

MAINE STATE LEGISLATURE

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EIGHTY-FIRST LEGISLATURE

HOUSE

NO. 61

House of Representatives, Feb. 7, 1923.

Referred to Committee on Interior Waters and 500 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 Provide for a Commission to Be Known as the
People's Rights and Water Power Commission of the State
of Maine

WHEREAS, the inhabitants and their successors, thereof,
of the State of Maine, are the absolute owners of all waters and
rivers in the state, and that they shall receive a revenue from
the same as their just and legal due, and for the protecting and
upbuilding of our manufacturing and transporting interests and
the upbuilding of the state, therefore,

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

Section 1. That there is hereby created a commission to
be known as the People's Rights and Water Power Com-

3 mission of the State of Maine, and shall consist of five men,
4 one of whom shall be an experienced civil engineer, and
5 one shall be an expert hydraulic and electrical engineer,
6 two experienced dam builders, and one capable business
7 man. These men shall pass a civil service examination be-
8 fore a board of examiners, composed of four professors
9 of science, one from each of the colleges of the state, and
10 to be appointed by the president of each college. This board
11 shall meet at such time as they shall be notified by the Gov-
12 ernor, and at such a place as he may appoint, there to hear
13 and examine thoroughly as to the competency of the appli-
14 cants to fill any of the positions as prescribed for each of
15 the members of the commission. But no political test shall
16 be applied. The men must be appointed for their ability
17 for the office to be filled, not for any political party affilia-
18 tion. After the examination, the examining board shall at
19 once report to the Governor, giving the names of the men
20 who passed a satisfactory examination, and all vacancies
21 in the commission shall be filled in the same manner.

Sect. 2. On receipt of the report of the board of exam-
2 iners the Governor shall, with the consent of the council,
3 appoint the men so recommended as commissioners, who
4 shall hold office as long as they shall faithfully fulfill the
5 duties required of them, and if at any time the Governor
6 and council become convinced that any one or more of the
7 same commissioners are proving incompetent, they shall
8 notify such in writing, and order him or them before the

9 council for a hearing, and if the accused is found incom-
10 petent, neglectful or dishonest, the council shall declare the
11 office vacant, and the Governor shall proceed to fill the va-
12 cancy as prescribed in section one.

Sect. 3. The duty of the commissioners is first to ascer-
2 tain the amount and location of all the unoccupied water
3 power privileges in the state, as well as all occupied water
4 powers, and they shall proceed to take personal possession
5 at once, of all water power unoccupied, and shall advertise
6 water power to let, in a manner such as will best reach
7 manufacturers in want of cheap power, and when a suffi-
8 cient and reliable contract is received, the commissioners
9 shall proceed to the location desired, and shall acquire by
10 purchase as much land each side of said water power, as
11 they deem necessary for the construction of a suitable dam
12 and power house. If the owner of the land ask, what in
13 the minds of the commissioners, is an unreasonable, unjust
14 sum per acre, the commissioners of the county in which the
15 land is located, shall fix a just value, and under the same
16 process, the commissioners shall acquire as much of the
17 riparian rights as the erection of such a dam will cause the
18 water to overflow and in all cases where practicable such
19 a dam shall be built with its full capacity as a storage for
20 water, as the formation of the land will allow.

Sect. 4. The commissioners shall take possession of all
2 the occupied water powers in the state, which belongs to
3 the inhabitants and their successors, by first causing a no-

4 tice to be given to any person, company or corporation, who
5 are found in possession of such water powers, by giving
6 the claimant a proper notice in writing, allowing them sixty
7 days in which to vacate and deliver over to the commission-
8 ers all supervision of said water power, and the commis-
9 sioners may acquire as much land on each side of the river
10 or stream, where such water power is located as would be
11 necessary for the repair and the maintenance and care of
12 the same. The commissioners shall have and are hereby
13 given power to take possession of said land by due process
14 of condemnation and eminent domain.

Sect. 5. Any person, company or corporation in posses-
2 sion of any occupied water power who are using said power
3 themselves for manufacturing purposes or generating elec-
4 tric light, heat or power, shall have the preference in enter-
5 ing into a contract with the inhabitants through the com-
6 missioners, so that by paying such a sum or fee per horse-
7 power per annum for all horsepower used by them, the
8 said amount of power to be determined by the commission-
9 ers, but in no case shall they pay less than thirty dollars
10 per horsepower per annum. Any person, company, or cor-
11 poration in possession of such water powers who sell this
12 power to others direct, shall not be allowed a lease of said
13 power.

Sect. 6. Any person, company or corporation who de-
2 sires to improve and lease any unoccupied water power, may
3 on application to the commissioner setting forth the desire,

4 be allowed to do so, but said parties must build and main-
5 tain such a dam as the commissioners shall determine and
6 said builders shall have a lease of the water power not to
7 exceed ten years, and which may be renewed in periods of
8 ten years each, and said parties shall pay to the state for
9 the use of the inhabitants only thirty dollars per horsepower
10 per annum for the first ten years of lease, and thereafter
11 such sum as the commissioners may deem proper.

