

# MAINE STATE LEGISLATURE

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NEW DRAFT

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**EIGHTY-SECOND LEGISLATURE**

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**H. P. No. 1248**

**H. D. No. 485**

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House of Representatives, March 27, 1925.

Reported by Mr. Comins from Committee on Public Utilities  
and laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

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**STATE OF MAINE**

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

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**AN ACT to Incorporate the Old Town Water District.**

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

Section 1. *Territorial Limits; Corporate Name; Purposes.*

2 Subject to the provisions of section sixteen hereof, the  
3 following territory and the people therein namely: The  
4 town of Milford and so much of the City of Old Town as  
5 lies on Marsh's Island and on Treat and Webster's Island;  
6 together with so much of the Stillwater portion so-called,  
7 as is included within School District No. 3, as laid down  
8 on Lore Alford's map of said city, published by E. M.  
9 Woodford in 1855 and more particularly described as fol-  
10 lows: beginning at the westerly shore of the Stillwater

11 Branch of Penobscot River, where said shore is intersected  
12 by the northeasterly line of the town of Orono; thence  
13 northwestward, by and along said northerly line of Orono,  
14 to the southerly line of Lot 2 in the South Division of the  
15 Barker Tract in said Old Town; thence eastward, by and  
16 along the southerly lines of said Lot 2 and of Lot 1 in said  
17 South Division, to the southeast corner of said Lot 1; thence  
18 northward, by and along the easterly line of said Lot 1, to  
19 where said easterly line is intersected by the southerly line  
20 of Lot 7 in the River Division of said Barker Tract; thence  
21 eastward, by and along said southerly line of Lot 7, to the  
22 shore of the Stillwater Branch aforesaid; thence southerly,  
23 by and along said shore, to the point of beginning; shall  
24 constitute a body politic and corporate under the name of  
25 Old Town Water District, for the purpose of supplying  
26 the inhabitants of the City of Old Town and the town of  
27 Milford with pure water for domestic, sanitary and mu-  
28 nicipal purposes.

Sect. 2. *Authorized to Take; Hold and Distribute Water.*

2 The said district for effecting and carrying out the pur-  
3 poses of its incorporation, is hereby authorized to take, hold,  
4 divert, use and distribute water from the Penobscot River.

Sect. 3. *Authorized to Take and Hold Lands and Water  
2 Rights; Right of Eminent Domain Conferred.* The said  
3 district, for the purposes of its incorporation is hereby au-  
4 thorized to take and hold, as for public uses, by purchase or  
5 otherwise, any land or interest therein or water rights neces-

6 sary for erecting and maintaining dams, for flowage, for  
7 power for pumping its water supply through its mains, for  
8 reservoirs, for preserving the purity of the water and water  
9 shed, for laying and maintaining aqueducts and other struc-  
10 tures for taking, distributing and disposing of water and for  
11 rights of way or roadways, to its sources of supply, dams,  
12 power stations, reservoirs, mains, aqueducts, structures and  
13 lands.

Sect. 4. *Authorized to Lay and Maintain Pipes; etc.* The  
2 said district is hereby authorized to lay in and through the  
3 streets, roads, ways and highways of the said City of Old  
4 Town and town of Milford and across private lands therein,  
5 and to maintain, repair and replace all such pipes, aqueducts  
6 and fixtures as may be necessary and convenient for its  
7 corporate purposes, and whenever said district shall lay any  
8 pipes or aqueducts in any street, roadway or highway it  
9 shall cause the same to be done with as little obstruction  
10 as practicable to the public travel, and shall at its own ex-  
11 pense, without unnecessary delay, cause the earth and pave-  
12 ment removed by it to be replaced in proper condition.

