

# MAINE STATE LEGISLATURE

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DECEMBER SPECIAL SESSION

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E I G H T Y - S I X T H    L E G I S L A T U R E

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**Legislative Document**

**No. 147**

H. P. 104

House of Representatives, Dec. 8, 1933.

Referred to committee on Legal Affairs and 500 copies ordered printed.  
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Littlefield of Bluehill.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND  
THIRTY-THREE

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**AN ACT to Incorporate the Bluehill Water Company**

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**Emergency Preamble.** Whereas, the town of Bluehill is without an adequate water supply; and

Whereas the town of Bluehill cannot borrow further on account of the debt limit; and

Whereas, if the following act becomes effective immediately it will be possible to obtain federal funds to assist in creating a proper water system; and

Whereas, the lack of a proper water system is dangerous to the health and welfare of the citizens and increases the fire hazard; and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of section 16 of Article XXXI of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety, now, therefore

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

**Sec. 1. Bluehill Water Company, Incorporated.** Ernest L. McLean, William H. Owen, Frank E. Southard, and James L. Reid, their associates, successors and assigns, are hereby made a body corporate by the name

of the Bluehill Water Company, for the purpose of supplying the town of Bluehill, in the county of Hancock, and the inhabitants of said town, with pure water for domestic, sanitary, municipal and public purposes, including the extinguishment of fires.

**Sec. 2. Water from springs may be used; exceptions.** Said company, for said purposes, may retain, collect, take, store, use and distribute water from any springs, except such springs as are in actual use for domestic purposes, ponds, streams, or other water sources, in said Bluehill, and may locate, construct and maintain cribs, reservoirs, aqueducts, gates, pipes, hydrants and all other necessary structures therefor.

**Sec. 3. Powers.** Said company is hereby authorized to lay, construct and maintain in, under, through, along and across the highways, ways, streets, railroads and bridges in said town, and to take up, replace and repair all such sluices, aqueducts, pipes, hydrants and structures as may be necessary for the purposes of its incorporation, so as not to unreasonably obstruct the same, under such reasonable restrictions as the selectmen of said town may impose. It shall be responsible for all damages to persons and property occasioned by the use of such highways, ways and streets, and further shall be liable to pay to said town all sums recovered against said town for damages for obstruction caused by said company, and for all expenses, including reasonable counsel fees in defending such suits, with interest on the same, provided said company shall have notice of such suits and opportunity to defend the same.

**Sec. 4. Additional powers.** Said company shall have power to cross any water course, private and public sewer, or to change the direction thereof when necessary for the purposes of its incorporation, but in such manner as not to obstruct or impair the use thereof, and it shall be liable for any injury caused thereby. Whenever said company shall lay down any fixtures in any highway, way or street, or make any alterations or repairs upon its works in any highway, way or street, it shall cause the same to be done with as little obstruction to public travel as may be practicable, and shall, at its own expense, without unnecessary delay, cause the earth and pavements there removed by it to be replaced in proper condition.

**Sec. 5. May take lands.** Said company may take and hold any waters as limited in section 2, and also any lands necessary for reservoirs, and other necessary structures, and may locate, lay and maintain aqueducts, pipes, hydrants and other necessary structures and fixtures in, over and through any lands for its said purposes, and excavate in and through such lands for such location, construction and maintenance. It may enter upon such lands to make surveys and location, and shall file in the registry of

deeds for said county of Hancock, plans of such location and lands, showing the property taken, and within 30 days thereafter, publish notice of such filing in some newspaper in said county, such publication to be continued 3 weeks successively.

