

# MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

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HOUSE

NO. 211

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*House of Representatives, Feb. 9, 1917.*

*Referred to Committee on Judiciary and fifteen hundred copies ordered printed. Sent up for concurrence.*

*W. R. ROIX, Clerk.*

*Presented by Mr. Baxter of Portland.*

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STATE OF MAINE

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

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AN ACT to Create the Maine Water Power Commission.

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

Section 1. The Governor, with the advice and consent  
2 of the Council, shall appoint three citizens of the State, one  
3 of whom at least shall be a civil engineer, who shall con-  
4 stitute a commission to be known as the Maine Water Power  
5 Commission. The chairman of the Commission shall be  
6 designated by the Governor and the first one appointed shall  
7 hold office for three years, and the other members shall hold  
8 office for two and one years respectively, and the terms of  
9 the latter shall be designated by the Governor when making

10 the appointments. Each member thereafter shall hold office  
11 for three years. Any vacancy occurring in said Commission  
12 shall be filled in the same manner as by original appointment,  
13 but such appointment shall be only for the unexpired portion  
14 of the term in which such vacancy occurs. The members of  
15 said Commission shall receive no salaries as such but shall  
16 be paid their actual and necessary expenses incurred in the  
17 performance of their duties. The office of the Commission  
18 shall be at the State House in the city of Augusta. The  
19 Commission shall make an annual report to the Governor  
20 and Council showing the progress made in their investiga-  
21 tions, and they shall report to the next legislature, if prac-  
22 tical, a comprehensive and practical plan for the improve-  
23 ment and creation of such water storage reservoirs and  
24 basins as will tend to develop and conserve the water powers  
25 of the State, and shall report on what rights remain to the  
26 State in the natural storage reservoirs and basins and in the  
27 developed and undeveloped water powers of the State and  
28 the best method of developing them in the interest of the  
29 people of the State, and whether the same are in any respect  
30 being curtailed or otherwise being adversely affected by any  
31 person, firm or corporation.

Sect. 2. The Commission shall appoint as Chief Engineer  
2 a competent hydraulic engineer, who shall have charge, un-  
3 der the direction of the Commission, of the operations  
4 under this act. The Chief Engineer may employ such  
5 engineers, clerks, stenographers and other assistance as he

6 may find necessary to carry out the provisions of this act,  
7 and to fix and pay the reasonable salaries and expenses of  
8 such employees, all subject to the approval of the Commis-  
9 sion, but shall not incur any expense in excess of the  
10 amounts annually appropriated by the state for the purpose.

Sect. 3. The Commission shall proceed at once to collect  
2 information relating to the water powers of the state, the  
3 flow of rivers and their drainage area, the location, nature  
4 and size of the lakes and ponds in the state and their re-  
5 spective value and capacity as storage reservoirs and such  
6 other hydrographic data as they may deem of value in de-  
7 vising the best methods for the improvement of the natural  
8 storage basins of the state, and the creation of new storage  
9 reservoirs, with a view to conserving and increasing the  
10 capacity of the water powers of the State.

Sect. 4. The Commission is hereby authorized to confer  
2 with the director or the representative of the United States  
3 Geological Survey and to accept its co-operation with this  
4 state in the prosecution of hydrographic and geological sur-  
5 veys and the preparation of a contour topographic survey  
6 and map of this state.

Sect. 5. Every person, firm or corporation before com-  
2 mencing the erection of a dam or the enlargement of any  
3 existing dam, for the purpose of developing any water  
4 power in this state to the amount of one hundred (100)  
5 horse power, or over, or the creation or improvement of a  
6 water storage reservoir or basin for the purpose of con-

7 trolling the waters of any of the great ponds or streams of  
8 the state in excess of twenty million (20,000,000) cubic feet,  
9 or the erection of any dam over twelve (12) feet in height,  
10 shall before entering upon the construction of such dam or  
11 the enlargement thereof or the creation or improvement of  
12 said water storage reservoir or basin file with the Maine  
13 Water Power Commission copies of all its plans for such  
14 construction or enlargement, together with a statement  
15 signed by the engineer preparing such plans, giving the  
16 location, height and nature of the proposed dam and ap-  
17 purtenant structure, and the estimated horse power to be  
18 developed thereby and the estimated extent of the storage  
19 reservoir or basin it is proposed to create, the locus of the  
20 territory it is proposed to flow, the estimated amount of  
21 water it is proposed to store and the purposes for which it  
22 is to be used, and in case the dam is to be constructed  
23 solely for the purpose of water storage and not for the de-  
24 velopment of water power at its site, the estimated effect  
25 upon the flow of the stream or streams to be affected thereby  
26 together with such other information or data as the Com-  
27 mission may require to enable it to carry out the provisions  
28 of sections one and three of this act.

Sect. 6. No work of construction in erecting or enlarging  
2 any such dam or reservoir shall be begun until such plans  
3 have been approved by the Chief Engineer of the Commis-  
4 sion, who shall, if he approves such plans, signify his ap-  
5 proval within thirty days after the plans have been sub-