Sect. 5. *Procedure in Exercising Right of Eminent Do-*  
2 *main.* In exercising any right of eminent domain conferred  
3 upon it by law, the said district shall file in the office of  
4 the county commissioners, of the county where such lands  
5 or water rights are situated, and record in the registry of  
6 deeds in said county, plans of the location of all lands or  
7 interest therein or water rights, to be taken, with an appro-

8 puate description and the name of the owners thereof, if  
9 known. When for any reason the district fails to acquire  
10 the property authorized to be taken, and which is described  
11 in such location, or the location recorded is defective or  
12 uncertain, it may, at any time, correct and perfect such  
13 location and file a new description thereof, and in such case  
14 the district is liable in damages only for property for which  
15 the owner had not previously been paid, to be assessed as  
16 of the time of the original taking, and the district shall not  
17 be liable for any acts which would have been justified if  
18 the original taking had been lawful. No entry shall be made  
19 on any private lands, except to make surveys until ten days  
20 shall have elapsed after the date of such filing, whereupon  
21 possession may be had of all said lands or interests therein  
22 or water rights so taken, but title thereto shall not vest in  
23 said district until payment therefor.

Sect. 6. *How Damages Assessed in Cases of Disagree-*  
2 *ment.* If any person sustaining damages by any taking as  
3 aforesaid, shall not agree with said district upon the sum  
4 to be paid therefor, either party, upon petition to the county  
5 commissioners of the county where said lands or water  
6 rights are situated, may have said damages assessed by  
7 them; the procedure and all subsequent proceedings and  
8 rights of appeal thereon shall be had under the same re-  
9 strictions, conditions and limitations as are or may be by  
10 law prescribed in the case of damages by the laying out of  
11 highways.

Sect. 7. *Procedure as to Crossing of Railroads.* In case  
2 of any crossing of railroad, unless consent is given by the  
3 company owning or operating such railroad, as to place,  
4 manner and conditions of the crossing, within thirty days  
5 after such consent is requested by such district, the Public  
6 Utilities Commission shall, upon petition setting forth a  
7 description of said premises and the reasons for said cross-  
8 ing after notice given as said commission may prescribe,  
9 determine the place, manner and conditions of such crossing,  
10 and all work within the limits of such railroad location shall  
11 be done under the supervision of the railroad company and  
12 to the satisfaction of the Public Utilities Commission, but  
13 at the expense of said Water District unless otherwise  
14 ordered by said Public Utilities Commission.

Sect. 8. *Trustees; Terms of Office and Compensation;  
2 Organization of Board; Vacancies; Annual Report.* All the  
3 affairs of said district shall be managed by a board of  
4 trustees composed of three members. Two of said trustees  
5 shall be chosen by the municipal officers of the City of Old  
6 Town but no member of the City Council shall during the  
7 term for which he is elected be chosen one of said board of  
8 trustees. If this act is accepted by the town of Milford, one  
9 member of said board shall be chosen by the municipal  
10 officers of the town of Milford; otherwise, such member  
11 shall be chosen by the municipal officers of the City of Old  
12 Town. As soon as convenient after the members of said  
13 board have been chosen, said trustees shall hold a meeting

14 at the aldermen's room in the City of Old Town and organ-  
15 ize by the election of a president and clerk, adopt a corporate  
16 seal and when necessary choose a treasurer and all other  
17 needful officers and agents for the proper conduct and  
18 management of the affairs of said district. At said first  
19 meeting they shall determine by lot the term of office of  
20 each trustee so that one shall serve for one year, one for  
21 two years and one for three years, and whenever the term  
22 of office of a trustee expires, his successor shall be chosen  
23 by the municipal officers of the City of Old Town, if the  
24 trustee whose term expires was chosen by the municipal  
25 officers of the City of Old Town, and by the municipal offi-  
26 cers of the town of Milford, if the trustee whose term ex-  
27 pires was chosen by the municipal officers of the town of  
28 Milford. The term of office of the trustees shall begin on  
29 the first Monday in April and the term of office of the  
30 trustees first chosen shall be considered to date from the  
31 first Monday of April next prior to their election. All  
32 trustees shall be eligible to reappointment. They may also  
33 ordain and establish such by-laws not inconsistent with the  
34 laws of the state as are necessary for their own convenience  
35 and the proper management of the affairs of said district.  
36 Said trustees may have the use of the municipal offices of  
37 the City of Old Town and the town of Milford, for the  
38 transaction of their business. Each member shall receive  
39 in full compensation for his services an allowance of one  
40 hundred dollars per annum, or such other sum as may be

