

MAINE STATE LEGISLATURE

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EIGHTY-FOURTH LEGISLATURE

House Document

No. 104

H. P. 332. House of Representatives, Jan. 30, 1929.

Referred to Committee on Public Utilities and 1000 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. MacKinnon of Mexico.

STATE OF MAINE

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

AN ACT to Incorporate the Mexico Water District.

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

Section 1. The following territory and the people within
2 the same, namely: That part of the town of Mexico includ-
3 ed within the following named boundaries: Commencing at
4 a point on the Rumford and Mexico town line where Swift
5 river flows into the Androscoggin river; thence following
6 the Rumford and Mexico town line in a northerly direction
7 to a point where said town line intersects the northerly side
8 line of lot number eighteen in range three, in said town of
9 Mexico; thence northeasterly, following the line between

10 lots numbered eighteen and nineteen in ranges three, four,
11 five and six to a point which is the westerly corner of lot
12 number eighteen in range seven, the southerly corner of lot
13 nineteen in range seven, the easterly corner of lot nineteen
14 in range six, and the northerly corner of lot eighteen in
15 range six; thence easterly on range line between ranges six
16 and seven to the westerly corner of lot fifteen in range
17 seven; thence southerly along the lines between lots fifteen
18 and sixteen, in range six, five and four to the easterly cor-
19 ner of lot sixteen in range three; thence easterly along the
20 line between ranges three and four to the westerly corner
21 of lot number eleven in range four; thence southerly, along
22 the line between lots eleven and twelve in ranges three and
23 two, to the northeasterly side line of lot number eight;
24 thence easterly, along the northeasterly side line of lot num-
25 ber eight in range one to the northerly corner of lot seven
26 in range one; thence southerly on the line between lots
27 seven and eight in range one to lot number twelve; thence
28 westerly to the northerly corner of said lot number twelve;
29 thence southerly, along the westerly side line of said lot
30 number twelve to the Androscoggin river; thence northerly,
31 following the line of said Androscoggin river to the point
32 of beginning, shall constitute a public municipal corpora-
33 tion under the name of the Mexico Water District, for the
34 purpose of supplying the inhabitants of said district with
35 pure water for domestic, sanitary and municipal purposes.

Sect. 2. The said district, for the purpose of its incor-

2 poration, is hereby authorized to take, hold, divert, use and
3 distribute water from Thompson Brook, so-called, in the
4 town of Mexico, and from Swift river, and from all other
5 sources of water supply now owned, controlled or used by
6 the Mexico Water Company, or authorized under the fran-
7 chise of said company, or by any provision of law.

Sect. 3. The said district, for the purposes of its incor-
2 poration, is hereby authorized to take and hold as for pub-
3 lic uses, by purchase or otherwise, any land or interest
4 therein or water rights necessary for erecting and main-
5 taining dams, for flowage, for power for pumping its water
6 supply through its mains, for reservoirs, for preserving the
7 purity of its water and watershed, for laying and main-
8 taining aqueducts and other structures, for taking, dis-
9 tributing, discharging and disposing of water, and for
10 rights of way or roadways to its sources of supply, dams,
11 power stations, reservoirs, mains, aqueducts, structures
12 and lands.

Sect. 4. The said district is hereby authorized to lay
2 pipes in and through the streets, roads, ways and high-
3 ways of the said town of Mexico, and to maintain, repair
4 and replace all such pipes, aqueducts and fixtures as may
5 be necessary and convenient for its corporate purposes, and
6 whenever said district shall lay any pipes or aqueducts in
7 any street, roadway or highway, it shall cause the same to
8 be done with as little obstruction as practicable to the pub-
9 lic travel, and shall at its own expense, without unneces-

10 sary delay, cause the earth and pavement removed by it to
11 be replaced in proper condition.

Sect. 5. The said district is hereby authorized for the
2 purposes of its incorporation, to erect and maintain all
3 dams, reservoirs and structures necessary and convenient
4 for its corporate purposes.

Sect. 6. In exercising any right of eminent domain con-
2 ferred upon it by law, from time to time, or any right of
3 eminent domain through or under the franchise of the
4 Mexico Water Company or other companies by it acquired,
5 the said district shall file in the office of the county com-
6 missioners of the county where such lands or water rights
7 are situated and record in the registry of deeds of said
8 county, plans of the location of all lands or interests therein
9 or water rights, to be taken, with an appropriate description
10 and the names of the owner or owners thereof, if known.
11 When for any reason the district fails to acquire the prop-
12 erty authorized to be taken, and which is described in such
13 location, or the location recorded is defective or uncertain,
14 it may, at any time, correct and perfect such location and
15 file a new description thereof, and in such case the district
16 is liable in damages only for the property for which the
17 owner had not previously been paid, to be assessed as of
18 the time of the original taking, and the district shall not be
19 liable for any acts which would have been justified if the
20 original taking had been lawful. No entry shall be made
21 upon any private lands, except to make surveys, until the

22 expiration of ten days from such filing, whereon possession
23 may be had of all said lands or interests therein or water
24 rights so taken, but title thereto shall not vest in said dis-
25 trict until payment therefor.