Sect. 7. The price of rental for water power throughout
2 the state shall be not less than thirty nor more than sixty
3 dollars for each and every horsepower used during one year,
4 and all money for the use of power shall be paid every three
5 months, and any party who fails to pay the contract price
6 within three months after it becomes due, shall be given
7 sixty days' notice in writing, declaring that they have broken
8 the contract and that the lease will be declared null and
9 void, and they must vacate the power.

Sect. 8. No person, company or corporation shall be al-
2 lowed to cut any ice on any waters or rivers for commercial
3 purposes, cold storages for meats, fish or creamery pur-
4 poses, or any other food products, without first getting a
5 permit from the commissioners and paying to the state for
6 the use of the inhabitants, a sum not less than twenty-five
7 cents, and not more than one dollar for each and every ton
8 of ice cut and taken from the waters and rivers. Municipal
9 ice plants shall be deemed a corporation in the above, and
10 shall receive a certificate from the commissioners to enter

11 on to any waters or rivers to cut and take ice therefrom,
12 and any person or company may pass any person's land to
13 get to said waters or rivers, without trespass, providing they
14 do the land or property no damage.

Sect. 9. All farmers and private individuals may cut ice
2 for home use or family consumption free of cost, but they
3 shall not cut or interfere upon any field of ice of any other
4 parties who have received a license from the commissioners
5 and have been assigned the boundary of their ice field.

Sect. 10. The commission shall be an incorporated com-
2 mission with full power to issue sufficient bonds to defray
3 all the expenses of the said commission, and the developing
4 of all water powers of the state, and also paying for all
5 riparian and flowage rights that may be deemed necessary.
6 Also to pay for all improvements on a basis of the actual
7 capital invested in them by the present holders of such im-
8 provements outside of all dams built by trespass upon the
9 rivers or waters belonging to the inhabitants. But any per-
10 son, company or corporation now holding any developed
11 water powers and are developing and supplying electric
12 light, power and heat, may be allowed to retain their im-
13 provements by paying to the commission for the benefit of
14 the inhabitants for each and every horsepower of water
15 that they use per annum, as provided in section six. The
16 commission shall take control of all dams on all waters and
17 rivers and shall assume the expense of the upkeep of the
18 same. The commission shall have power to pledge a suffi-

19 cient amount of the income of the leased powers to pay the
20 interest on all bonds issued and said interest shall be made
21 payable in two annual payments, and shall not exceed six
22 per cent per annum, and the redemption of all bonds issued.
23 And these bonds shall be deemed good and legal investment
24 for all savings banks in the state. Any city or town in
25 the state who wishes electric lights on their streets or coun-
26 try roads or power, light and heat for the use of the inhab-
27 itants, on the farms may petition the commission for the
28 same and if a sufficient number of towns combined shall
29 enter into a contract to warrant the cost of a plant, or a
30 wire be supplied, the commissioners shall at once proceed
31 to supply them with such light, power and heat, as they
32 need, taxing a reasonable rate for all such service sufficient
33 to cover the cost of maintenance of such service annually
34 and allowing for an income of not less than fifty dollars
35 per horsepower used in supplying the service required. The
36 commission shall have all the power of an attorney to act
37 for the interests of the inhabitants of the state. No bonds
38 shall be issued until they are needed by the commissioners
39 and no interest shall commence on said bonds until the day
40 they are issued by the commission and receive the endorse-
41 ment of the Governor and council. And as soon as the in-
42 come from the fees received from the rentals of the water
43 powers shall be sufficient to pay all indebtedness or operat-
44 ing expenses then such a sum shall be used annually not to
45 exceed ten million a year to pay the interest and redemption

46 of bonds, any further surplus not to exceed fifteen million
47 a year, shall be applied to paying the municipal expense of
48 all towns, cities, counties and state, such sum to be paid
49 by the state treasurer by order of the Governor and council
50 out of such funds that he has received from the commis-
51 sioners. If he has not received a sufficient sum to pay all
52 the expenses of the cities, towns, counties and state, he shall
53 pay a percentage on the dollar, all the municipal officers of
54 the towns, cities and county commissioners shall make out
55 an itemized report of all reasonable expenditures which
56 they shall subscribe to under oath before an officer qualified
57 to administer such oath, their reports shall then be submitted
58 to the state auditor, who shall examine the same and if he
59 finds them correct, reasonable and not extravagant, he shall
60 then notify the Governor and council as to the finding of
61 all the bills, but the Governor and council shall not order
62 any bill paid which they shall deem to be dishonest or ex-
63 travagant until they have ordered the officers responsible
64 for such bills to appear before them and explain to them
65 in regard to their bills, and if the Governor and council
66 shall then be convinced that the bill is right and proper,
67 they may then order it paid, so as to do away with all taxes
68 upon the people. Any balance then left shall be applied to
69 building good, solid and permanent roads of the most en-
70 during construction and such sums shall be expended an-
71 nually not to exceed fifteen million a year until all roads
72 in the state are completed. After the dams are all built and

73 riparian and flowage rights paid for and all roads built,
74 then all the money received after paying all state, counties,
75 cities and towns expenses, shall be divided annually per
76 capita to every man, woman and child who are legal inhab-
77 itants of the state.

