-
8 ances and apparatus owned by said Water Company, which
9 is hereby authorized to sell and transfer its said franchises
10 and property to said Hartland Water District.

Sect. 3. Said Water District is hereby authorized to take
2 over all the rights and privileges granted to the said Hart-
3 land Water Company in Moose Pond, in said Hartland, and
4 its tributary waters except Perry Pond so called, situate
5 in the town of Harmony, said County of Somerset, together
6 with all said Water Company's rights of flowage, rights of
7 way, and rights of maintenance of said Water Company's
8 system. And for the further and future extension of said
9 system said Water District is hereby authorized to take and
10 hold as for public uses and for the purposes of its incorpora-
11 tion, any land or interest therein for the laying and main-
12 tenance of its pipes, lines, hydrants, fixtures and all appli-
13 ances and appurtenances necessary and incident to the pur-
14 poses of this charter.

Sect. 4. Said Water District shall be liable for all dam-
2 ages that shall be sustained by any person or corporation in
3 his, or its property by the taking of any land whatsoever, or
4 water, or by flowage, or by excavating through any lands
5 for the purpose of constructing dams, laying pipes, con-
6 structing reservoirs, or any other purposes of this charter.
7 If any person, or corporation, sustaining damage as afore-
8 said, and said Water District cannot agree upon the sum to

9 be paid therefor, such person or corporation may cause his
10 damage to be ascertained in the same manner and under the
11 same conditions, restrictions and limitations as are or may
12 be prescribed in the case of damages by the laying out of
13 highways.

Sect. 5. Said Water District is hereby authorized to lay
2 in and through the streets, roads, ways and highways there-
3 of, of the towns of Hartland, Palmyra and St. Albans, and
4 to take up, replace and repair all such pipes, aqueducts and
5 fixtures as may be necessary for the objects set forth here-
6 in. And whenever said Water District shall lay any pipes in
7 the streets, roads, ways or highways, it shall cause the same
8 to be done with as little obstruction as possible to the public
9 travel, and shall at its own expense and without unneces-
10 sary delay, cause the earth and pavement removed by it to
11 be replaced in proper and suitable condition.

In case of any crossing of a railroad, unless consent is
13 given by the company owning or operating such railroad as
14 to place, manner and conditions of the crossing, within
15 thirty days after such consent is requested by said Water
16 District, the Public Utilities Commission shall determine
17 the place, manner and conditions of all such crossings, and
18 all work done within the limits of such railroad location
19 shall be done under the supervision and to the satisfaction
20 of such railroad company but at the expense of said Water
21 District.

Sect. 6. All the affairs of said Water District shall be
2 managed by a board of trustees consisting of three mem-

3 bers to be elected by a plurality vote of the legal voters
4 within said Water District at an election to be specially
5 called and held therefor within one year after the approval
6 of this Act, by the legal voters of said Water District. Such
7 special meeting shall be called, held, and conducted accord-
8 ing to the law relating to municipal elections in said town
9 of Hartland. The result of said election shall be declared
10 by the municipal officers and a due certificate thereof filed
11 with the town clerk thereof. All records of the meetings
12 and other business of said Water District shall be kept by
13 the town clerk of said Hartland, who shall be clerk of said
14 Water District by virtue of his office as clerk of said town.
15 The term of office of said trustees shall begin on the first
16 Monday of July, of the year after the approval of this Act
17 by said Water District. As soon as convenient after the
18 members of said board have been chosen said trustees shall
19 hold a meeting at some convenient place in said town of
20 Hartland, and organize by the election of a president, adopt
21 a corporate seal, and when necessary may choose a treas-
22 urer, and all other necessary and needful officers and agents
23 for the proper conduct and management of the affairs of
24 said Water District. The treasurer of said town shall be
25 eligible to election as treasurer of said Water District, but
26 the assessors of said town shall not be eligible to election as
27 trustees thereof.

At the first meeting of said trustees they shall determine
29 by lot the term of office of each trustee so that one shall
30 serve for one year, one for two years, and one for three

31 years; and whenever the term of office of a trustee expires
32 his successor shall be elected by a plurality vote of the legal
33 voters of said Water District for the term of three years;
34 and in case any vacancy arises it shall be filled for the re-
35 mainder of the year by appointment by the members of the
36 board of trustees, and at the next regular meeting of the
37 Water District the vacancy shall be filled for the remainder
38 of the term in the manner hereinbefore provided. The offi-
39 cers of said Water District shall receive such compensation
40 for their services as said Water District shall from time to
41 time determine. Said trustees may ordain and adopt such
42 by-laws and regulations as are necessary for their own
43 convenience and for the proper management of the affairs
44 of said Water District.

At the close of each fiscal year the said trustees shall make
46 a detailed report of their doings, of the receipts and ex-
47 penditures of said Water District, of its financial and physi-
48 cal conditions, and of such other matters and things pertain-
49 ing to the affairs of said Water District as shall show to the
50 inhabitants of said Water District, the full and true stand-
51 ing of its conditions and how said officers of said Water
52 District are fulfilling the duties and obligations of their
53 trust. Said report shall be either written or printed for dis-
54 tribution to the inhabitants of said Water District. The
55 books and accounts pertaining to the receipts and expendi-
56 tures of money shall be audited by the auditor of town of
57 Hartland.

