

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 162

H. P. 597

House of Representatives, January 29, 1935.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. McKay of Drew.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

AN ACT to Incorporate the Kingman Water and Power District.

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

Sec. 1. Kingman Water and Power District, incorporated. Subject to the provisions of section 12 hereof, the territory and people constituting the town of Kingman, in the county of Penobscot and state of Maine, shall constitute a public municipal corporation under the name of the Kingman Water and Power District for the purposes of supplying the inhabitants of the said town with pure water for domestic, sanitary and municipal purposes; the construction and maintenance of a sewerage system in said town; and the further purpose of supplying said town and the inhabitants therein with electricity for lighting, heating and power.

Sec. 2. Location of dams, canals, waterways, etc. For the purposes aforesaid said Kingman Water and Power District is authorized and empowered to locate, construct and maintain dams on the Mattawamkeag river in said town of Kingman between the mouth of Molunkus Stream, so-called, and a line drawn across said river which shall be a continuation of the line between the said town of Kingman and the town of Drew; provided, that suitable sluices are constructed and maintained by said corporation in said dams at its own expense for the passage of logs and other lumber running down said river. Said corporation is further authorized and empowered to

cut, construct and maintain canals and other waterways from said dams to any point in said town for the purpose of developing the water power on said river; and for the purpose of constructing said dams, canals and other waterways, it may take, occupy and enclose any lands adjoining the same on either side of said river which may be necessary for building or repairing the same and for other necessary purposes, and may blow and remove rocks in the river and dig up and remove land in said river when necessary.

Sec. 3. May erect poles, extend wires, lay pipes, etc.; proviso. Said corporation is further authorized and empowered to construct and maintain in, under and along highways and bridges, other than railroad bridges, that now or may hereafter exist, pipes, hydrants, poles, wires and other structures necessary for the purposes of its incorporation, and to replace and repair the same when necessary; to enter upon and excavate any highway, or other ways, within said town in such manner as least to obstruct the same; to take and hold, by purchase or otherwise rights of way, and in general to do any acts necessary, convenient or proper for carrying out any of the provisions of this act. Nothing in this act, however, shall be construed as giving said corporation the right to take any part of the right of way of any railroad company under the power of eminent domain given in this act. Said corporation may cross the right of way of any railroad company with wires, pipes, aqueducts or other structures mentioned in this act and in case of failure to agree with any railroad company as to place, manner and conditions of crossing its right of way with such wires, pipes, aqueducts or other structures, the place, manner and conditions of such crossings shall be determined by the public utilities commission and all work within the limits of any railroad company's location shall be done under the supervision and to the satisfaction of the officers and agents of such railroad company, but at the expense of said Kingman Water and Power District.

Sec. 4. May cross watercourse, and private sewers, etc. Said Kingman Water and Power District is further authorized and empowered within said town to cross any watercourse or private sewer, and to change the direction thereof, when necessary, but in such manner as not to obstruct or impair the use thereof, and said corporation shall be liable for any injury caused thereby. Whenever said corporation shall lay down or erect a structure in any highway, way or street or make alterations or repairs upon its works in any highway, way or street, it shall cause the same to be done at its own expense, with as little obstruction to public travel as may be practicable.

Sec. 5. May erect dams at outlet of lakes tributary to Mattawamkeag river; flowage damages; exemption and proviso. Said Kingman Water and Power District may erect and maintain dams on land which it may acquire by purchase or lease at the outlet of any lake tributary to said Mattawamkeag river, or may acquire by purchase or lease any existing dams on said lakes for the purpose of holding, storing, regulating and controlling the flow of the waters of said Mattawamkeag river, and may hold, store, regulate and control, the waters raised by said dams and draw down the same as may be required for the purpose aforesaid and said corporation is hereby empowered to flow such land as may be necessary to carry out the provisions of this act and such corporation shall be liable for all damages caused by said flowage to be ascertained and determined in the manner prescribed in chapter 61 of the revised statutes. Since all water held by all existing dams is subject to log driving purposes, nothing herein contained shall be considered as abridging or curtailing those rights or the existing rights of the Mattawamkeag Lake Dam Company, and nothing in this act shall apply to any waters in Washington county.

Sec. 6. Rights of way; adjustment of damages. Said Kingman Water and Power District may enter for the location, erection and maintenance of the dam mentioned in this act, and may by its agents with teams, or otherwise, pass and repass over the land of other persons for the purposes aforesaid and for the operation and management of such dams. Said corporation shall be held liable to pay all damages that shall be sustained by any person or persons by the taking of any rights of way, or by excavating through any land for the purpose of surveying for, locating, laying, building or re-erecting dams, canals, reservoirs, pipes, hydrants, poles, piers and other structures by taking and holding any lands necessary for flowage, and for other injuries resulting from said acts. And if any person sustaining damage as aforesaid cannot agree with said corporation upon the sum to be paid therefor, either party, upon petition to the county commissioners of Penobscot county, within 12 months after plans are filed, as hereinafter provided may have said damages assessed by them and subsequent proceedings and right of appeal thereon shall be had in the same manner and under the same condition, restrictions and limitations as are by law prescribed in the case of damages of laying out highways; failure to apply for damages within said 12 months shall be held to be a waiver of the same.