41 approved by the municipal officers of the City of Old Town  
42 and by the municipal officers of the town of Milford pro-  
43 vided Milford accepts this act. At the close of each fiscal  
44 year the trustees shall make a detailed report of their doings,  
45 of the receipts and expenditures of said water district, of  
46 its financial and physical condition, and of such other mat-  
47 ters and things pertaining to said district as shall show the  
48 inhabitants of said district how said trustees are fulfilling  
49 the duties and obligations of their trust. Such reports shall  
50 be made and filed with the municipal officers of the City of  
51 Old Town and of the town of Milford on or before March  
52 first of each year.

Sect. 9. *May Take Over Plant of Penobscot County*  
2 *Water Company.* Said water district is hereby authorized  
3 and empowered to acquire by purchase or by the exercise  
4 of the right of eminent domain, which right is hereby ex-  
5 pressly delegated to said district for said purpose, the entire  
6 plant, properties, franchises, rights and privileges, except  
7 cash assets and accounts receivable, owned by the Penob-  
8 scot County Water Company, situate in the City of Old  
9 Town and the town of Milford, including all lands, waters,  
10 water-rights, dams, structures, reservoirs, pipes, machinery,  
11 fixtures, hydrants, tools and all apparatus and appliances  
12 used or usable in supplying water in the City of Old Town  
13 and town of Milford.

Sect. 10. *Procedure in Case Purchase Price of System*  
2 *of Penobscot County Water Company Cannot Be Agreed*



3 *Upon.* In case said trustees fail to agree with said Penob-  
4 scot County Water Company upon the terms of purchase of  
5 the above mentioned property, on or before January 1, 1926,  
6 said district, through its trustees aforesaid, is hereby au-  
7 thorized to take said plant, property, and franchises, as for  
8 public use by petition therefor in the manner hereinafter  
9 provided. And said water district, through its trustees,  
10 is hereby authorized on or before May first, nine-  
11 teen hundred and twenty-six, to file a petition in the  
12 clerk's office of the supreme judicial court for the  
13 County of Penobscot, in term time or in vacation,  
14 addressed to any justice of said court, who, after  
15 due notice to said Penobscot County Water Com-  
16 pany and its mortgagees, shall, after hearing and  
17 within thirty days after the filing of said peti-  
18 tion, appoint three disinterested appraisers, none of  
19 whom shall be residents of Penobscot or Hancock  
20 Counties, for the purpose of fixing the valuation  
21 of said plant, property and franchises. At the hear-  
22 ing aforesaid, such justice, upon motion of the peti-  
23 tioner, may order the production and filing in court,  
24 for the inspection of the petitioner, of all books and papers  
25 pertinent to the issue and necessary for a full understand-  
26 ing of the matter to be heard by said appraisers, the terms  
27 and conditions of so producing and filing such books and  
28 papers to be determined by the justice in his order there-  
29 for and to be enforced from time to time as any justice of

30 the supreme judicial court, in term time or in vacation,  
31 upon motion of either party, may deem reasonable and  
32 proper in the premises. At such hearing, such justice upon  
33 motion of the petitioner, may fix a time at which the said  
34 water company shall file in the clerk's office of the supreme  
35 judicial court for the county of Penobscot, for the inspection  
36 of the petitioner, so far as they relate to the service in the  
37 City of Old Town and the town of Milford, the following:  
38 First, schedules showing the names, residences and water  
39 service of all its customers on the first day of January in  
40 the year nineteen hundred and twenty-six, with the rate  
41 charged therefor; second, copies of all contracts in force  
42 on said first day of January; third, an itemized statement  
43 of the gross income earned during its last complete fiscal  
44 year and up to said January first, and all operating expenses  
45 and fixed charges, paid or incurred during such period and  
46 properly chargeable thereto; fourth, a memorandum of all  
47 real estate, water rights, or interests therein, owned or con-  
48 trolled on said first day of January, with such brief descrip-  
49 tion thereof as will reasonably identify the same; fifth,  
50 brief descriptions, specifications and plans of all reservoirs,  
51 mains, pipes, service pipes, hydrants, gates, gate boxes, shut-  
52 off boxes, fixtures and machinery and all the physical ele-  
53 ments in such water system, giving in detail quantities,  
54 sizes, lengths, and specifying the streets, roads, or ways  
55 where situated; sixth, an itemized list of all tools, apparatus,  
56 appliances and supplies used or usable in supplying water