6 mitted to him, provided, however, that the rejection of any  
7 such plans shall be on the ground that the public safety is  
8 not thereby properly guarded. In case the Chief Engineer  
9 of the Commission does not approve of any feature of said  
10 plans on the ground that the public safety is not thereby  
11 properly guarded, the Commission may, after notice and  
12 hearing, order such changes to be made in such plans as  
13 they may deem necessary to ensure public safety. The  
14 Chief Engineer, or any member of the Commission, or any  
15 person appointed by them, shall from time to time have  
16 the right to enter upon the works during construction or  
17 enlargement of any such dam or reservoir, for the purpose  
18 of examining the work and ascertaining if any substantial  
19 modification of or changes in said plans is being made  
20 during construction, and furthermore the said Chief En-  
21 gineer may require such changes and modifications of said  
22 plans as may be necessary in his opinion to insure public  
23 safety. Upon the completion of any such dam or enlarge-  
24 ment thereof, the owners and the engineer in charge of  
25 the work shall file a certificate with said Commission cer-  
26 tifying that said dam has been completed in accordance  
27 with said plans approved by the Chief Engineer, whereupon  
28 the Commission if satisfied that the work of construction  
29 has been done in accordance with said plans, shall issue  
30 its certificate of approval; and until such certificate of ap-  
31 proval has been issued, no water shall be impounded by  
32 the owners or operators in any such dam or in any enlarged

33 dam or reservoir, in addition to the amount usually stored  
34 therein before the work of enlargement was begun. Such  
35 certificate of approval, however, shall in no way relieve  
36 the owner or operator of any liability now imposed upon him  
37 by law, or for any acts of negligence in the construction,  
38 operation or maintenance of any such dam or appurtenant  
39 structure.

Sect. 7. In case any owner or operator of any such dam  
2 or appurtenant structure shall be dissatisfied with any ruling  
3 or order of the Commission or its Chief Engineer, he may  
4 appeal therefrom to a committee of arbitration composed of  
5 three hydraulic engineers to be selected as follows: One  
6 by the owner or builder of such dam; one by the Commis-  
7 sion and one by the two so selected, whose decision on any  
8 point submitted to them shall be final. The expenses of  
9 said arbitration to be borne by the party appealing, if the  
10 ruling of the Commission or its Chief Engineer be sub-  
11 stantially upheld, the Committee of Arbitration in its find-  
12 ings on such appeal to have power to apportion the costs  
13 as it sees fit.

Sect. 8. Any dam or appurtenant structure constructed  
2 without securing the approval of the Commission or the  
3 Chief Engineer as required by this Act, or in any sub-  
4 stantial respect not constructed in accordance with such  
5 plans approved by the Commission or its Chief Engineer,  
6 or used before the final certificate provided for in section  
7 six is issued, shall be deemed a public nuisance and if not

8 made to conform to such requirements as shall be fixed by  
9 the Commission within a reasonable time after notice of the  
10 changes required by the Commission, if any, the Attorney  
11 General of the state shall proceed forthwith to procure an  
12 abatement of said nuisance by the usual proceeding in  
13 equity courts in such matters.

Sect. 9. So far as any proposed plan devised by the  
2 Commission for the improvement and increase of water  
3 storage basins or reservoirs shall include the construction  
4 of a dam or dams upon or at the head waters of any river  
5 or water course, the commission shall ascertain and report  
6 as nearly as may be the water storage capacity in cubic feet  
7 of the reservoir to be created, the recorded rainfall on the  
8 watershed above such proposed dam, and the maximum,  
9 minimum and average flow of water per second in cubic  
10 feet during each month in the year in said river or water  
11 course. They shall as nearly as practicable estimate the  
12 increased power that would be developed by such proposed  
13 dam in the rivers or streams to be affected thereby.

Sect. 10. The Commission, either on its own initiative or  
2 on complaint from any citizen, may at any time direct its  
3 engineer or any other person selected by it, to examine into  
4 the condition of any dam or appurtenant structure in the  
5 state for the purpose of determining whether the same is  
6 properly constructed and safe, or whether it is in any way  
7 dangerous to public safety. If the examination indicates  
8 that the dam or structure is unsafe, then the Commission



9 may order it altered, but not until after a hearing and  
10 order thereon. If however the owner or operator of said  
11 dam or appurtenant structure shall be dissatisfied with any  
12 ruling or order of the Commission or its Chief Engineer  
13 he may appeal therefrom to a Committee of Arbitration as  
14 provided in section seven of this act. If the decision of the  
15 commission is sustained after said appeal and if the order  
16 of the Commission is not then obeyed the said dam or  
17 appurtenant structure shall be deemed a public nuisance  
18 and the Attorney General of the State shall be notified and  
19 he shall proceed forthwith to procure an abatement of said  
20 structure as a public nuisance as provided for in section  
21 eight of this act.

Sect. 11. The Commission shall ascertain what town-  
2 ships or parts of townships of land can be purchased by the  
3 State and the cost thereof, with all necessary data for a  
4 correct understanding of their value as a forest reserve or  
5 for conserving the water powers of the state, or for re-  
6 forestation, and shall further investigate the question of  
7 denuded, burnt over or barren lands in the state, their ex-  
8 tent and value with a view to their purchase by the state  
9 for reforestation.

Sect. 12. The Public Utilities Commission is hereby di-  
2 rected to turn over to the Maine Water Power Commission  
3 all records, maps, papers, instruments and property that  
4 was transferred to it by authority of chapter one hundred  
5 and twenty-nine of the Public Laws of nineteen hundred

6 thirteen, and also all records, maps and papers that it has  
7 since compiled and collected in carrying out the provisions  
8 of law directing it to continue the work of the former  
9 Water Storage Commission.

Sect. 13. Sections nine, ten, eleven, twelve, thirteen and  
2 fourteen of chapter fifty-five of the Revised Statutes of  
3 nineteen hundred sixteen are hereby repealed.

Sect. 14. The sum of twelve thousand five hundred dol-  
2 lars for the year nineteen hundred and seventeen, and fifteen  
3 thousand dollars for the year nineteen hundred and eighteen,  
4 or so much as may be necessary, is hereby appropriated out  
5 of any fund in the treasury of the state not otherwise ap-  
6 propriated, to carry out the provisions of this act.