

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-EIGHTH LEGISLATURE

HOUSE

NO. 710

House of Representatives, March 29, 1917.

Tabled for printing by Mr. Baxter of Portland.

W. R. ROIX, Clerk.

STATE OF MAINE

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

AN ACT to create the Maine Water Power Commission.

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

Section 1. The governor, with the advice and consent of
2 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
5 Power Commission. The chairman of the commission shall
6 be designated by the governor and the first one appointed
7 shall hold office for three years, and the other members
8 shall hold office for two and one years respectively, and
9 the terms of the latter shall be designated by the governor

10 when making the appointments. Each member thereafter
11 shall hold office for three years. Any vacancy occurring
12 in said commission shall be filled in the same manner as
13 by original appointment, but such appointment shall be only
14 for the unexpired portion of the term in which such va-
15 cancy occurs. The members of said commission shall re-
16 ceive no salaries as such but shall be paid their actual and
17 necessary expenses incurred in the performance of their
18 duties. The office of the commission shall be at the state
19 house in the city of Augusta. The commission shall make
20 an annual report to the governor and council showing the
21 progress made in their investigations, and they shall report
22 to the next legislature a comprehensive and practical plan
23 for the improvement and creation of such water storage
24 reservoirs and basins as will tend to develop and conserve
25 the water powers of the state and shall report on what
26 rights remain to the state in the natural storage reservoirs
27 and basins and in the developed and undeveloped water
28 powers of the state and the best method of developing them
29 in the interest of the people of the state, and whether the
30 same are in any respect being curtailed or otherwise being
31 adversely affected by any 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 under
4 this act, and said chief engineer shall receive such salary
5 as the commission may determine. The chief engineer may

6 employ such engineers, clerks, stenographers and other as-
7 sistance as he may find necessary to carry out the pro-
8 visions of this act, and may fix and pay the reasonable
9 salaries and expenses of such employees, all subject to the
10 approval of the commission, but shall not incur any ex-
11 pense in excess of the amounts annually appropriated by the
12 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
6 a water storage reservoir or basin for the purpose of con-
7 trolling the waters of any of the great ponds or streams
8 of the state in excess of twenty million (20,000,000) cubic
9 feet, or the erection of any dam over twelve (12) feet in
10 height, shall before entering upon the construction of such
11 dam or the enlargement thereof or the creation or improve-
12 ment of said water storage reservoir or basin, file with the
13 Maine Water Power Commission copies of all its plans for
14 such construction or enlargement, together with a state-
15 ment signed by the engineer preparing such plans, giving
16 the location, height and nature of the proposed dam and
17 appurtenant structure, and the estimated horse power to
18 be developed thereby and the estimated extent of the stor-
19 age reservoir or basin it is proposed to create, the locus
20 of the territory it is proposed to flow, the estimated amount
21 of water it is proposed to store and the purposes for which
22 it 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
24 development of water power at its site, the estimated effect
25 upon the flow of the stream or streams to be affected there-
26 by together with such other information or data as the
27 commission may require to enable it to carry out the pro-
28 visions 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 chief
14 engineer, or any member of the commission, or any person
15 appointed by them, shall from time to time have the right
16 to enter upon the works during construction or enlarge-
17 ment of any such dam or reservoir, for the purpose of ex-
18 amining the work and ascertaining if any substantial modi-
19 fication of or changes in said plans is being made during
20 construction, and furthermore the chief engineer may re-
21 quire such changes and modifications of said plans as may
22 be necessary in his opinion to insure public safety. Upon
23 the completion of any such dam or enlargement thereof,
24 the owners and the engineer in charge of the work shall
25 file a certificate with said commission certifying that said
26 dam has been completed in accordance with said plans ap-
27 proved by the chief engineer, whereupon the commission
28 if satisfied that the work of construction has been done in
29 accordance with said plans, shall issue its certificate of
30 approval; and until such certificate of approval has been

31 issued, no water shall be impounded by the owners or oper-
32 ators in any such dam or in any enlarged dam or reservoir,
33 in addition to the amount usually stored therein before the
34 work of enlargement was begun. Such certificate of ap-
35 proval, however, shall in no way relieve the owner or oper-
36 ator from any liability now imposed upon him by law, or
37 for any acts of negligence in the construction, operation or
38 maintenance of any such dam or appurtenant 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
5 of three hydraulic engineers to be selected as follows: One
6 by the owner or builder of such dam; one by the com-
7 mission and one by the two so selected, whose decision on
8 any point submitted to them shall be final. The expenses
9 of said arbitration shall be apportioned by the committee of
10 arbitration in its findings on such appeal.

Sect. 8. Any dam or appurtenant structure hereafter con-
2 structed without securing the approval of the commission
3 or the chief engineer as required by this act, or in any
4 substantial 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 equity
13 courts in such matters.

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

11 or appurtenant structure shall be dissatisfied with any ruling
12 or order of the commission or its chief engineer he may
13 appeal therefrom to a committee of arbitration as provided
14 in section seven of this act. If the decision of the com-
15 mission is sustained after said appeal and if the order of
16 the commission is not then obeyed the said dam or appur-
17 tenant structure shall be deemed a public nuisance and the
18 attorney general of the state shall be notified and he shall
19 proceed forthwith to procure an abatement of said structure
20 as a public nuisance as provided for in section eight of this
21 act.

Sect. 11. The commission shall ascertain what townships
2 or parts of townships of land can be purchased by the state
3 and the cost thereof, with all necessary data for a correct
4 understanding of their value as a forest reserve or for con-
5 serving the water powers of the state, or for reforestation,
6 and shall further investigate the question of denuded, burnt
7 over or barren lands in the state, their extent and value
8 with a view to their purchase by the state for reforestation.
9 Said commission shall have authority to confer with the
10 United States government with regard to the establishment
11 of a national park within the state of Maine and shall ascer-
12 tain what arrangements can be made with said government
13 for the establishment of such a park and shall report their
14 findings to the next legislature.

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 were 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 and sections forty-three, forty-
3 four and forty-five of chapter ninety-seven of the Revised
4 Statutes are hereby repealed.

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