

MAINE STATE LEGISLATURE

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EIGHTY-FIRST LEGISLATURE

HOUSE

NO. 46

House of Representatives, Feb. 5, 1923.

Referred to Committee on Judiciary and one thousand copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Wing of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-THREE

AN ACT to Incorporate the Auburn Water District.

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

Section 1. *Territorial boundaries, purposes and corporate name.* The following territory and the people therein, namely: All the territory and people constituting the city of Auburn except that portion of said city and the people therein within the following boundaries, to wit: Beginning at the junction of the Holland road so-called with the South river road so-called; thence westerly by said Holland road to its junction with the Old Danville road so-called; thence southerly by said Old Danville road to its junction with the Pownal road so-called; thence southerly by said Pownal

11 road to the Durham town line; thence northeasterly by said
12 Durham town line to the Androscoggin river; thence north-
13 erly by said Androscoggin river to a point opposite said
14 Holland road; thence westerly to the junction of said Hol-
15 land road and said South river road at the point of be-
16 ginning; shall constitute a public municipal corporation un-
17 der the name of the Auburn Water District, for the purpose
18 of supplying the inhabitants of said district and of con-
19 tiguous territory not already served, with pure water for
20 domestic, sanitary and municipal purposes. All incidental
21 rights, powers and privileges necessary to the accomplish-
22 ment of the main object herein set forth are granted to the
23 corporation hereby created.

Sect. 2. *Title to present water system in Auburn to vest*
2 *in Auburn Water District.* At the time this act takes
3 effect, the title of the Auburn Water Commissioners, the
4 corporation heretofore charged with the control and man-
5 agement of the water system in said district, and the title
6 of the city of Auburn, to the entire plant, property and
7 franchises, rights and privileges, including all lands,
8 buildings, waters, water rights, dams, reservoirs, pumping-
9 stations, pipes, aqueducts, machinery, fixtures, hydrants,
10 tools, apparatus and appliances, used or capable of being
11 used for the purpose of maintaining a public water supply,
12 together with all sinking funds, current funds, moneys,
13 bills and accounts receivable, and all books, plans and
14 documents shall vest in and become the property of said

15 Auburn water district. Said city of Auburn and said
16 Auburn water commissioners shall each make, execute and
17 deliver to said Auburn water district, within thirty days
18 after this act takes effect, such deeds and conveyances of
19 real property and rights and interests therein, and such
20 transfer, assignment and delivery of personal property,
21 funds, moneys, bills and accounts receivable, books, plans
22 and documents, as shall effectuate the purpose and inten-
23 tion of this section.

Sect. 3. *Consideration for transfer of present water
2 system to district.* As consideration for the transfer
3 and conveyance of the property and rights described in the
4 foregoing section, said Auburn water district shall assume
5 all the existing indebtedness and all liability of every
6 nature of the city of Auburn and of the Auburn water com-
7 missioners incurred prior to the time when this act takes
8 effect in the establishment, maintenance, operation, exten-
9 sion and improvement of the present water system in the
10 city of Auburn, and all outstanding bonds issued for any
11 and all of said purposes, whether issued by said city of
12 Auburn or by said Auburn water commissioners, shall be
13 and become legal and binding obligations of said Auburn
14 water district, but nothing herein shall be construed to
15 impair the obligation of said bonds or the rights of the
16 holders thereof. As further consideration for the transfer
17 and conveyance of the property and rights described in the
18 foregoing section, the amount which the city of Auburn

19 shall be required to pay to said Auburn water district
20 for water for all municipal purposes is hereby limited and
21 fixed at the sum of three thousand dollars per year. All
22 valid contracts existing between said Auburn water com-
23 missioners and any person, firm or corporation, shall be as-
24 sumed and carried out by said Auburn water district.

Sect. 4. *Affairs to be managed by board of trustees.*

2 All the affairs of said Auburn water district shall be man-
3 aged by a board of seven trustees, which in the first in-
4 stance shall be the members of the Auburn water commis-
5 sioners, including the mayor of the city of Auburn holding
6 office at the time this act takes effect. The six trustees,
7 exclusive of the mayor of the city of Auburn shall each
8 hold office according to the respective terms of office which
9 they now hold as members of the Auburn water commis-
10 sioners, and upon the expiration of said term of office one
11 trustee shall thereafterwards be elected annually in the
12 month of March by the city council of the city of Auburn
13 for a term of six years. The mayor of the city of Auburn
14 shall by virtue of his office be a trustee of said Auburn
15 water district during his term as mayor. The city council
16 of the city of Auburn may at any time fill any vacancy in
17 said board of trustees, exclusive of the mayor of said city,
18 caused by death, resignation or otherwise, or in the first
19 instance by the refusal to act of any member or members of
20 the Auburn water commissioners above denominated; in
21 such case, however, the trustee so appointed shall hold office

22 for the unexpired term of the trustee whose office is made
23 vacant. From and after the organization of the board of
24 trustees as above provided, and the transfer to said Auburn
25 water district of the water system as provided in section
26 two of this act, the rights and powers of the Auburn water
27 commissioners to the control and management of said water
28 system shall cease and terminate.