57 on said first day of January. Such orders may be enforced  
58 from time to time by any justice of said supreme judicial  
59 court, in term time or in vacation, upon motion of either  
60 party, as such justice may deem reasonable and proper in  
61 the premises. At such hearing the justice then sitting may,  
62 upon motion of the petitioner, make all such decrees as  
63 he deems reasonable and proper to enable the petitioner,  
64 through its servants and employees, to ascertain the true  
65 condition of the mains and pipes of the said water company,  
66 externally or internally, in the presence of the officers or  
67 agents of said water company, the entire expense thereof to  
68 be borne by said water district. The said appraisers shall  
69 have the power of compelling attendance of witnesses and  
70 the production of all books, accounts and papers pertinent  
71 to the issue and necessary for a full understanding by them  
72 of the matter in question and may administer oaths; and  
73 any witness or person in charge of such books, accounts  
74 and papers refusing to attend or to produce the same shall  
75 be subject to the same penalties and proceedings, so far as  
76 applicable, as witnesses summoned to attend the supreme  
77 judicial court. Depositions may be taken as in civil actions.  
78 The appraisers so appointed shall, after notice and hearing,  
79 fix the valuation of said plant, property and franchises at  
80 what they are fairly and equitably worth, so that said water  
81 company shall receive just compensation for all the same.  
82 The first day of January, nineteen hundred and twenty-six  
83 shall be the date as of which the valuation aforesaid shall

84 be fixed, from which date interest on said award shall run,  
85 and all rents and profits accruing thereafter shall belong to  
86 said water district. The report of said appraisers, or a  
87 majority of them, shall be filed in said clerk's office, in term  
88 time or in vacation, as soon as may be after their appoint-  
89 ment, and such single justice, or, in case of his inability to  
90 act, any justice of said court appointed by the chief justice,  
91 may, after notice and hearing, confirm or reject the same,  
92 or recommit it if justice so requires. Before a commis-  
93 sion is issued to said appraisers either party may ask for  
94 instructions to said appraisers, and all questions of law  
95 arising upon said requests for instructions, or upon any  
96 other matters in issue, may be reported to the law court  
97 for determination before the appraisers proceed to fix the  
98 valuation of the property, plant and franchises of said  
99 company. Upon the confirmation of said report the court  
100 so sitting shall thereupon, after hearing, make final de-  
101 cree upon the entire matter, including the application of  
102 the purchase money and transfer of property, jurisdiction  
103 over which is hereby conferred, and with the power to  
104 enforce said decree as in equity cases. All findings of fact  
105 by said court shall be final, but any party aggrieved may  
106 take exceptions as to any ruling of law so made, the same  
107 to be accompanied by so much of the case as may be  
108 necessary to a clear understanding of the questions raised  
109 thereby. Such exceptions shall be claimed on the docket  
110 within ten days after such final decree is signed, entered

111 and filed and notice thereof has been given to the parties.  
112 or their counsel, and said exceptions so claimed shall be  
113 made up, allowed and filed within said time unless further  
114 time is granted by the court, or by agreement of the parties.  
115 They shall be entered at the next term of the law court to  
116 be held after the filing and entry of said decree and there  
117 heard unless otherwise agreed; or the law court for good  
118 cause shall order further time for hearing thereon. Be-  
119 fore said plant, property and franchises are transferred in  
120 accordance with such final decree and before payment  
121 therefor, as hereinbefore provided, such justice shall, upon  
122 motion of either party, after notice and hearing, take ac-  
123 count of all receipts and expenditures, properly had or  
124 incurred by the Penobscot County Water Company in re-  
125 spect of the territory comprising said district belonging to  
126 this period, from and after said first day of January,  
127 and all net rents and profits accruing thereafter, and shall  
128 order the net balance to be added to or deducted from,  
129 the amount to be paid under such final decree, as the case  
130 may be. All findings of law and fact by such justice at  
131 such hearing shall be final. On payment or tender by  
132 said district of the amount so determined and the perform-  
133 ance of all the other terms and conditions so imposed by  
134 said court, the entire plant, property and franchises of  
135 Penobscot County Water Company used and usable in  
136 supplying water in the City of Old Town and town of  
137 Milford shall become vested in said water district. Either