Sect. 7. In case said board of trustees shall fail to agree
2 with said Hartland Water Company upon the terms of pur-
3 chase of aforesaid rights and properties, said Water Dis-
4 trict through its trustees is hereby authorized and empow-
5 ered to take such plant, properties, privileges and franchises,
6 for public uses by petition therefor in the manner herein-
7 after provided. The said Water District through its said
8 trustees is hereby authorized to file a petition in the clerk's
9 office of the supreme judicial court for the County of Som-
10 erset, in term time or vacation, addressed to any justice of
11 said court, who after notice to said Hartland Water Com-
12 pany, and its mortgagees, shall after hearing and within
13 thirty days after the filing of said petition, appoint three
14 disinterested appraisers, none of whom shall be residents of
15 said County of Somerset, one of whom shall be learned in
16 the law, for the purpose of fixing the valuation of said
17 plant, property, privileges and franchises. Said petition
18 shall not be dismissed after filing, but may and shall be
19 amended in any manner required to enable the court to
20 make all decrees necessary therein. At the hearing said
21 appraisers shall have the power of compelling the attend-
22 ance of witnesses and the production of all books, accounts
23 and papers pertinent to the issue and necessary for a full
24 understanding of the matters in question, and they may ad-
25 minister oaths. And any witness or other person in charge
26 of such books, accounts and papers refusing to attend or to
27 produce the same shall be subject to the same penalties and
28 proceedings so far as applicable, as witnesses summoned

29 to attend the Supreme Judicial court. Depositions may be
30 taken as in civil actions.

The appraisers so appointed shall, after due notice and
32 hearing, fix the valuation of said plant, property, privileges
33 and franchises at what they are fairly and equitably worth,
34 so that said Hartland Water Company shall receive just
35 compensation for the same. The date of filing of said pe-
36 tition shall be the date as of which the valuation aforesaid
37 shall be fixed, from which day interest on said award shall
38 run, and all net profits and rents accruing to said Hartland
39 Water Company thereafter shall belong to said Water Dis-
40 trict. The report of said appraisers or of a majority of
41 them, shall be filed in said clerk's office, in term time or va-
42 cation, within five months after their appointment, and such
43 single justice, or in case he is unable to act, then, any jus-
44 tice designated for the purpose by the chief justice, may,
45 after notice and hearing, confirm or reject the same, or re-
46 commit it if justice so requires. The award of the said ap-
47 praisers shall be conclusive as to valuations. Upon confir-
48 mation of said report the court so sitting shall thereupon
49 after hearing, make final decree upon the entire matter, in-
50 cluding the application of the purchase money, discharge of
51 incumbrances, and transfer of the property, jurisdiction
52 over which is hereby conferred, with the same power to en-
53 force said decree as in equity cases.

Upon request of either party the justice so making such
55 final decree shall make separate findings of law and fact.

All such findings of fact shall be final, but either party ag-
57 grieved may take exceptions to any ruling of law so made,
58 the same to be accompanied only by such parts of the case
59 as are necessary to a clear understanding of the questions
60 raised thereby.

Such exceptions shall be claimed on the docket within ten
62 days after such final decree is signed, entered and filed, and
63 notice thereof given by the clerk to the parties or their coun-
64 sel and said exceptions shall be made up, allowed, and filed
65 within said time unless further time is granted by the court
66 or by agreement of parties.

They shall be entered at the next term of the law court to
68 be held after the filing of said decree and there heard unless
69 otherwise agreed, or the law court for good cause shall or-
70 der a further time for hearing thereon. Upon such hearing
71 the law court may confirm, reverse, or modify the decree
72 of the court below, or remand the cause for further pro-
73 ceeding as it seems proper. During the pendency of such
74 exceptions the cause shall remain on the docket of the court
75 below marked "Law," and decree be entered thereon by a
76 single justice in term time or in vacation, in accordance with
77 the certificate and opinion of the law court. Before said
78 plant, property, privileges, and franchises are transferred
79 in accordance with such final decree, and before payment
80 therefor, the court sitting in said County of Somerset, by a
81 single justice thereof as hereinbefore provided, shall upon
82 motion of either party, after notice and hearing, take ac-

83 count of all receipts and expenditures probably had or in-
84 curred by the Hartland Water Company, belonging to the
85 period from and after the date of filing said petition, and
86 all the net rents and profits accruing thereafter; and shall
87 order the net balance due either party to be added to or de-
88 ducted from the amount to be paid under the final decree
89 aforesaid as the case may be. All findings of law or fact
90 by said single justice shall be final.

On payment or tender by said Water District of the
92 amount so fixed and the performance of all other terms and
93 conditions so imposed by the court, said entire plant, prop-
94 erty, privileges and franchises shall become vested in said
95 Water District, and be free from all mortgages, incum-
96 brances theretofore created by said Hartland Water Com-
97 pany; and either party shall be entitled to appropriate proc-
98 ess to compel the other to perform the terms and conditions
99 of said decree.

