

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 805

H. P. 1771

House of Representatives, March 20, 1935.

Reported by Mr. Donahue from Committee on Legal Affairs and laid on table to be printed under joint rules.

HARVEY R. PEASE, Clerk.

NEW DRAFT OF H. P. 1064—L. D. 404

STATE OF MAINE

**IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE**

AN ACT to Incorporate the Lincoln Water District.

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

Sec. 1. The territorial limits and corporate name and purposes. The town of Lincoln in the county of Penobscot and the people and territory within the same shall be and hereby are constituted a public municipal corporation under the name of the Lincoln Water District for the purpose of supplying the inhabitants of said town or any part of said town with pure water for domestic, sanitary and municipal purposes.

Sec. 2. Powers of said Lincoln Water District. Said Lincoln Water District is hereby authorized for the purpose aforesaid to take, collect, store, flow, use, detain, distribute and convey to the town of Lincoln or any part thereof water from any lake, pond or stream in said Lincoln, and is also authorized to locate, construct and maintain dams, cribs, reservoirs, locks, gates, sluices, aqueducts, pipes, conducts, standpipes, hydrants and other necessary structures therefor.

Sec. 3. Rights of eminent domain conferred. The said district for the purposes of its incorporation is hereby authorized to take and hold as for public uses, by purchase, eminent domain, or otherwise, any land therein

that may be necessary for supplying water, laying and maintaining its pipe lines and for such other purposes as may be necessary for accomplishing the purposes of this act.

Sec. 4. Authorized to lay mains, etc., through public ways and across private lands. The said district is hereby authorized to lay in and through the streets, roads, ways and highways, in said district and across private lands therein and to maintain, repair and replace all such pipes, aqueducts and fixtures as may be necessary and convenient for its corporate purposes. Whenever the said district shall lay any pipes or aqueducts in any street, road, way or highway it shall cause the same to be done with as little obstruction as practicable to the public travel and shall at its own expense without unnecessary delay cause the earth and pavement removed by it to be replaced in proper condition.

Sec. 5. Taking over the property of the Lincoln Water Company. The said district is hereby authorized to take and hold by purchase or by the exercise of the right of eminent domain, which right is hereby expressly delegated to said district for said purpose, the entire plant, property and franchises, rights and privileges, including all land, waters, water rights, machinery, fixtures, tools, apparatus and appliances owned by the Lincoln Water Company and used or capable of being used for the purpose of maintaining a public water supply together with all books and accounts now due or which may hereafter become due to the Lincoln Water Company for service rendered by said company.

Sec. 6. Procedure as to the exercise of right of eminent domain. In exercising any rights of eminent domain that are herein conferred upon said district or any rights of eminent domain through or under the franchises of the Lincoln Water Company by it acquired, the district shall file for record in the registry of deeds in said county plans of the location of lands or interest therein to be taken with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective or uncertain, it may, at any time correct and perfect such location and file a new description thereof and in such case the district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any act which would have been justified if the original taking had been lawful. No entry shall be made on any private lands except to

make surveys until the expiration of 10 days from such filing whereon possession may be had of all such lands or interest therein so taken, but title thereto shall not vest in said district until paid for.

Sec. 7. Adjustment of damages. If any person sustaining damages by any taking as aforesaid shall not agree with the trustees of said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Penobscot county may have said damages assessed by them; the procedure and all subsequent proceedings and the rights of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be prescribed in the case of damages by laying out of highways.

Sec. 8. Liability for injuries. Said district shall be liable to any person injured by any fault of said district or its agents, or any defects in the highway occasioned by the construction of the works of said district during said construction or after the same has been completed or while the same is undergoing repairs or extensions are being made; and the said district shall also be liable to the town of Lincoln, for any and all costs, damages and expenses which said town may suffer or be put to by reason of the default, neglect, negligence or carelessness of said district or any of its officers, servants or agents in constructing, maintaining or repairing said system.

Sec. 9. Property, tax exempt. The property of said district shall be exempt from all taxation in the town of Lincoln.

Sec. 10. Board of trustees. All the affairs of said district shall be managed by a board of 3 trustees, residents or owners of real estate therein, who shall be elected by the legally registered voters of the district. They shall hold office for the term of 3 years and until their respective successors are chosen and qualified, except, however, as hereinafter provided.

Sec. 11. Trustees; how elected, meetings, officers. Vacancies shall be filled for the unexpired term. The first board of trustees shall be elected at the same time as the referendum for the town of Lincoln for the acceptance of the provisions of this act is held as hereinafter provided, one to serve until the 1st annual meeting of the district, one until the 2nd, and one until the 3rd such meeting. Thereafter, one member shall be elected at the time of each annual meeting to serve for the term of 3 years.