Sect. 5. *Organization of board of trustees, adoption
2 of by-laws, appointment of officers and agents.* Said
3 board of trustees shall organize by electing one of their
4 number president at a meeting to be held within thirty days
5 after this act takes effect, and annually thereafter in the
6 month of March subsequent to the appointment by the city
7 council of the city of Auburn of one trustee as herein pro-
8 vided. Said trustees shall adopt a corporate seal and
9 such by-laws as are necessary for their own convenience and
10 the proper management of the affairs of said Auburn water
11 district. Said trustees shall choose annually a superin-
12 tendent, treasurer and clerk, and employ from time to time
13 such other officers, agents and servants as they deem nec-
14 essary. Said officers, agents and servants shall perform
15 such duties as shall be designated by the trustees, and be
16 subject to removal by the trustees at all times. The treas-
17 urer and clerk shall give such bond as the trustees may
18 require.

Sect. 6. *Powers conferred for preserving purity of
2 water.* Said Auburn water district shall have power to

3 adopt by-laws, not inconsistent with the general laws of
4 the state, to prevent pollution of the water of lake Auburn
5 and to preserve the purity of said water, and may prescribe
6 penalties for the violation thereof, which said by-laws shall
7 have the same force and effect as municipal ordinances,
8 and the municipal court of the city of Auburn shall have
9 jurisdiction of violations thereof. Said Auburn water
10 district shall have power and authority to complain by bill
11 in equity to the supreme judicial court to enjoin, prevent
12 or restrain any persons, firms or corporations from pollut-
13 ing the water of lake Auburn, provided such pollution shall
14 tend to corrupt or impair the quality of the water of said
15 lake Auburn for domestic purposes, or render it injurious
16 to health.

Sect. 7. *Right of eminent domain conferred.* The said
2 Auburn water district, for the purposes of its incorporation,
3 is hereby authorized to take and hold, as for public uses,
4 by purchase, eminent domain, or otherwise, any land or in-
5 terest therein, or water rights necessary for erecting and
6 maintaining dams, for collecting, storing and holding water,
7 for flowage, for power for pumping its water supply through
8 its mains, for reservoirs, for guarding against pollution
9 and for preserving the purity of the water and water shed,
10 for laying and maintaining pipes, aqueducts and other struc-
11 tures, for taking, distributing, discharging and disposing
12 of water and for rights of way or roadways to its sources
13 of supply, its dams, power and pumping stations, reservoirs,
14 mains, pipes, aqueducts, structures and lands.

Sect. 8. *Procedure as to exercise of right of eminent domain.* In exercising from time to time the right of eminent domain conferred upon it by law, the said Auburn water district shall file in the office of the county commissioners of Androscoggin county and cause to be recorded in the registry of deeds in said county plans of the location of all lands or interests therein or water rights, to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective and uncertain, it may at any time correct and perfect such location and file a new description thereof; and in such case the district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any acts which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of ten days from such filing, whereupon possession may be had of all said lands or interests therein or water rights so taken, but title thereto shall not vest in said district until payment therefor.

Sect. 9. *Adjustment of damages.* If any person sustaining damages by any taking as aforesaid shall not agree with said district upon the sum to be paid therefor, either

4 party, upon petition to the county commissioners of Andros-
5 coggin county, may have said damages assessed by them; the
6 procedure and all subsequent proceedings and right of ap-
7 peal thereon shall be had under the same restrictions, con-
8 ditions and limitations as are or may be by law prescribed
9 in the case of damages by the laying out of highways.

Sect. 10. *Authorized to construct dams, reservoirs, etc.*
2 Said Auburn water district is hereby authorized to erect,
3 construct and maintain all power and pumping stations,
4 dams, reservoirs, mains, aqueducts, structures, roadways
5 and fixtures necessary and convenient for its corporate
6 purposes.

