

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. 826

H. P. 1692

House of Representatives, March 5, 1937.

Reported by Mr. Chase from Committee on Legal Affairs and laid on table to be printed under Joint Rules.

HARVEY R. PEASE, Clerk.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT to Create the Hampden Water District.

Whereas, the inhabitants of the town of Hampden in the county of Penobscot have no public water supply and the built up portions of said town are in danger of destruction in case of fire, and the inhabitants of said town are unable to procure a satisfactory supply of pure water for domestic and sanitary purposes, and

Whereas, in the opinion of the legislature, these facts render the immediate passage of this act necessary for the preservation of the public peace, health and safety, and constitute an emergency within the meaning of section 16 of Article XXXI of the constitution, now, therefore,

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

Sec. 1. Territorial limits; corporate name; purposes. Subject to the provisions of section 13 hereof, the following described territory and the people resident within the same, namely, so much of the town of Hampden as is included within the following boundaries, that is, beginning at a point on the Penobscot river and on the dividing line between said town of Hampden and the city of Bangor, and following said dividing line in a generally westerly direction to the northwest corner of the land in said Hampden owned by John H. Perry; thence in a straight line and in a

generally southwesterly direction to a point on the easterly line of the location of the Bangor & Aroostook Railroad which is $\frac{1}{4}$ of a mile northerly from highway number 9, so-called, in said town of Hampden; thence in a generally southerly direction, following the line of said railroad location, to the dividing line between said town of Hampden and the town of Winterport; thence easterly on and by said dividing line to said Penobscot river; thence in a generally northerly direction on and by said river to the point begun at, shall constitute a public municipal corporation under the name of "Hampden Water District" for the purpose of supplying the inhabitants of said district with pure water for domestic, sanitary, manufacturing and municipal purposes.

Sec. 2. Source of supply. The said district, for the purposes of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from Sourdabscook stream in said town of Hampden.

Sec. 3. Right of eminent domain. The said district, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, by purchase, gift, or by the exercise of the right of eminent domain, which right is hereby expressly delegated to said water district for said purposes, any lands or interests therein or water rights necessary for erecting and maintaining dams, for flowage, for power, for pumping its water supply through its mains, for reservoirs and standpipes, for preserving the purity of the watershed, for laying and maintaining aqueducts, mains and other structures for taking, distributing, discharging and disposing of water and for rights of way or roadways to its sources of supply, dams, power stations, reservoirs, standpipes, mains, aqueducts, structures and lands.

Sec. 4. Authorized to lay pipes, 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 within said district and across private lands therein, and to maintain, repair and replace all such pipes, aqueducts, mains and fixtures as may be necessary, and may excavate through any lands when necessary and convenient for its corporate purposes; and whenever said district shall lay any pipes, aqueducts or mains 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. Authorized to erect and maintain dams, reservoirs, etc. The said district is hereby authorized, for the purposes of its incorporation, to

erect and maintain all dams, pumping stations, with all necessary appliances required therefor, reservoirs, standpipes and structures necessary and convenient for its corporate purposes.

Sec. 6. Liability for damage; procedure in exercise of eminent domain; adjustment of damages. Said water district shall be liable for all damage that shall be sustained by any person or corporation in his or its property by the taking of any land or interest therein whatsoever, or water, or by flowage, or by excavating through any land for the purpose of laying pipes, aqueducts or mains, building dams or constructing reservoirs or standpipes.

In exercising any right of eminent domain conferred upon it by law, from time to time, in the taking of lands or interests therein, or water rights, the said district shall file in the office of the county commissioners of Penobscot county and record in the registry of deeds in said county, plans of the location of all such lands or interests therein or water rights, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire the property authorized to be taken, and which is described in such location, or the location 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 shall be 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 acts 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, whereupon possession may be had of all said lands or interests therein or water rights so taken, but title shall not vest in said district until payment therefor.

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

Sec. 7. Crossing of railroads. In case of any crossing of railroads, 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 of the railroad company and to the satisfaction of said company, but at the expense of said water district, unless otherwise ordered by said public utilities commission.