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

Sect. 8. All the affairs of said water district shall be
2 managed by a board of trustees composed of three mem-
3 bers, chosen by the municipal officers of Mexico. Before
4 entering upon the duties of their office the said trustees
5 shall file a bond for the faithful performance of their trust,
6 with the treasurer of said town of Mexico, in such sum as
7 may be required, from time to time, by the selectmen of
8 said Mexico, the premium for said bond to be paid by the
9 Mexico Water District. As soon as convenient after the
10 members of said board have been chosen and qualified, said
11 trustees shall hold a meeting and organize by the election of
12 a president and clerk, adopt a corporate seal and when neces-
13 sary may choose a treasurer and all other needful officers

14 and agents for the proper conduct and management of the
15 affairs of said district. At said first meeting they shall de-
16 termine by lot the term of office of each trustee so that one
17 shall serve for one year, one for two years and one for
18 three years, and whenever the term of office of a trustee
19 expires, the body which appointed said trustee shall appoint
20 a successor to serve the full term of three years, and in
21 case any other vacancy arises it shall be filled in like man-
22 ner for the unexpired term. They may also adopt such by-
23 laws as are necessary for their own convenience and the
24 proper management of the affairs of the district. The term
25 of office of said trustees first chosen shall be considered to
26 date from the first Monday of April, in the year of our
27 Lord nineteen hundred and twenty-nine. Said trustees may
28 procure an office and incur such expenses as may be neces-
29 sary. Each member shall receive in full compensation for
30 his services an allowance of fifty dollars per annum. At
31 the close of each fiscal year the trustees shall make a de-
32 tailed report of their doings, of the receipts and expendi-
33 tures of said water district, of its financial and physical
34 condition, and of such other matters and things pertaining
35 to said district as shall show the inhabitants of said dis-
36 trict how said trustees are fulfilling the duties and obliga-
37 tions of their trust, such reports to be made and filed with
38 the municipal officers of the town of Mexico.

Sect. 9. Said water district is hereby authorized and em-
2 powered to acquire by purchase or by the exercise of the

3 right of eminent domain, which right is hereby expressly
4 delegated to said water district for said purposes, the en-
5 tire plant, property, franchises, rights and privileges now
6 held by the Mexico Water Company, and intended, used
7 and provided by said company for the purposes of supply-
8 ing water for domestic or municipal purposes or both, in-
9 cluding all lands, waters, water rights, dams, reservoirs,
10 pipes, machinery, fixtures, hydrants, tools and all apparatus
11 and appliances owned by said company, and used or usable
12 in supplying water in said district, together with all real
13 estate so used or usable. The said Mexico Water Com-
14 pany is hereby authorized to sell and transfer its franchises
15 and property to said water district.

Sect. 10. In case the said trustees fail to agree with the
2 aforesaid company upon the terms of purchase, on or be-
3 fore September tenth, nineteen hundred and twenty-nine,
4 then said water district, through its trustees, is hereby
5 authorized to take the plant, property and franchises of the
6 aforesaid company as authorized in section nine as for pub-
7 lic uses, by petition therefor in the manner provided where-
8 in such company shall be a party defendant., And said
9 water district, through its trustees, is hereby authorized be-
10 fore November first nineteen hundred and twenty-nine, to
11 file a petition in the clerk's office of the supreme judicial
12 court for the county of Oxford, in term time or in vaca-
13 tion, addressed to any justice thereof, who, after notice to
14 said defendant company, shall after hearing, and within

