

MAINE STATE LEGISLATURE

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

Legislative Document

No. 5

S. P. 38

House of Representatives, January 11, 1939.

Referred to Committee on Public Utilities in concurrence and 500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Senator Corrigan of Washington.

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

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-NINE

**AN ACT Authorizing Districts, Cities, Towns and Plantations to Establish,
Acquire, Own and Operate Public Utilities.**

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

Sec. 1. Organization of municipal public utilities, authorized. The inhabitants of any district, municipality, town or plantation may be and become a body politic and corporate for the purpose of public service in the production and distribution of power, light, heat, water, sewerage, and the construction of bridges, and buildings for the public benefit by the majority vote of the municipal authorities in such district or municipal corporation. For such purposes such corporation shall have the right to take for fair compensation any property, rights and franchises necessary or convenient to operation and distribution and to make agreements and contracts involving all means and methods for public service for periods not more than 10 years in duration. Such compensation shall be settled within such period by complaint and claim by either party to the superior court but no decree shall deprive such corporation of possession and control of necessary elements in its service. Notwithstanding any general or special law, any such corporation may construct, lease, purchase, own, acquire, use and operate any public utility service within or without its territorial limits for the purpose of furnishing to itself or for compensation to its inhabitants,

any service similar to that furnished by any public utility specified in section 15 of chapter 62 of the revised statutes, excepting telephone, telegraph, traffic, or traction service. For such purpose, any municipal corporation may purchase gas or electrical energy or water supply from the federal government, or any agency thereof; the state, or from any state agency, or other municipal corporation, or from any private, public, or quasi-public corporation.

Sec. 2. Definitions. "Public utility service" as used in this act shall mean any service authorized to be furnished by any public utility as defined in section 15 of chapter 62 of the revised statutes, except as restricted in section 1 hereof. "Municipal corporations" as used in this chapter shall mean districts, cities, towns, villages, plantations and quasi-municipal corporations.

Sec. 3. Method of establishing, etc., laws, ordinances, etc. The method of constructing, leasing, purchasing, or acquiring the plant and facilities for such service, together with both the maximum and the estimated costs thereof, the plan for financing such project and the method of furnishing such service shall be fixed by a vote of the municipal officers or similar governing board of any such municipal corporation.

Authority to enact such laws, ordinances, orders and resolves is hereby conferred upon the municipal officers and similar governing boards of municipal corporations.

Sec. 4. Enacting laws, ordinances, etc. Any action by the municipal officers or similar governing board of any such municipal corporation, before taking effect, shall be submitted for the approval of the electors of the municipal corporation at the next general election in said municipal corporation held not less than 90 days after the adoption thereof, or at a special election called for such purpose. Every such local law, ordinance, order, and resolve, and notice of the submission thereof, shall be published in 1 or more newspapers published or most widely distributed within the district, city, town, village or plantation, as the case may be, to be designated by the governing board of the municipal corporation affected, once in each week for 6 consecutive weeks immediately preceding such election.

Sec. 5. Acquisition of public utilities. Such municipal corporation may for such purpose, acquire the public utility service of any public utility company operating pursuant to chapter 62 of the revised statutes or any other public utility service within or without its territorial limits, by purchase, or by condemnation in the manner provided by the law for condemnation by such municipal corporation of private property for a public use.

Such municipal corporation shall have the power to construct or acquire by purchase or condemnation any transmission lines or pipes connecting it with any source or sources of supply of gas, water or electric power, production, and to share with other municipal corporations the cost of such transmission lines or pipes.

Sec. 6. Operation and regulation. The method of operation of, and the rates, rentals and charges for such service and the procedure for their collection shall be fixed by the municipal corporation officers or similar governing board of the municipal corporation, who may exercise the powers granted by this act or delegate all or part of such powers to an officer, board, or commission of such municipal corporation.

Sec. 7. Extra-territorial service. Whenever a surplus of such public utility service exists over the amount thereof required by the municipal corporation and the residents thereof, such municipality may sell such surplus outside the municipal corporation to persons, public or private corporations or other municipal corporations. Any such municipal corporation, by agreement with any other municipal corporation which is authorized to exercise the powers specified in this act, may extend such service to such other municipal corporation under such terms and conditions as may be agreed upon between them.

Sec. 8. Agreements between municipal corporations. Agreements may also be made between 2 or more municipal corporations, authorized as provided in this act to exercise the powers specified in the preceding section, for the joint ownership, leasing, construction, acquisition, use or operation of a public utility service, within the combined territorial limits of such contracting parties. The method of operation of and the rates, rentals, and charges for such service and the procedure for their collection shall be fixed by such agreements.

Sec. 9. Establishing and constructing public utility service. The purchase, leasing and construction of such public utility service shall insofar as practicable, be effected by such municipal corporation in the same manner and by the same officers or boards as other authorized public improvements are effected for and by such corporation. The provisions of law in force in such municipal corporation applicable for the purchase, acquisition, leasing and construction of such service, shall apply when not inconsistent with state law applicable thereto.

Sec. 10. Invalidity in part. Any section, clause or provision of this

act finally adjudicated invalid shall be void as to such part so adjudicated only and shall affect no other section, clause or provision.

Sec. 11. Inconsistent provisions superseded. The powers granted by this article shall be in addition to and not in substitution for all the powers, rights, privileges, and functions conferred or imposed upon any municipal corporation by any other law heretofore or hereafter enacted. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general, special, or local, the provisions of this act shall be controlling.

Sec. 12. Disposition of surplus profits. Profit surplus accruing to such corporation shall be paid over at selected intervals to the treasury of the municipal corporation for public purposes.