Sec. 8. Management of affairs of district; election of officers; ballot; trustees' meeting. All the affairs of said district shall be managed by a board of trustees composed of 5 members who shall be residents in the district. The trustees to be so elected shall be chosen by a plurality vote of the legal voters within said district, voting at an election to be specially called for the acceptance of this act and the election of said trustees on the 2nd Monday of May, 1937. Such special election shall be called, advertised and conducted according to the law relating to municipal elections in said town, except as otherwise provided herein. Provided, however, that the municipal officers in said town of Hampden shall not be required to prepare for posting, or the town clerk thereof to post, a new list of voters, but for the purpose of registration of voters said municipal officers shall be in session for 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 said municipal officers to verify the corrections of said lists, and to complete and close up their records of said session. All nominations of candidates so to be voted for shall be made by nomination papers signed in the aggregate for each candidate by not less than 25 qualified voters within said water district. Each voter signing the nomination paper shall make his signature in person and add to it his place of residence, and each voter may subscribe to as many nominations as there are trustees to be elected and no more. Such nomination papers shall, before being filed, be submitted to the town clerk of the town of Hampden, who shall forthwith certify thereon what number of the signatures are names of qualified voters in said district; 1 of the signers to each such separate paper shall swear to the truth thereof and the certificate of such oath shall be annexed to or made upon the nomination papers. Such nomination papers shall be filed with said town clerk at least 7 days, exclusive of Sundays, previous to the day of such election. With such nomination papers shall be filed the consent in writing of the person or persons nominated. All nomination papers being filed and being in apparent conformity with the foregoing provisions, shall be deemed to be valid, and if not in apparent conformity they may be seasonably amended under oath. In case any candidate who has been duly nominated under the provisions hereof shall die before the

day of election, or shall withdraw in writing, the vacancy may be supplied in the manner herein provided for such nominations. The name so supplied for the vacancy shall, if the ballots have not been printed, be placed on the ballots instead of the original nomination; or, if the ballots have been printed, new ballots containing the new nomination shall, if practicable, be furnished, or slips containing the new nomination shall be printed under the direction of the town clerk, which may be pasted in proper place upon the ballots, and thereafter shall become part and parcel of said ballots as if originally printed thereon.

The ballot shall be substantially as follows: It shall contain the names of all candidates so nominated printed in 1 column under the heading, "For Trustees of Hampden Water District." Above such heading shall be printed "Vote for 5 (or such number as may be appropriate) trustees. Make a cross to the right of each name voted for." As many blank spaces shall be left after the names of the candidates as there are trustees to be elected, in which the voter may by writing insert the name or names of any person or persons for whom he desires to vote. In preparing his ballot the voter shall mark a cross (X) against and to the right of such names on such ballot as he desires to vote for, not to exceed the number of trustees so to be elected. If the voter shall desire to vote for any person or persons whose name or names are not on the printed ballot, he may fill in such name or names in the blank spaces left therefor by writing the same therein. Where the voter so adds by writing in such new name or names, his vote for such new name or names shall be counted therefor although he may fail to mark a cross against the same. The result of such election shall be declared by said municipal officers, and due certificate thereof filed with the town clerk. The term of office of the trustees shall begin on said 2nd Monday of May.

As soon as convenient after the members of said board have been so chosen, said trustees shall hold a meeting at the selectmen's office in said town of Hampden, to be called by 1 of said trustees upon reasonable notice therefor as he deems proper. They shall organize by the election of a president and clerk, adopt a corporate seal, and, when necessary, may choose a treasurer and all other needful officers and agents for the proper conduct and management of the affairs of said district. 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. At said 1st meeting the trustees so elected shall determine by lot the term of office of each trustee, so that 1 trustee shall retire each year and whenever the term of office of a trustee expires, his successor shall be elected by a plurality vote by the