Sec. 7. Title of certain property of town of Kingman to vest in district when act becomes effective. At the time this act takes effect the title to the land, plant, property and franchises, rights and privileges, including all

lands, waters, water rights, power rights, dams, reservoirs, pipes, stand pipes, machinery, fixtures, hydrants, tools apparatus and appliances, conduits, bills receivable and accounts receivable owned by the town of Kingman and used or capable of being used for the purpose of maintaining a public water supply, shall vest in the Kingman Water and Power District and become the property of the said district.

Sec. 8. Procedure as to crossings of railroads. In case of any crossing of railroad, unless consent is given by the company owning or operating such railroad, as to place, manner and conditions of the crossing, within 30 days after such consent is requested by such district, the public utilities commission shall, upon petition setting forth a description of said premises and the reasons for said crossing after notice given as said commission may prescribe, determine the place, manner and conditions of such crossing, and all work within the limits of such railroad location shall be done under the supervision and to the satisfaction of said railroad company, but at the expense of said district.

Sec. 9. Board of trustees provided for. All the affairs of said Kingman Water and Power District shall be managed by the board of trustees composed of 3 members to be elected by the lawful voters of said district who shall be such as are qualified to vote at any regular meeting of the town of Kingman.

Sec. 10. Trustees, how elected; terms; vacancies; general powers and duties. After the adoption of this act as hereinafter provided, a meeting of said district for the election of a board of trustees may be called at a time and place designated by any 5 persons who are entitled to vote at any meeting of the said district. Said notice shall specify the time and place of meeting and shall be posted in 3 or more conspicuous places within said district. A notice of said meeting shall also be advertised in any newspaper published in said county. The 3 trustees first elected shall hold office as follows: one for 1 year, one for 2 years and one for 3 years. Each shall hold office until his successor shall be elected and qualified. At each annual meeting thereafter called as town meetings are legally called one member shall be elected for a term of 3 years. In case of a vacancy by death, resignation or removal, a meeting of the district shall be called by giving notice as aforesaid for the election of a successor. Said board shall choose their chairman and a clerk who shall keep the records of said district. The trustees may adopt a seal and such by-laws as are necessary for their conveniences and for the proper management of the affairs of the district.

They shall receive such compensation, if any, as the district at any regular or special meeting may determine, providing notice of such purpose shall be included in the call for the meeting. The trustees shall determine the times and places of their regular meetings which shall be held within said district and may have special meetings at any time by agreement or notice sent to the other trustees by any member of said board. Regular meetings of the district shall be held annually on the third Monday in February, and special meetings shall be called at any time by a majority of the trustees then in office; or by any member of said board of trustees upon a written request of any ten lawful voters of said district. Said notice of such meetings shall specify the business to be transacted at said meeting.

Sec. 11. Payment of rates; purposes for which revenue shall be used; sinking fund. All individuals, firms and corporations, whether public, private or municipal, shall pay to the said district the rates established by said board of trustees for the water, lights or power used by them, and said rates shall be uniform within the district. Said rates shall be so established as to provide revenue for the following purposes:

1. To pay the current running expenses for maintaining the water, lights and power system and provide for such extensions and renewals as may become necessary, except where such extensions shall have been provided for by an issue of bonds as authorized in section 37 of chapter 55 of the revised statutes.

2. To provide for payment of interest on the indebtedness of the district.

3. To provide each year a sum equal to not less than 1% or more than 4% of the entire indebtedness of the district, which sum shall be turned into a sinking-fund to provide for the final extinguishment of the funded debt. The money set aside for the sinking-fund shall be devoted to the retirement of the obligations of the district, or invested in such securities as savings banks are allowed to hold. Provided, however, that the trustees may, in their discretion and in lieu of the establishment of a sinking-fund, issue the bonds of the district so that not less than 1% of the amount of the bonds so issued shall mature and be retired each year.

Sec. 12. Provision for local referendum. This act shall take effect when approved by a majority vote by ballot of the legal voters of the town of Kingman voting at a town meeting held not later than the 1st day of October, 1935, called as provided by law, to determine whether the voters of said town will accept the provisions of this act.

Sec. 13. Existing statutes not affected; rights conferred subject to R. S.,

c. 56. Nothing herein contained is intended to repeal or shall be construed as repealing the whole or any part of any existing statute. All the rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of chapter 56 of the revised statutes and acts amendatory thereof and additional thereto.