138 party may file and prosecute motions and petitions relating  
139 to the premises at any stage of the proceedings, and the  
140 proceedings shall not be discontinued except upon con-  
141 sent of both parties.

Sect. 11. *Contracts of Existing Water Company to be  
2 Assumed by District.* All valid contracts now existing be-  
3 tween the Penobscot County Water Company and any  
4 persons or corporations for supplying water in the City of  
5 Old Town and town of Milford shall be assumed and  
6 carried out by said Old Town Water District.

Sect. 12. *Bond Issue Authorized.* For accomplishing the  
2 purposes of this act, said water district, through its trustees,  
3 is authorized to borrow money temporarily, and to issue  
4 therefor the interest-bearing negotiable notes of the district,  
5 and for the purpose of refunding the indebtedness so  
6 created, of paying any necessary expenses and liabilities  
7 incurred under the provisions of this act, including the ex-  
8 penses incurred in the creation of the district, in acquiring  
9 the aforesaid properties and franchises of the Penobscot  
10 County Water Company, by purchase or otherwise, of se-  
11 curing sources of supply, taking water and land, paying  
12 damages, laying pipes, constructing, maintaining and operat-  
13 ing a water-plant, and making extensions, additions and  
14 improvements to the same, the said water district, through  
15 its trustees, may from time to time issue bonds of the dis-  
16 trict to an amount necessary in the judgment of the trustees.  
17 therefor. Said notes and bonds shall be legal obligations;

18 of said water district, which is hereby declared to be a  
19 quasi municipal corporation within the meaning of section  
20 one hundred five of chapter fifty-one of the revised statutes,  
21 and all the provisions of said section shall be applicable  
22 thereto. The said notes and bonds shall be legal invest-  
23 ments for savings banks.

Sect. 13. *Property Exempt from Taxation.* The prop-  
2 erty of said district shall be exempt from all taxation in  
3 the City of Old Town and town of Milford and in any  
4 other towns where any part of its plant may be located.

Sect. 14. *Rates; Application of Revenues; Sinking Fund;*  
2 *Surplus.* All individuals, firms and corporations, whether  
3 private, public or municipal, shall pay to the treasurer of  
4 said district the rates established by said board of trustees  
5 for the water used by them, and said rates shall be uniform  
6 within the territory supplied by the district and subject to  
7 approval of the Public Utilities Commission. Said rates  
8 shall be so established as to provide revenue for the fol-  
9 lowing purposes:

1. To pay the current expenses for operating and main-  
2 taining the water system, and provide for such extensions  
3 and renewals as may become necessary.

2. To provide for the payment of the interest on the in-  
2 debtedness created by the district.

3. To provide each year a sum equal to not less than one  
2 per centum nor more than five per centum of the entire  
3 indebtedness created by the district, which sum shall be

4 turned into a sinking fund and there kept to provide for  
5 the extinguishment of said indebtedness. The money set  
6 aside for the sinking fund shall be devoted to the retire-  
7 ment of the obligations of the district or invested in such  
8 securities as savings banks are allowed to hold. Provided,  
9 however, that the trustees may, in their discretion and in  
10 lieu of the establishment of a sinking fund, issue the bonds  
11 of the district so that not less than one per centum of the  
12 amount of the bonds so issued shall mature and be retired  
13 each year.

