

MAINE STATE LEGISLATURE

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EIGHTY-FOURTH LEGISLATURE

House Document

No. 1

H. P. 5 House of Representatives, Jan. 10, 1929.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Allen of Sanford.

STATE OF MAINE

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

AN ACT to Incorporate Sanford Water District.

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

Section 1. Territorial limits, corporate name and purpose.

2 The territory comprising the Town of Sanford with the
3 people residing therein, shall constitute a body politic and
4 corporate under the name of Sanford Water District, for
5 the purpose of supplying the inhabitants of said district and
6 said municipality with pure water for domestic and mu-
7 nicipal purposes.

Sect. 2. Source of water supply; may take and hold land

2 by purchase or otherwise, subject to general provisions.

3 Said district is hereby authorized, for the purposes afore-
4 said, to take and hold sufficient water of any surface or
5 underground sources, streams, springs or ponds in said dis-
6 trict or any adjoining towns and may take and hold by
7 purchase or otherwise any land or real estate necessary for
8 erecting dams, power, reservoirs, standpipes for preserving
9 the purity of the water or watershed and for laying and
10 maintaining aqueducts for taking, discharging and dispos-
11 ing of water.

The provisions of sections twenty-three to twenty-six, in-
2 clusive, of chapter sixty-one of the revised statutes shall
3 apply to all land taken under this section.

Sect. 3. Damages, how ascertained. Said district shall
2 be liable for all damages sustained by persons or corpora-
3 tions in their property by the taking of any land whatsoever
4 or water or by flowage or by excavating through any land
5 for the purpose of laying pipes, building dams or construct-
6 ing reservoirs or standpipes. If any person sustaining dam-
7 age as aforesaid and said corporate district shall not mutu-
8 ally agree upon the sum to be paid therefor, such person
9 or corporation shall cause his or her or its damages to be
10 ascertained in the same manner and under the same condi-
11 tions, restrictions and limitations as are or may be pre-
12 scribed in the case of damages by the laying out of high-
13 ways.

Sect. 4. May lay pipes, etc., along public ways and across
2 private lands. Said water district is hereby authorized to

3 lay in and through the streets and highways of said Town
4 of Sanford and any adjoining town or towns and across
5 private lands in said Town of Sanford or any adjoining
6 town or towns and to take up, repair and replace all such
7 pipes, aqueducts and fixtures as may be necessary for the
8 objects set forth and whenever said district shall lay any
9 pipes or aqueducts in any street or highway. It shall cause
10 the same to be done with as little obstruction as possible to
11 the public travel, and shall at its own expense, without un-
12 necessary delay, cause the pavement and earth removed by
13 it to be replaced in proper condition.

Sect. 5. Management of Affairs. All the affairs of said
2 water district shall be managed by a board of trustees, com-
3 posed of three members chosen by the legal voters of said
4 district. The first board of trustees shall be elected at the
5 meeting of the voters of said Town of Sanford when this
6 charter is accepted, which meeting may be a special meeting
7 called for said purpose. As soon as convenient after said
8 trustees have been chosen, they shall hold a meeting at the
9 office of the selectmen in the Town of Sanford and organize
10 by the election of a president and clerk, adopt a corporate
11 seal, and when necessary may choose a treasurer and all
12 other needful officers and agents for the proper conduct and
13 management of the affairs of said district. At said first
14 meeting they shall determine by lot the term of office of
15 each trustee so that one shall serve for one year, one for
16 two years and one for three years; and when the term of

17 office of a trustee expires, the town at its annual town meet-
18 ing shall elect by ballot a successor to serve the full term
19 of three years; and in case any other vacancy arises it shall
20 be filled in like manner for the unexpired term. They may
21 also ordain and establish such by-laws, not inconsistent with
22 the laws of the state, as are necessary for their own con-
23 venience and the proper management of the affairs of said
24 district. The terms of office of said trustees shall begin on
25 the first Monday of January, but this provision shall not
26 prevent the first board of trustees from becoming
27 such at once upon their election at the meeting in which
28 this charter is accepted. The trustees shall make and pub-
29 lish an annual report and include therein the report of the
30 treasurer. Each trustee shall receive in full compensation
31 for his services an allowance of two hundred dollars per
32 annum.