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

Sect. 9. The property of said Water District shall be ex-
2 empt from all taxation in the town, towns, or municipali-
3 ties where the same may be located.

Sect. 10. For accomplishing the purposes of this Act, said
2 Water District, through its trustees, is authorized to bor-

3 row, money temporarily and to issue therefor the interest
4 bearing negotiable notes of the Water District and for the
5 purpose of paying or refunding the indebtedness so created
6 or paying any necessary expenses and liabilities incurred
7 under the provisions of this Act, including the expenses in-
8 curred in creation of the said Water District in acquiring
9 the property, plant, privileges and franchises of the said
10 Water Company by purchase or otherwise, or in the pur-
11 chase or acquisition of the property, plant, privileges, and
12 franchises of said Water Company, of securing sources of
13 supply, improvement of the system, and such extensions
14 and additions as the necessities of the Water District may
15 require. Said notes or bonds shall be legal obligations of
16 said Water District, which is hereby declared to be a quasi-
17 municipal corporation within the meaning of section 96 of
18 chapter 47 of the revised statutes, and all the provisions of
19 said section applicable thereto. The said notes or bonds
20 shall be a legal investment for savings banks.

Sect. 11. 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 said Water Dis-
6 trict. Said rates shall be so established as to provide reve-
7 nue for the following purposes, to wit:

1. To pay the running expenses for operating and main-
9 taining the water system, and to provide for such exten-

10 sions and renewals as may become necessary and incident.

2. To provide for the payment of the interest on the in-
12 debtedness created or assumed by the Water District.

3. To provide each year a sum equal to not less than one-
14 half of one per cent nor more than five per cent of the en-
15 tire indebtedness of said Water District, which sum shall be
16 turned into a sinking fund providing for the final extin-
17 guishment of said indebtedness. The money set aside for
18 the sinking fund shall be devoted to the retirement of the
19 obligations of said Water District or invested in such se-
20 curities as savings banks are allowed to hold.

4. If in any year there remains a surplus at the end of
22 the year, the amount of such surplus shall be paid to the
23 town of Hartland and if in any year there be a deficit, the
24 Water District may raise by assessment such sum of money
25 as may be necessary and sufficient to liquidate such deficit.

All money raised by said Water District for the purposes
27 aforesaid shall be assessed upon the property and polls with-
28 in the aforesaid territory, by the trustees of said Water
29 District, in the same manner as is provided by law for the
30 assessment of county and town taxes, the tax on polls not
31 to exceed, at any one assessment, the sum of one dollar to
32 any one person in any one year. Upon a certificate being
33 filed with the trustees of said Water District by the clerk
34 thereof, of the amount of money raised at any meeting for
35 the purposes aforesaid, it shall be the duty of said trustees,
36 as soon as may be, to assess said amount upon the estate

37 and polls of persons residing within the territory of said
38 Water District, and upon the estates of non-resident pro-
39 prietors thereof, and the trustees to certify and deliver to
40 the treasurer of said Water District, whose duty it shall be
41 to collect the same in like manner as county and town taxes
42 are by law collected by towns, and the Water District shall
43 have the power to direct the mode of collection of said
44 taxes as towns have in the collection of town taxes.

Sect. 12. 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. 13. 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 that
4 purpose at any time within one year after this Act takes
5 legal effect. Such special meeting shall be called by the
6 selectmen of Hartland, advertised and conducted according
7 to the law relating to town meetings in Hartland; and spe-
8 cial meetings of said Water District shall be called at any
9 time upon written application made to the selectmen of
10 Hartland by said Trustees, or by ten or more legal voters
11 of said Water District.

At a special meeting held within one year from the time
13 this Act takes effect as above set forth, the town clerk shall
14 reduce the subject matter of this Act to the following ques-
15 tion: "Shall the Act to incorporate the Hartland Water Dis-
16 trict be accepted?" and the voters shall indicate by the writ-

17 ten words "Yes" or "No" their opinion of the same. The
18 result shall be declared by the selectmen of Hartland, and
19 due certificate thereof filed by the town clerk with the Secre-
20 tary of State.

In case this Act is not approved by a majority vote of the
22 legal voters of said Water District at its first meeting called
23 therefor, it may be approved at any subsequent meeting
24 held within one year therefrom, by a majority vote of the
25 said voters, said subsequent meeting to be called, adver-
26 tised and conducted in the same manner as the said first
27 special meeting.

Sect. 14. Said Water District shall not acquire said prop-
2 erty, privileges, plant and franchises of the said Water
3 Company until a majority of the qualified voters of said
4 Water District voting at said special meeting or at any other
5 special or regular meeting shall have voted in favor there-
6 of.

Sect. 15. Said Water District shall be construed to be a
2 water company as defined in chapter one hundred twenty-
3 nine of the public laws of nineteen hundred thirteen, and all
4 acts additional thereto and amendatory thereof, and shall
5 be subject to all of the provisions thereof, for water compa-
6 nies as therein defined.

Sect. 16. This Act shall take effect in ninety days after
2 the final adjournment of the legislature so far as is neces-
3 sary to empower the calling and holding of the election au-
4 thorized in section 13 herein provided for.