As soon as convenient after the 1st election the trustees shall hold a

meeting at some convenient place in the district to be called by any member thereof in writing designating the time and place and delivered in hand to the other 2 members not less than 2 full days before the meeting; provided, however, that they may meet by agreement without such notice. They shall then organize by the election of a chairman and clerk from their own number, adopt a corporate seal and by-laws, and perform any other acts within the powers delegated to them by law. When necessary they may choose a treasurer and other needful officers and agents who shall serve at their pleasure, and whose compensation shall be fixed by said trustees. The treasurer shall furnish bond in such sum and with such sureties as they may approve. Members of the board shall be eligible to any office under the board, but shall not receive any compensation therefor except as trustees unless authorized by vote of the legally registered voters of said district as hereinafter provided to conduct meetings of the district.

The compensation of the trustees shall be \$50 each per annum unless otherwise provided by vote as above defined.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member as clerk or clerk pro tem. They shall make and publish an annual report including a report of the treasurer.

Sec. 12. Annual meeting of district; qualification of voters of district. The annual meeting of the district shall be held in the district on the last Monday of March, at such hour and place as may be designated by resolution of the board of trustees as provided in the by-laws. Notice thereof, signed by the chairman or clerk of the board, shall be conspicuously posted in 3 public places within the district, not less than 7 days before the meeting. Special meetings may be called by the board in like manner at any time, and notices of special meetings shall state the business to be transacted thereat. 11 persons qualified to vote in such meetings shall constitute a quorum. If for any reason an annual meeting is not held on the above date, a meeting in lieu thereof may be called in like manner to be held within 3 months from said date.

All persons resident in said district and qualified to vote for governor under the laws of this state shall be entitled to vote in any meeting of this district, including the meeting for the acceptance of this charter and the election of the first board of trustees.

Sec. 13. Manner of obtaining list of voters of district. The list of voters as prepared by the selectmen of Lincoln as qualified to vote at the annual

meeting of said town shall be used as the list of voters qualified to vote at the annual meeting of the district. For the holding of a special meeting of the said district the trustees of said district shall have the same powers and perform the same duties as otherwise are exercised and performed by the selectmen of towns in correcting and preparing lists of the persons qualified to vote in said district, and for that purpose shall be in session at a place set by the trustees between the hours of 10 o'clock in the forenoon and 12 o'clock noon on the secular day next before the date of the meeting; and notice thereof shall be given in the call of the meeting.

All meetings of the district shall be presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings.

Sec. 14. Authorized to borrow money, issue notes, etc. For accomplishing the purposes of this act said water district, through its trustees, is hereby authorized to borrow money and issue therefor the interest bearing negotiable notes and/or bonds of said water district and for the purpose of refunding or paying said indebtedness, may from time to time issue its negotiable notes and/or bonds of said district to an amount necessary in the judgment of said trustees therefor. Said notes and/or bonds shall be legal obligations of said district, the people and territory within the same. The bonds of said district shall be legal investment for the savings banks of the state, and shall be exempt from taxation.

Sec. 15. Water rates; application of revenue; sinking fund. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of said district the rates established by said board of trustees for the water used by them, and said rates shall be uniform within the territory supplied by the district and subject to the approval of the public utilities commission. Said rates shall be established so as to provide revenue for the following purposes:

1. To pay the current expenses for operating and maintaining the water system, and provide for such extensions and renewals as may become necessary;

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

3. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of said indebtedness. 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.

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

Sec. 16. Incidental powers granted. All incidental powers, rights and privileges necessary to the accomplishment of the main object herein set forth are granted to the corporation thereby created.

Sec. 17. Local referendum for town of Lincoln; meeting, how called; form of ballot; certificate to secretary of state. This act, subject to the provisions of section 12 shall take effect when approved by a majority of the legal voters of said district present and voting for or against the acceptance of the district as hereinafter provided for in this section at an election specially called and held for the purpose, by the municipal officers of the town of Lincoln, to be held at the voting places in the town, the date of holding said election to be determined by said municipal officers but to be not later than November 1, 1935. Such special election shall be called, advertised and conducted according to the law relating to municipal elections, provided, however, that the board of registration in said town of Lincoln shall not be required to prepare for posting or the town clerk to post a new list of voters, and for the purpose of registration of voters, said board shall be in session the 3 secular days next preceding such election, the first 2 days thereof to be devoted to registration of voters, and the last day to enable the board to verify the corrections of said lists and to complete and close up their records of said sessions. The town clerk shall reduce the subject of this act to the following question: "Shall the act to incorporate the Lincoln Water District be accepted?" and the voters shall indicate by a cross placed against the words "Yes" or "No" their opinion of the same. The result shall be declared by the municipal officers and due certificate thereof filed with the secretary of state by the clerk of said town.

Sec. 18. Act void unless property of water company is acquired. If said water district shall fail to acquire by purchase or by the exercise of the right of eminent domain, as in this act provided, the plant property, franchises, rights and privileges owned by the Lincoln Water Company and used or usable in supplying water in the town of Lincoln, then this act shall become null and void.

Sec. 19. Act effective 90 days after adjournment of legislature for purposes of local referendum. This act shall take effect in 90 days after the final adjournment of the legislature, so far as necessary to empower the calling and holding of the special election authorized in sections 11 and 12.

Sec. 20. Existing statutes not affected; rights conferred subject to provisions of R. S., 1930, c. 62. 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 62 of the revised statutes, and all acts amendatory thereof or additional thereto.