Sect. 6. Acquisition of systems of Sanford Water Com-
2 pany and Springvale Acqueduct Company authorized. Said
3 district is hereby authorized and empowered to acquire by
4 purchase or by the exercise of the right of eminent domain,
5 which right is hereby expressly delegated to said district
6 for said purpose, the entire plants, properties, franchises,
7 rights and privileges now owned or held by said Sanford
8 Water Company and Springvale Aqueduct Company, in-
9 cluding all lands, buildings, pipes, standpipes, reservoirs,
10 machinery, fixtures, hydrants, automobiles, tools, apparatus
11 and appliances owned by the said Sanford Water Company

12 and Springvale Aqueduct Company and used or usable in
13 supplying water, and any other real estate in said district
14 or adjoining towns for the purposes herein set forth.

Sect. 7. Procedure in case purchase price of systems of
2 Sanford Water Company and Springvale Aqueduct Com-
3 pany cannot be agreed upon. In case said trustees fail to
4 agree with said Sanford Water Company and Springvale
5 Aqueduct Company or either of said companies upon the
6 terms of the purchase of the above mentioned property or
7 properties, within three months after the acceptance of this
8 charter by the inhabitants of said water district as herein-
9 after set forth, said district, through its trustees aforesaid,
10 is hereby authorized to take said plants, properties and
11 franchises, as for public use by petition therefor in the
12 manner hereinafter provided. And said water district,
13 through its trustees, is hereby authorized at any time after
14 three months from the date of the acceptance of this charter,
15 as aforesaid, not later than January 1, 1930, to file a petition
16 in the clerk's office of the Supreme Judicial Court for the
17 county of York, in term time or vacation, addressed to any
18 justice of said court, who, after due notice to said Sanford
19 Water Company and said Springvale Aqueduct Company,
20 and their mortgagees shall after hearing and within thirty
21 days after the filing of said petition appoint three disinter-
22 ested appraisers, none of whom shall be residents of the
23 Town of Sanford, for the purpose of fixing the valuation
24 of said plants, properties, and franchises. At the hearing

25 aforesaid, such justice, upon motion of the petitioner, may
26 order the production and filing in court, for the inspection
27 of the petitioner, all of the books and papers appurtenant
28 to the issue and necessary for the full understanding of the
29 matter to be heard by said appraisers, the terms and condi-
30 tions of so producing and filing such books and papers to
31 be determined by the justice in his order therefor and to be
32 enforced from time to time as any justice of the supreme
33 judicial court, in term time or in vacation, upon motion of
34 either party, may deem reasonable and proper in the prem-
35 ises. At such hearing, such justice upon motion of the
36 petitioner, may fix a time at which the said water companies
37 shall file in the clerk's office of the supreme judicial court
38 for the County of York, for the inspection of the petition-
39 er, the following: first, schedules showing the names, resi-
40 dences and water service of all customers on the first day
41 of January in the year 1930, with the rate charged therefor;
42 second, copies of all contracts in force on the said first day
43 of January, 1930; third, an itemized statement of the gross
44 income earned during its last complete fiscal year and up to
45 said first day of January and all operating expenses and
46 fixed charges, paid or incurred during such period and
47 properly chargeable thereto; fourth, a memorandum of all
48 real estate, water rights, or interest therein, owned or con-
49 trolled on said first day of January, 1930, with such brief
50 description thereof as would reasonably identify the same;
51 fifth, brief descriptions, specifications and plans of all rese-

52 voirs, mains, pipes, service pipes, hydrants, gates, gate-
53 boxes, shut-off boxes, fixtures and machinery and all the
54 physical elements in such water systems, giving in detail
55 quantities, sizes, lengths and specifying the streets, roads,
56 or ways where situated; sixth, an itemized list of all tools,
57 apparatus, appliances and supplies used or usable in sup-
58 plying water on said first day of January. Such orders may
59 be enforced from time to time by any justice of said su-
60 preme judicial court, in term time or in vacation, upon
61 motion of either party, as such justice may deem reasonable
62 and proper in the premises. At such hearing the justice
63 then sitting may, upon motion of the petitioner, make all
64 such decrees as he deems reasonable and proper to enable
65 the petitioner, through its servants and employees, to ascer-
66 tain the true condition of the mains and pipes of the said
67 water companies, externally or internally, in the presence
68 of the officers or agents of said water companies, the entire
69 expense thereof to be borne by said water district. The
70 said appraisers shall have the power of compelling attend-
71 ance of witnesses and the production of all books, accounts
72 and papers pertinent to the issue and necessary for a full
73 understanding by them of the matter in question and may
74 administer oaths; and any witness or person in charge of
75 such books, accounts and papers refusing to attend or to
76 produce the same shall be subject to the same penalties and
77 proceedings, so far as applicable, as witnesses summoned
78 to attend the supreme judicial court. Depositions may be