Sect. 11. *Authorized to lay mains, etc., through public*
2 *ways and across private lands.* Said Auburn water dis-
3 trict is hereby authorized to lay in and through the streets,
4 roads, ways and highways of the city of Auburn and
5 across private lands therein, and to maintain, repair and
6 replace all such pipes, mains, aqueducts and fixtures as
7 may be necessary and convenient for its corporate purposes;
8 and whenever said district shall lay any pipe, aqueduct or
9 main in any street, road or way it shall cause the same to
10 be done with as little obstruction as practicable to the
11 public travel, and shall at its own expense without unnec-
12 essary delay cause the earth and pavement removed by it to
13 be replaced in proper condition.

Sect. 12. *Procedure as to crossing of railroads.*
2 In case of any crossing of any railroad, unless consent is

3 given by the company owning or operating such railroad as
4 to place, manner and conditions of the crossing, within
5 thirty days after such consent is requested by said district,
6 the public utilities commission shall determine the place,
7 manner and conditions of such crossing; and all work with-
8 in the limits of such railroad location shall be done under
9 the supervision and to the satisfaction of such railroad
10 company, but at the expense of the district.

Sect. 13. *Bond issues authorized; bonds legal invest-*
ment for savings banks. The Auburn water district is
3 hereby authorized, with the permission of the city council
4 of the city of Auburn first obtained, and under the further
5 permission and direction of the public utilities commission,
6 to issue bonds for the purpose of paying or refunding the
7 indebtedness assumed by said district in the acquisition
8 of the property and rights of the Auburn water commission-
9 ers and the city of Auburn in the creation of said district,
10 and from time to time for the further purpose of the pur-
11 chase or acquisition of other property and rights, of mak-
12 ing extensions, additions and improvements to its water
13 system and to the existing sources of water supply and of
14 securing additional sources of such water supply. Said
15 Auburn water district is also authorized to borrow money
16 for temporary purposes and to issue therefor the interest-
17 bearing negotiable notes of the district, which said notes
18 shall be payable not later than one year from the date there-
19 of. Said notes and bonds shall be legal obligations of said

20 Auburn water district, which is hereby declared to be a
21 quasi-municipal corporation within the meaning of section
22 one hundred and five, chapter fifty-one, of the revised
23 statutes, and all the provisions of said section and acts
24 amendatory thereof shall be applicable thereto. Said notes
25 and bonds shall be legal investments for savings banks.
26 Every issue of bonds shall be payable within a term of
27 thirty years.

Sect. 14. *Bonds payable serially or sinking fund estab-*
2 *lished.* Bonds issued by said Auburn water district under
3 authority of this act shall be payable in such annual install-
4 ments as will extinguish each issue in thirty years from its
5 date; and the amount of such annual installment in any year
6 shall not be less than the amount of the principal of said
7 issue payable in any subsequent year; or in lieu of such pro-
8 vision for serial payments, said Auburn water district shall
9 create a sinking fund by setting aside annually from its in-
10 come such amount as shall be sufficient with interest ac-
11 cumulations to extinguish and pay at maturity any issue of
12 bonds which contain no provision for serial payment as
13 aforesaid. The money so set aside shall be devoted to the
14 purchase or retirement of the obligations of said district,
15 or invested in securities legal for savings banks in the
16 state of Maine.

Sect. 15. *Exempt from taxation.* The property, rights
2 and franchises of said district shall be forever exempt from
3 taxation.

Sect. 16. *Water rates.* All individuals, firms and
 2 corporations, other than the city of Auburn, shall pay to
 3 the district the rates established by the board of trustees
 4 for the service and water used by them. Said rates shall
 5 be uniform within the territory supplied by the district and
 6 subject to the approval of the public utilities commission.

Sect. 17. *Referendum; procedure.* This act shall
 2 take effect when approved by a majority of all legal
 3 voters of the city of Auburn voting at a special meeting
 4 to be held on the second Monday in September in the year
 5 nineteen hundred and twenty-three. Said meeting shall
 6 be called, held and conducted and the results thereof de-
 7 termined in the manner provided for municipal elections
 8 in said city of Auburn. The city clerk of the city of
 9 Auburn shall prepare suitable ballots upon which shall
 10 be printed the following question: "Shall the act to incorpo-
 11 rate the Auburn water district, enacted by the people of
 12 Maine at the eighty-first legislature in the year 1923, be
 13 accepted?" with the words

	Yes			No		
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14 printed and arranged thereunder substantially as printed
 15 herein. The voters shall indicate their choice by a cross
 16 placed in the appropriate square.

Sect. 18. *When effective as to referendum.* This act
 2 shall take effect in ninety days after the final adjournment
 3 of the legislature, so far as necessary to empower the call-

4 ing and holding of the special meeting authorized in section
5 seventeen herein.