**Sec. 6. Assessment of damages.** Should said company and the owner of such lands so taken be unable to agree upon the damages to be paid for such location, taking, holding and construction, the damages shall be assessed in accordance with the laws applicable to the assessment of damages for ways taken by railroads, so far as such law is consistent with the provisions of this act. If said company shall fail to pay such land owner or deposit for his use with the clerk of the county commissioners aforesaid, such sum as may be finally awarded as damages, with costs when recovered by him, within 90 days after notice of final judgment shall have been received by the clerk of courts of said county, the said location shall be hereby invalid, and said company forfeit all rights under the same as against such land owner. Said company may make a tender to any land owner damaged under the provisions of this act, and if such land owner recovers more damages than were tendered by said company, he shall recover costs, otherwise said company shall recover costs. In case said company shall begin to occupy such lands before the rendition of final judgment, the land owner may require said company to file its bond with said county commissioners, in such sum and with such sureties as they approve, conditioned for said payment or deposit. No action shall be brought against said company for such taking, holding and occupation, until after such failure to pay or deposit as aforesaid. Failure to apply for damages within 3 years by the land owner, shall be held to be a waiver of the same.

**Sec. 7. Settlement of personal damages.** Any person suffering damage by the taking of water by said company as provided by this act, may have his damages assessed in the manner provided in the preceding section, and payment thereof shall be made in the same manner and with the same effect. No action shall be brought for the same until after the expiration of the time of payment. And a tender by said company may be made with the same effect as in the preceding section.

**Sec. 8. May make contracts.** Said corporation is hereby authorized to make contracts with the United States in connection with its financing, service or otherwise, and with corporations, and inhabitants of said town of Bluehill or any village corporation therein for the purpose of supplying water as contemplated by this act; and said town of Bluehill by its selectmen, or any such village corporation by its assessors, is hereby authorized to enter into contract with said company for a supply of water for public

uses, on such terms and for such time as the parties may agree, which when made, shall be legal and binding on all parties thereto, and said town of Bluehill or any village corporation therein, for this purpose, may raise money in the same manner as for other municipal charges.

**Sec. 9. May hold property.** Said company for all its said purposes, may hold real and personal estate necessary and convenient therefor.

**Sec. 10. Capital stock.** The capital stock of said company shall be \$100,000, which may be from time to time increased by vote of said company not to exceed \$200,000, and shall be divided into shares of \$10 each.

**Sec. 11. Bonds.** Said company may, subject to the approval of the public utilities commission, issue its bonds for the construction of its works and for other purposes of its incorporation of any and all kinds upon such rates and time as it may deem expedient, to such amount as may be approved by the public utilities commission, and secure the same by mortgage of its franchise and property.

**Sec. 12. System of water works may be sold.** Said town of Bluehill, or any village corporation within the limits of said town of Bluehill, at any time after the expiration of 5 years from the opening for use and service of a system of water works constructed by said company and after a vote in legal meeting to that effect has been passed, shall have the right to purchase, and by this act said company is required to sell to said town, or said village corporation, said system of water works, together with the franchises of this company relating thereto, for such price as may be agreed upon by said town, or said village corporation, and said company. And should said parties be unable to agree upon the amount the same shall be determined by a commission of 3 competent disinterested men, 1 of whom shall be selected by said company, one by said town of Bluehill, or by said village corporation, and the 3rd by the 2 so selected if they can agree, if not, then by the chief justice of the supreme judicial court of Maine. The award of said commissioners, not less than cost, shall be binding upon said company and said town, or village corporation, and said town or village corporation shall pay the amount of said award for said system of water works and franchises within 90 days from the date when such award shall be rendered. The costs of said commission shall be borne equally by the said company and said town, or village corporation.

**Sec. 13. Meetings.** Said company may hold its 1st meeting and perfect its organization in the same manner as if proceeding under the general law, and the incorporators above named may, at their election, organize under the general law incorporating in their certificate of organization, which shall specifically refer to this act, all the purposes, rights, powers and privileges herein granted, which said purposes, rights, powers and

privileges shall become operative immediately after but not until this act becomes effective, and shall be in addition to any purposes, rights, powers and privileges granted to said corporation under the general law.

**Sec. 14. Interpretation.** Nothing herein contained is intended to repeal or shall be construed as repealing the whole or any part of any existing statute. And all the rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of chapter 55 of the revised statutes, and acts amendatory thereof and additional thereto.

**Emergency Clause.** In view of the emergency created as recited in the preamble this act shall take effect when approved.