4. If any surplus remains at the end of the year, it may  
2 be turned into the sinking fund.

Sect. 15. *Incidental Powers Granted.* All incidental  
2 powers, rights and privileges necessary to the accomplish-  
3 ment of the main object herein set forth are granted to the  
4 corporation hereby created.

Sect. 16. *Local Referendum in Milford.* This act, so far  
2 as it includes the territory and people constituting the town  
3 of Milford shall not take effect unless accepted and approved  
4 by a majority vote of the legal voters within said town of  
5 Milford at an election specially called and held for the  
6 purpose by the municipal officers of the town of Milford,  
7 the date of holding said election to be determined by said  
8 municipal officers, but to be not later than October 1, 1925;  
9 said special election to be called, advertised and conducted  
10 according to the law relating to municipal elections. Pro-  
11 vided, however, that the selectmen of said town shall not



12 be required to prepare for posting, nor the clerk to post, a  
13 new list of voters. Said selectmen shall be in session the  
14 secular day next preceding said special election. The town  
15 clerk shall reduce the subject of this act to the following  
16 question: "Shall the act to incorporate the Old Town Water  
17 District be accepted?" and the voters shall indicate by a  
18 cross placed against the words "yes" or "no" their opinion  
19 of the same. The result shall be declared by the selectmen  
20 and due certificate thereof filed by the town clerk with the  
21 secretary of state. Should the town of Milford fail to ac-  
22 cept this act, then the territory and people within said town  
23 shall not be a part of said Old Town Water District but  
24 said Water District shall supply water in said town and to  
25 the inhabitants thereof under the provisions of this act.

Sect. 17. *Local Referendum in Old Town.* This act,  
2 subject to the provisions of section sixteen shall take effect  
3 when approved by a majority vote of the legal voters of so  
4 much of said district as lies within the limits of the City of  
5 Old Town, voting at an election specially called and held  
6 for the purpose, by the municipal officers of the City of  
7 Old Town, to be held at the voting places in each ward in  
8 said city; the date of holding said election to be determined  
9 by said municipal officers but to be not later than October  
10 1, 1925. The board of registration shall prepare and furn-  
11 ish separate check lists for the several wards for such of  
12 the voters within said district as are then legal voters of  
13 said city and reside in that part of said several wards which

14 is embraced in said district, and all notices, warrants or  
15 other proceedings shall be varied accordingly so as to show  
16 that only such voters as reside in said district as aforesaid  
17 are entitled to vote upon the above question. Such special  
18 election shall be called, advertised and conducted according to  
19 the law relating to municipal elections; provided, however,  
20 that the board of registration shall not be required to pre-  
21 pare nor the city clerk to post a new list of voters; and  
22 for this purpose said board of registration shall be in ses-  
23 sion on the three secular days next preceding said election,  
24 the first two days thereof to be devoted to registration of  
25 voters and the last day to enable the board to verify the  
26 corrections of said list and to complete and close up its  
27 records of said sessions. The city clerk shall reduce the  
28 subject of this act to the following question: "Shall the  
29 act to incorporate the Old Town Water District be ac-  
30 cepted?" and the voters shall indicate by a cross placed  
31 against the words "yes" or "no" their opinion of the same.  
32 The result shall be declared by the mayor and aldermen  
33 and due certificate thereof filed with the secretary of state  
34 by the clerk of said city.

Sect. 18. *Act Inoperative Unless District Acquires by*  
2 *Purchase or Petitions for Exercise of Right of Eminent*  
3 *Domain, Plant of Private Owner.* If said water district  
4 shall fail to acquire by purchase or by the exercise of the  
5 right of eminent domain, as in this act provided, the plant,  
6 properties, franchises, rights and privileges owned by the

7 Penobscot County Water Company and used or usable in  
8 supplying water in the City of Old Town and town of  
9 Milford, then this Act shall become null and void.

Sect. 19. *Act to Take Effect for Purposes of Election*  
2 *90 Days After Adjournment of Legislature.* This act shall  
3 take effect in ninety days after the final adjournment of the  
4 legislature, so far as necessary to empower the calling and  
5 holding of the special election authorized in sections sixteen.  
6 and seventeen herein.