15 thirty days after the filing of said petition, appoint three
16 disinterested appraisers, none of whom shall be residents
17 of the county of Oxford, one at least of whom shall be
18 learned in the law, for the purpose of fixing the valuation
19 of the plant, property and franchises of said defendant
20 company as described in section nine. Said petition shall
21 not be dismissed after filing but may and shall be amended
22 in any manner required to enable the court to make all
23 necessary decrees thereon. At the hearing aforesaid, such
24 justice, upon motion of the petitioner, may order the pro-
25 duction and filing in court, for the inspection of the peti-
26 tioner, of all books and papers pertinent to the issue to be
27 heard by said appraisers, the terms and conditions of so
28 producing and filing such books and papers to be deter-
29 mined by said justice in his order therefor and to be en-
30 forced from time to time as any justice of said supreme
31 judicial court in term time or in vacation, upon motion of
32 either party, may deem reasonable and proper in the
33 premises. At such hearing, such justice, upon motion of
34 the petitioner, may fix a time at which said defendant com-
35 pany shall file in the clerk's office of the supreme judicial
36 court of the county of Oxford, for the inspection of the
37 petitioner, the following: first, schedules showing the
38 names, residence, street number, if any, and water service
39 of each customer on September fifteenth, in the year of our
40 Lord one thousand nine hundred and twenty-nine, with rate
41 charged therefor; second, copies of all contracts in force

42 on said September fifteenth; third, an itemized statement
43 of the gross income earned during its last complete fiscal
44 year and all operating expenses and fixed charged paid or
45 incurred during such year and properly chargeable thereto;
46 fourth, a memorandum of all real estate, or interest there-
47 in, owned or controlled on said September fifteenth, with
48 such brief description thereof as will reasonably identify
49 the same; fifth, a memorandum of all water rights used or
50 owned on said September fifteenth with a brief description
51 thereof and a statement of the method of acquiring the
52 same; sixth, duplicate plans of all structures owned in
53 whole or in part, on said September fifteenth, with speci-
54 fications thereof; seventh, descriptions and specifications of
55 all reservoirs and stand pipes owned on said September
56 fifteenth; eighth, a description of all pipes, service pipes,
57 hydrants, gates, gate boxes, shut-off boxes, fixtures and
58 machinery, and all physical elements in such water system,
59 giving in detail all quantities, sizes and lengths, specifying
60 the streets, roads or ways where situated; ninth, an itemized
61 list of all tools, apparatus and appliances used or usable in
62 supplying water on said September fifteenth. Such orders
63 may be enforced from time to time by any justice of said
64 supreme judicial court in term time or in vacation, upon
65 motion of either party, as such justice may deem reasonable
66 and proper in the premises. At such hearing the justice
67 then sitting, may, upon motion of the petitioner, make all
68 such decrees as he deems reasonable and proper to enable

69 the petitioner, through its servants and employees, to ascer-
70 tain the condition of the mains and pipes of the defendant
71 company, externally and internally, all work connected
72 therewith to be in the presence of the agents of the afore-
73 said company, but wholly at the expense of said water dis-
74 trict, said decree to fix the number of such examinations
75 and to impose such conditions as may to the court seem
76 just and proper in the premises. The said appraisers shall
77 have the power of compelling attendance of witnesses and
78 the production of books and papers pertinent to the issue,
79 and may administer oaths; and any witness or person in
80 charge of such books or papers refusing to attend or to pro-
81 duce the same shall be subject to the same penalties and
82 proceedings, so far as applicable, as witnesses summoned
83 to attend the supreme judicial court. Depositions may be
84 taken as in civil actions. The said appraisers may appoint
85 a sufficient number of stenographers to enable a full report
86 of the proceedings of each day to be in readiness for use
87 the following day, each of said appraisers to have one copy
88 thereof, and the parties to receive such numbers of copies
89 as the appraisers may deem necessary. The compensation
90 and expenses of said stenographers shall be taxed and al-
91 lowed by the appraisers and be paid and borne as herein-
92 after provided. Their reports, certified by said appraisers
93 as correct, shall be filed with the award to be made by said
94 appraisers and shall be legal evidence of all proceedings so
95 reported. They shall make a full report as required in

96 trials had in the supreme judicial court. The appraisers so
97 appointed shall, after due notice and hearing, fix the valua-
98 tion of the plant, property and franchises of the defendant
99 company at what they are fairly and equitably worth, so
100 that said defendant company shall receive just compensa-
101 tion for all the same. The first day of October, nineteen
102 hundred and twenty-nine shall be the date as of which the
103 valuation aforesaid shall be fixed, from which said date
104 interest on said award at the rate of six per cent per annum
105 shall run, and all net rents and profits accruing thereafter
106 shall belong to said water district. The report of said
107 appraisers, or of a majority of them, shall be filed in said
108 clerk's office within six months after their appointment,
109 but, if at the expiration of said six months the hearing
110 before said appraisers should then be in progress and un-
111 finished, their report may be so filed within thirty days
112 after the close of said hearing. After said report is filed,
113 such single justice, so appointing said appraisers, or in case
114 of his inability to act, then any justice designated for the
115 purpose by the chief justice, may, after notice and hearing,
116 confirm or reject the same or recommit, if justice so re-
117 quires, and in case of such rejection or recommitment such
118 justice may fix the times for new hearings and new report
119 thereon. The award of the appraisers shall be conclusive
120 as to valuations. Upon confirmation of their report, the
121 court so sitting, in term time or in vacation, shall there-
122 upon, after hearing, make final decree upon the whole