79 taken as in civil actions. The appraisers so appointed shall
80 after notice and hearing, fix the valuation of said plants,
81 properties and franchises at what they are fairly and equit-
82 ably worth, so that said water companies shall receive just
83 compensation for all the same. The first day of January,
84 nineteen hundred and thirty, shall be the date as of which
85 the valuation aforesaid shall be fixed, from which date inter-
86 est on said award shall run, and all rents and profits accru-
87 ing thereafter shall belong to said water district. The report
88 of said appraisers, or a majority of them, shall be filed in
89 said clerk's office, in term time or in vacation, as soon as may
90 be after their appointment, and such single justice, or, in
91 case of his inability to act, any justice of said court appoint-
92 ed by the chief justice, may, after notice and hearing, con-
93 firm or reject the same, or recommit it if justice so requires.
94 Upon the confirmation of said report the court so sitting
95 shall thereupon, after hearing, make final decree upon the
96 entire matter, including the application of the purchase
97 money and transfer of property, jurisdiction over which is
98 hereby conferred, and with the power enforce said decrees as
99 in equity cases. All findings of fact by said court shall be
100 final, but any party aggrieved may take exceptions as to
101 any ruling of law so made, the same to be accompanied by
102 so much of the case as may be necessary to a clear under-
103 standing of the questions raised thereby. Such exceptions
104 shall be claimed on the docket within ten days after such
105 final decree is signed, entered and filed and notice thereof

106 has been given to the parties or their counsel, and said ex-
107 ceptions so claimed shall be made up, allowed and filed
108 within said time unless further time is granted by the court,
109 or by agreement of the parties. They shall be entered at the
110 next term of the law court to be held after the filing and
111 entry of said decree and thereheard unless otherwise agreed ;
112 or the law court for good cause shall order further time for
113 hearing thereon. Before said plants, properties and fran-
114 chises are transferred in accordance with such final decree
115 and before payment therefor, as hereinbefore provided, such
116 account of all receipts and expenditures properly had or in-
117 curred by the Sanford Water Company and Springvale
118 Aqueduct Company, belonging to this period, from and af-
119 ter said first day of January, and all net rents and profits
120 accruing thereafter, and shall order the net balance to be
121 added to, or deducted from, the amount to be paid under
122 such final decree, as the case may be. All findings of law
123 and fact by such justice at such hearing shall be final. On
124 payment or tender by said district of the amount so deter-
125 mined and the performance of all the other terms and con-
126 ditions so imposed by said court, the entire plants, proper-
127 ties and franchises shall become vested in said water dis-
128 trict. All of said plants, properties and franchises shall be
129 taken and shall vest in said district, subject to all bonds,
130 mortgages, liens and incumbrances thereon, all which
131 bonds, mortgages, liens and incumbrances shall be assumed
132 and paid by said district. The compensation to be paid to

133 said Sanford Water Company and Springvale Aqueduct
134 Company for said plants, properties and franchises shall be
135 the difference between the valuation thereof as fixed and
136 determined by said appraisers and the aggregate amount of
137 such bonds, mortgages, liens and incumbrances which are
138 assumed by said district.

Sect. 8. Valid Contracts of Sanford Water Company and
2 Springvale Aqueduct Company to be assumed. All valid
3 contracts now existing between the said companies and any
4 persons or corporations for supplying water shall be as-
5 sumed and carried out by said Sanford Water District.

Sect. 9. Bond issue authorized. For accomplishing the
2 purposes of this act said water district is hereby authorized
3 and empowered through its trustees, to issue its bonds to an
4 amount sufficient to procure funds to pay the expenses in-
5 curred in the acquisition of said plants, properties and fran-
6 chises of said companies aforesaid, for further extensions,
7 additions and improvements of said plant and to refund any
8 bonds or other indebtedness assumed by said district under
9 this act. Said bonds shall be a legal obligation of said
10 water district, which is hereby declared to be a quasi-mu-
11 nicipal corporation within the meaning of section one hun-
12 dred and five of chapter fifty-one of the revised statutes of
13 nineteen hundred and sixteen and all the provisions of said
14 section and acts amendatory thereof shall be applicable
15 thereto. The bonds shall be a legal investment for savings
16 banks. The trustees may also borrow on the notes of the

17 district such sums as may be necessary to meet the current
18 expenses of the district in anticipation of the collection of
19 water rates.