Sect. 11. The commissioners shall receive a salary of
2 twenty-eight hundred dollars a year and all necessary travel-
3 ing expenses while on duty for the state. The Governor
4 and council shall see that the commissioners have a suitable
5 room in the State House for an office and shall appoint a
6 suitable person to act as permanent secretary and clerk for
7 the commissioners and do such clerical work as may be as-
8 signed to him and he shall receive twenty-two hundred dol-
9 lars per year for his services, and if he is sent to any expo-
10 sition or fair in the state or elsewhere for the purpose of
11 advertising the water powers of Maine, he shall receive a
12 sufficient sum to pay all actual expenses. The Governor
13 and council shall provide the commissioners with all neces-
14 sary clerical office help to conduct the business of the office
15 properly, the compensation of the same shall be fixed by
16 the Governor and council and shall be paid out of the reve-
17 nue received from the water power.

Sect. 12. The commissioners shall keep an itemized ac-
2 count of all moneys received and from what source and
3 also for all money paid out, taking a voucher for the same,
4 which shall be filed with the Governor and council to be
5 approved by the state auditor. They shall make a financial

6 statement to the Governor and council once in three months
7 and at the end of the year they shall make a full and com-
8 plete report of all their proceedings as well as an itemized
9 financial report and the Governor and council may order
10 as many copies of the report to be printed as may be deemed
11 necessary. All moneys received by the commission from
12 any source shall be paid to the treasurer of the state each
13 week and shall receive his voucher for the same.

Sect. 13. No person, company or corporation shall be al-
2 lowed to lease or hire any water privilege, water power or
3 any part thereof, with the intention of manufacturing elec-
4 tricity to be carried outside the state lines. Any person,
5 company or corporation leasing power in the state attempt-
6 ing to carry the wires of the conductors outside the state
7 line or connect with other wire or conductor which may
8 be brought into the state from outside by any parties what-
9 ever, shall have their lease revoked without notice, and shall
10 forfeit all their claims and rights to any franchise, power
11 buildings, and machinery, to the inhabitants.

Sect. 14. The commissioners shall have full power to
2 make such rules and regulations for the letting and leasing
3 of the water powers, permits for cutting of ice, storage of
4 logs or pulp wood on any waters or rivers in the state. Also
5 for power boats for carrying passengers on any of the said
6 waters or rivers. They shall have power to stop pollution
7 of any waters of the refuse from any saw mill, factory or
8 pulp mill, into said waters, particularly they shall take such

9 means to protect the pollution of all waters where taken for
10 drinking or culinary purposes by due process of law.

Sect. 15. And all laws relating to the water storage, com-
2 missioners and water powers of the state as embodied in
3 the public utility bill, as well as all laws previously enacted
4 relating to all waters and rivers in the state are hereby re-
5 pealed, and the people's rights and water powers commis-
6 sioners are hereby given full power and control of all wa-
7 ters and rivers of the state, to be developed and leased to
8 the benefit of all the inhabitants thereof. The people's rights
9 and water power commissioners shall give such bonds for
10 the honest and faithful performance of their duties as the
11 Governor and council shall determine. The commissioners
12 shall have power to hear the complaints of overcharges
13 when brought to their notice in writing by not less than five
14 persons, setting forth their complaints under oath that any
15 person, company or a corporation are charging an unreason-
16 able price for either light, heat or power. The commission-
17 ers shall call both parties before them for hearing, and if
18 in their minds the claim is sustained they shall have power
19 to fix a just price for the same. And that all waters and
20 rivers in the state are the legal property of the inhabitants
21 thereof and their successors by a good and sufficient war-
22 ranty deed of perpetuity given by King William and Queen
23 Mary of England, dated October seventh, sixteen hundred
24 and ninety-one. Warranted and defended by them, their
25 heirs and successors forevermore and shall never be dis-

26 posed of, by the state or even by the people themselves, as
27 the coming inhabitants have the same claim as the past and
28 present inhabitants have.

Sect. 16. All riparian lands necessary for the construc-
2 tion of all dams, power houses or for flowage purposes,
3 which cannot be bought for a reasonable price, shall be
4 taken under the constitutional law provided for taking over
5 lands by right of eminent domain and paid for as the law
6 provides excepting the wild lands which are owned and in-
7 herited by the inhabitants by entailed and warranted deed
8 dated October seventh, sixteen hundred and ninety-one, war-
9 ranted and defended to the inhabitants and their successors
10 by treaty of the United States Government.

This act shall take effect ninety days after the approval by
2 the Governor and the adjournment of the legislature.