123 matter, including the transfer of the properties and fran-
124 chises, jurisdiction over which is hereby conferred with
125 the same power to enforce said decree as in equity cases.
126 All the costs and expenses arising under such petition and
127 appraisal shall be paid and borne as directed by the court
128 in said final decree. The findings of such court as to such
129 costs and expenses and their apportionment shall be final.
130 In all other matters the justice so making such final de-
131 cree, shall, upon request of any of the parties, make sepa-
132 rate findings of law and fact. All such findings of fact
133 shall be final, but any party aggrieved may take exceptions
134 to any rulings of law so made, the same to be accompanied
135 by only such parts of the case as are necessary to a clear
136 understanding of the questions raised thereby. Such ex-
137 ceptions shall be claimed on the docket within ten days
138 after such final decree is signed, entered and filed, and
139 notice thereof has been given by the clerk to the parties
140 or their counsel, and said exceptions so claimed shall be
141 made up, allowed and filed within said time unless further
142 time is granted by the court or by agreement of the parties.
143 They shall be entered at the next term of the law court to
144 be held after the filing of such exceptions and there heard
145 unless otherwise agreed, or the law court shall for good
146 cause order a further time for hearing thereon. Upon
147 such hearing the law court may confirm, reverse or modify
148 the decree of the court below or remand the cause for
149 further proceedings, as seems proper. During the pend-

150 ency of such exceptions the cause shall remain on the
151 docket of the court below, marked "law," and decree shall
152 be entered thereon by a single justice, in term time or in
153 vacation, in accordance with the certificate and opinion
154 of the law court. Before the aforesaid plant, property and
155 franchises are transferred in accordance with such final
156 decree, and before the payment therefor, the court sitting
157 in said county of Oxford, by a single justice thereof, as
158 hereinbefore provided, shall, upon motion of either party,
159 after notice and hearing, take account of all receipts and
160 expenditures properly had and incurred by said Mexico
161 Water Company belonging to the period from and after
162 October first, nineteen hundred and twenty-nine, and all
163 net rents and profits accruing thereafter, and shall order
164 the net balance due any party to be added to or deducted
165 from the amount to be paid under such final decree, as the
166 case may be. All findings of law or fact by such single
167 justice at such hearings shall be final. The amount to
168 be paid for the plant of the said water company shall be
169 paid to the Mexico Water Company, under such terms
170 and conditions as shall be ordered by the court to protect
171 any outstanding mortgages or existing liens created by
172 said company, if any. On payment, or tender by the said
173 water district, of the amount so fixed and the performance
174 of all other terms and conditions imposed by the court,
175 the entire plants, property and franchises of said defendant
176 company as described in section nine shall become vested

177 in said water district and be free from all liens, mortgages
178 and incumbrances theretofore created by the said Mexico
179 Water Company. After the filing of said petition it shall
180 not be discontinued or withdrawn by said water district,
181 and the said water company may thereafterward cause said
182 valuation to be made as herein provided, and shall be en-
183 titled to appropriate process to compel said water district
184 to perform the terms of the final decree and to pay for
185 said plants, property and franchises in accordance there-
186 with. If any vacancy occurs at any time in said board of
187 appraisers, from any cause, any justice of the supreme
188 judicial court, sitting in said county of Oxford, may, in
189 term time or in vacation, after notice and hearing, appoint
190 a new appraiser or appraisers, and make all such orders
191 for hearing said cause by the appraisers anew, or for any
192 extension of time for making their award, or otherwise,
193 as the circumstances of the case may require.

Sect. 11. All valid contracts made in good faith, now
2 existing between said defendant company and any person,
3 firm or corporation for the supplying of water within the
4 town of Mexico, shall be assumed and carried out by said
5 Mexico Water District.

