

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Legislative Document

No. 415

H. P. 1103

House of Representatives, February 9, 1937.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Chase of Baring.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT to Incorporate the Danforth 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 Danforth in the county of Washington and the inhabitants and territory within the same shall be and hereby are constituted a body politic and corporate under the name of the Danforth Water District for the purpose of supplying the town of Danforth and the inhabitants of said town or any part of said town with pure water for domestic, sanitary and municipal purposes, including the extinguishment of fires.

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

Sec. 3. May exercise eminent domain. The said district for the purposes of its incorporation, is hereby authorized, to take and hold as for

public uses, by purchase or otherwise, any land or interest therein, or water rights necessary for erecting and maintaining dams, for flowage, for power for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and water shed, for laying and maintaining aqueducts and other structures for taking, distributing and discharging and disposing of water and for rights of way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands.

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 its streets, roads, ways and highways of the district named in section 1 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, and whenever 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.

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

Sec. 5. 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 Danforth 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. 6. 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 Washington 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. 7. Procedure if railroad must be crossed. In case of any crossing of a 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 said district, the public utility commission shall 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 such railroad company, but at the expense of the district.

Sec. 8. Authorized to acquire property and franchises of Danforth Water Company. Said water district is hereby authorized and empowered to acquire 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, franchises, rights, privileges and assets owned, used or exercised by Danforth Water Company, owned, used or exercised by said town of Danforth under the charter of said water company, situate in said town of Danforth, including all land, waters, water-rights, dam structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in the town of Danforth. If and when so acquired the said district, in addition to the powers conferred by this act, shall have and enjoy and be entitled to exercise all of the rights, privileges and franchises of said Danforth Water Company, and may do and perform any and all of the acts and things authorized by the original charter of the said Danforth Water Company, insofar as they are not inconsistent with the provisions of this act.

Sec. 9. Valid contracts of water company to be assumed by district. All valid contracts now existing between the Danforth Water Company and said town and any persons or corporations for supplying water in the town of Danforth shall be assumed and carried out by said Danforth Water District.

Sec. 10. District authorized to reimburse town. Said water district is hereby authorized to pay and reimburse said town for all liabilities assumed

and funds advanced by said town for the use of said water company with interest at the same rate as that paid by said town. Said district through its trustees, said water company through its trustees and said town through its selectmen, are authorized to contract with each other and convey to each other wherever necessary or convenient to carry out the purposes of this act.

Sec. 11. Authorized to negotiate temporary loans; and to issue notes and bonds; declared a quasi-municipal corporation; notes and bonds legal investments for savings banks. For accomplishing the purposes of this act, said water district, through its trustees, is authorized to borrow money temporarily, and to issue therefor the interest bearing negotiable notes of the district, and for the purpose of refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this act, including the expenses incurred in the creation of the district, in reimbursing said town, in acquiring the aforesaid properties, privileges and franchises of the Danforth Water Company, by purchase or otherwise, of securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water-plant and making extensions, additions and improvements to the same, the said district, through its trustees, may from time to time issue bonds of the district to an amount necessary in the judgment of the trustees therefor. Said notes and bonds shall be legal obligations of said water district, which is hereby declared to be a quasi-municipal corporation within the meaning of section 117 of chapter 56 of the revised statutes, and all the provisions of said section shall be applicable thereto. The said notes and bonds shall be legal investments for the savings banks of the state, and shall be exempt from taxation.

Sec. 12. Board of trustees. All the affairs of said district shall be managed by a board of trustees composed of 5 members, to be chosen by the municipal officers of Danforth, within 30 days after the acceptance of this act by the inhabitants of said water district as hereinafter provided, and any of the selectmen or officers of said town may be chosen to the board of trustees. As soon as convenient after the members of said board have been chosen, said trustees shall hold a meeting in the town of Danforth, and organize by the election of a president and clerk, adopt a corporate seal, and choose a treasurer and, when necessary, all other needful officers and agents who, with the treasurer, shall serve at their pleasure and whose compensation shall be fixed by said trustees. Whenever a vacancy occurs in the office of president, clerk or treasurer it shall be promptly filled by

said board of trustees. At the said first meeting they may determine by agreement, or failing to agree they shall determine by lot the term of office of each trustee so that 1 shall retire each year and the term of office of the first trustee to expire shall end at the end of the municipal year of the town of Danforth following the acceptance of this act, and thereafter the term of office of a trustee shall expire with the end of each municipal year, and whenever the term of office of a trustee expires, the body which appointed said trustee shall appoint a successor to serve the full term of 5 years, and in case any other vacancy arises from any cause it shall be filled in like manner for the unexpired term. When any trustee ceases to be a resident of said town of Danforth he vacates the office of trustee. They may also ordain and establish such by-laws as are necessary for their own convenience and the proper management of the affairs of the district. Said trustees may procure an office and incur such expense as may be necessary. 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.

Sec. 13. Property, tax exempt. The property of said district shall be exempt from all taxation in the town of Danforth.

Sec. 14. Execution of instruments. Any and all instruments to be executed by the district may, upon authorization by the board of trustees, be executed in its behalf by its president and treasurer who may impress its corporate seal and make any necessary acknowledgment thereof, except that upon interest coupons attached to any bonds to be issued the facsimile signature of the treasurer shall be sufficient.

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 approval of the public utilities commission. Said rates shall be so established 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.

4. 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 Danforth; meeting, how called; form of ballot; certificate to secretary of state. This act 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 Danforth, 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, 1937. 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 Danforth 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 Danforth 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 Danforth Water Company and used or usable in supplying water in the town of Danforth, 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 section 17.

Sec. 20. Existing statutes not affected, rights conferred subject to provisions of law. 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.