Sect. 10. Water rates; sinking fund. All individuals,
2 firms and corporations, whether public, private or munici-
3 pal, shall pay to the treasurer of said district the rates
4 established by said board of trustees for the water used by
5 them, and said rates shall be uniform within the district.
6 Said water rates shall be so established as to provide rev-
7 enue for the following purposes:

I. To pay the current running expenses for maintaining
2 the water systems and provide for such extensions and re-
3 newals as may become necessary.

II. To provide for payment of interest on the indebted-
2 ness of the district.

III. To provide each year a sum equal to not less than
2 one or more than four per cent of the entire indebtedness
3 of the district, which sum shall be turned into a sinking-
4 fund to provide for the final extinguishment of the funded
5 debt. The money set aside for the sinking-fund shall be
6 devoted to the retirement of the obligations of the district,
7 or invested in such securities as savings banks are allowed
8 to hold. Provided, however, that the trustees may, in their
9 discretion and in lieu of the establishment of a sinking-fund,
10 issue the bonds of the district so that not less than one per
11 centum of the amount of the bonds so issued shall mature
12 and be retired each year.

Sect. 11. Exempt from taxation. The property of said
2 district shall be exempt from taxation.

Sect. 12. Incidental powers and privileges granted. All
2 incidental powers, rights and privileges necessary to the
3 accomplishment of the main object herein set forth are
4 granted to the corporation hereby created.

Sect. 13. Subject to local referendum; procedure. This
2 act shall take effect when accepted by a majority vote by
3 ballot of the inhabitants of the Town of Sanford at a meet-
4 ing to be specially called and held for the purpose on or
5 before the twentieth day of August, nineteen hundred twen-
6 ty-nine, and the selectmen of the Town of Sanford are here-
7 by authorized to call said meeting. Such special meeting
8 shall be called by the selectmen as aforesaid by issuing their
9 warrant directed to any constable of the town directing him
10 to notify and warn the inhabitants of said town to assemble
11 at the town hall in said Sanford at such reasonable time
12 not later than said August twenty, nineteen hundred twenty-
13 nine, as they may direct, to choose a moderator to preside
14 at said meeting; to vote upon the acceptance of this act; to
15 elect trustees for said water district and transact such other
16 business as may properly come before said meeting. In case
17 said selectment shall refuse or unreasonably neglect to call
18 said meeting it may be called by any justice of the peace in
19 said district upon petition and application of ten or more
20 inhabitants of said Sanford. The town clerk of Sanford
21 shall reduce the subject matter of this act to the following

22 questions: "shall the act to incorporate Sanford Water Dis-
23 trict be accepted?" And the voters shall indicate by plac-
24 ing a cross against the words "yes" and "no" their opinion
25 of the same. The results shall be declared by the selectmen
26 of Sanford and due certificate thereof filed by the town clerk
27 with the secretary of state. The clerk of the Town of San-
28 ford shall be clerk ex-officio of all meetings of the inhabi-
29 tants of said water district and shall make and preserve a
30 record of all such meetings as the records of said town are
31 made and preserved. This act shall take effect ninety days
32 after the final adjournment of the legislature so far as
33 necessary to empower the calling and holding of all of said
34 meetings. The approval of this act in the manner provided
35 by this section shall constitute an acceptance by said water
36 district of the methods of appraisal prescribed by section
37 seven hereof and shall bind said water district and said
38 water companies thereto.

Sect. 14. Sections two, three and four of this act shall be
2 inoperative, null and void, unless said water district shall
3 first acquire by purchase or by the exercise of the right of
4 eminent domain, as in this act provided, the plants, proper-
5 ties and franchises, rights and privileges now held by the
6 Sanford Water Company and Springvale Aqueduct Com-
7 pany.

Sect. 15. Expenses, how borne. All costs and expenses
2 arising under the provisions of this act shall be paid and

3 borne as directed by the court in the final decree provided
4 by section seven of this act.