Sect. 12. For accomplishing the purposes of this act,
2 said water district, through its trustees, is authorized to
3 borrow money temporarily and to issue therefor the inter-
4 est-bearing negotiable notes of the district, and for the
5 purpose of paying or refunding the indebtedness so created,

6 of paying any necessary expenses incurred in the creation
7 of the district, in acquiring the property and franchises of
8 the Mexico Water Company, by purchase or otherwise, or
9 in the purchase or acquisition of the property and fran-
10 chises of said defendant company, of securing sources of
11 supply, taking water and lands, paying damages, laying
12 pipes, constructing, maintaining and operating a water
13 plant, and making renewals, extensions, additions and im-
14 provements to the same, the said water district, through its
15 trustees, may from time to time issue bonds of the district
16 to an amount or amounts necessary in the judgment of the
17 trustees therefor. Said notes and bonds shall be legal obli-
18 gations of the water district, which is hereby declared to
19 be a quasi-municipal corporation within the meaning of
20 section one hundred and five, chapter fifty-one of the re-
21 vised statutes, and all provisions of said section shall be
22 applicable thereto. The said notes and bonds shall be legal
23 investments for savings banks.

Sect. 13. The property of said district shall be exempt
2 from all taxation in the town or towns where the property
3 of said water district is located.

Sect. 14. All individuals, firms and corporations, whether
2 private, public or municipal, shall pay to the treasurer of
3 said district the rates established by said board of trustees
4 for the water used by them, and said rates shall be uniform
5 within the territory supplied by the district. Said rates
6 shall be so established as to provide revenue for the fol-

7 lowing purposes:

I. To pay the current expenses for operating and main-
2 taining the water system.

II. To provide for the payment of interest on the indebt-
2 edness created by the district.

III. To provide each year a sum equal to not less than
2 one-half of one per cent nor more than five per cent of
3 the entire indebtedness created by the district, which sum
4 shall be turned into a sinking fund and there kept to pro-
5 vide for the extinguishment of said indebtedness. The
6 money set aside for the sinking fund shall be devoted to
7 the retirement of the obligations of the district or invested
8 in such securities as savings banks are allowed to hold.

Sect. 15. All incidental powers, rights and privileges
2 necessary to the accomplishment of the main object herein
3 set forth are granted to the public municipal corporation
4 hereby created.

Sect. 16. This act shall take effect when approved by a
2 majority of the legal voters of that portion of the town
3 of Mexico comprised within the limits defined in section
4 one of this act, who are present and vote at a special meet-
5 ing of the voters living within said described area, to be
6 called by the selectmen of said Mexico as soon as may be
7 after ninety days from the date of the adjournment of the
8 legislature, and not later than the third Monday of August,
9 in the year of our Lord one thousand nine hundred and
10 twenty-nine. Said special meeting shall be called by the

11 selectmen of the town of Mexico, and shall be called,
12 warned and conducted according to the law relating to
13 municipal elections, provided, however, that the selectmen
14 of the town of Mexico shall not be required to prepare for
15 posting new lists of voters included within said water dis-
16 trict, and described in section one. For the purpose of
17 registration, said board of selectmen of Mexico shall be
18 in session at its office the secular day next preceding said
19 special election. The clerk of the town of Mexico shall
20 reduce the subject matter of the act to the following ques-
21 tion: "Shall the Act to Incorporate the Mexico Water
22 District be Accepted?" and the voters shall indicate by a
23 cross placed over the words "yes" or "no" their opinion of
24 the same. The result of the balloting in each case shall be
25 declared by the selectmen of Mexico and certificate thereof
26 shall be filed by the clerk of the town of Mexico with the
27 secretary of state.

Sect. 17. If the inhabitants residing within the limits
2 defined in section one of this act shall approve said act to
3 incorporate said water district by a majority of the legal
4 voters at said special election, then the territory as defined
5 in said section one of this act, and the people within the
6 same shall constitute the water district hereby created, and
7 shall be empowered with all the rights, privileges and fran-
8 chises conferred by this act, and shall be authorized to
9 proceed in all acts, matters and things necessary to carry
10 out the purposes of this act. As early as may be after said

11 special election, if said act has been approved by the Mexico
12 Water District, the municipal officers of the town of Mexico
13 shall meet and choose three members who shall constitute
14 the board of trustees for said water district.

Sect. 18. Sections two, three, four, five, six and seven
2 of this act shall be inoperative, null and void unless said
3 water district shall first acquire by purchase or by the
4 exercise of the right of eminent domain as in this act pro-
5 vided, the plant, property and franchises, rights and privi-
6 leges of the Mexico Water Company.

Sect. 19. This act shall take effect in ninety days after
2 the final adjournment of the legislature, so far as neces-
3 sary to empower the calling and holding of the election
4 authorized in section sixteen herein provided for.

Sect. 20. Nothing herein is intended to repeal or shall
2 be construed as repealing the whole or any part of any
3 existing statute. And all the rights and duties herein men-
4 tioned shall be exercised and performed in accordance with
5 all the applicable provisions of chapter fifty-five of the
6 revised statutes.