inhabitants of said district, and upon nomination made as herein provided for the 1st election of trustees, and for the purpose of such election a special election shall be called and held on the 2nd Monday of May in each year, the same to be called in the manner hereinbefore provided for the 1st election of trustees. The trustee so elected shall serve the full term of 5 years; and in case any vacancy arises in the membership of the board of trustees, it shall be filled in like manner for the unexpired term by special election to be called by the municipal officers for the town of Hampden. When any trustee ceases to be a resident of the district, he shall vacate such office of trustee and the vacancy shall be filled as aforesaid. All such trustees shall be eligible to re-election, but no person holding the office of selectman or road commissioner in the town of Hampden shall be eligible to nomination or election as trustee. Said trustees may procure an office and incur such expenses as may be necessary. Each member shall receive in full compensation for his services in whatever capacity an allowance of \$50 per annum and no more. At the close of each fiscal year the trustees shall make a detailed report of their doings, of the receipts and expenditures of said water district, of its financial and physical condition and of such other matters and things pertaining to said district as shall show the inhabitants of said district how said trustees are fulfilling the duties and obligations of their trust, such report to be made and filed with the municipal officers of said town of Hampden.

Sec. 9. Temporary loans negotiated; issue of bonds. For accomplishing the purposes of this act, said water district through its trustees is authorized to borrow money temporarily and to issue therefor the negotiable notes of the district, and for the purpose of refunding the indebtedness so created, for paying any necessary expenses and liabilities incurred under the provisions of this act, including the expenses incurred in the creation of a district, in securing sources of supply, taking water and land, paying damages, taking rights of way or other interests in real estate, by purchase or otherwise, laying pipes, aqueducts and mains, constructing, installing, maintaining and operating reservoirs, standpipes, dams, pumping stations and whatever equipment may be necessary or incidental to the construction and installation of such system of water works, and making renewals or extensions, additions and improvements to the same, the said water district, through its trustees, may, from time to time, issue bonds of the district, to an amount or amounts 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 116 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 savings banks.

Sec. 10. Contracts for supplying water. Said water district is hereby authorized to make contracts with the town of Hampden and with corporations and inhabitants of said district, for the purpose of supplying water as contemplated by this act, and the town of Hampden by its selectmen is hereby authorized to enter into a contract with said district for a supply of water for public uses on such terms and for such time as the parties may agree, which contract when made shall be legal and binding on all parties thereto and said town of Hampden for said purposes may raise money in the same manner as for other municipal charges.

Sec. 11. Water rates. 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 the rates for water so supplied shall be uniform within the territory supplied by the district whenever the installation and maintenance of mains and the cost of service is substantially uniform, but nothing in this act shall preclude said district from establishing higher rates than the regular rates in sections where for any reason the cost of construction and maintenance or the cost of service exceeds the average, but such higher rates shall be uniform throughout the sections where they apply. 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.
2. To provide for the payment of the interest on the indebtedness created or assumed 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 or assumed by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of such 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.
4. If any surplus remains at the end of the year, it may be transferred to the sinking fund.

Sec. 12. Incidental rights and privileges. All incidental rights, powers and privileges necessary to the accomplishment of the main object herein set forth are granted to the public municipal corporation hereby created.

Sec. 13. Acceptance subject to referendum. Unless accepted and approved by a majority vote of the legal voters within said water district

voting at an election called and held for the purpose by the selectmen of the town of Hampden, on the 2nd Monday of May, 1937, as provided in section 8, this act shall forthwith become inoperative. Said selectmen shall be in session the 3 secular days next preceding said special election for the purpose of revising the lists as provided in section 8 hereof. The town clerk shall reduce the subject matter of this act to the following question: "Shall the act to incorporate the Hampden 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 selectmen and due certificate thereof filed by the town clerk with the secretary of state.

Sec. 14. Qualified voters. In all elections hereunder the selectmen of the town of Hampden shall exclude from their lists and from all check lists the legal voters who are resident outside the territorial limits of said water district as defined in this act, and all warrants issued for elections shall be varied accordingly to show that only the voters resident within the territorial limits of said water district are entitled to vote hereunder.

Sec. 15. Saving clause. 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.

Sec. 16. Emergency clause. In view of the emergency recited in the preamble hereof, this act shall take effect when approved, subject to the provisions of section 13 hereof.