

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. 966

H. P. 1803

House of Representatives, February 22, 1939.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Farwell of Unity.

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

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-NINE

AN ACT to Incorporate the Brooks Water District.

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

Sec. 1. Territorial limits; corporate name; purposes. The inhabitants and territory within the town of Brooks in the county of Waldo shall be, and hereby are, constituted a body politic and corporate under the name of the Brooks Water District for the purpose of supplying the town of Brooks and the inhabitants of said town or any part of said town with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires.

Sec. 2. Powers. Said Brooks Water District is hereby authorized for the purpose aforesaid to take, collect, store, flow, use, detain, distribute and convey to the town of Brooks or any part thereof water from any lake, pond or stream and from any surface or underground brook, spring or vein of water in said town of Brooks, 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 purpose 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 watershed, 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, roadways 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 necessary 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 rights of eminent domain that are herein conferred upon said district or any rights of eminent domain through or under the franchises of the Brooks 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 damage 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 Waldo 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 high-ways.

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 Consolidated 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 the Consolidated Water Company, situated in said town of Brooks, including all land, waters, water-rights, dam structures, reservoirs, pipes, machinery, fixtures, tools and all apparatus and appliances used or usable in supplying water in the town of Brooks. 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 Consolidated Water Company, and may do and perform any and all of the acts and things authorized by the original charter of the said Consolidated Water Company in so far 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 Consolidated Water Company and said town and any persons or corporations for supplying water in the town of Brooks shall be assumed and carried out by said Brooks Water District.

Sec. 10. District authorized to reimburse all creditors. Said water district is hereby authorized to reimburse all creditors for supplies, service and funds furnished said water company, with interest at the same rate as paid

by the town of Brooks, said district through its trustees, said water company through its legal representatives and creditors through their legal representatives are authorized to contract with each other and convey to each other whenever necessary 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 Consolidated 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 3 members, to be appointed by the municipal officers of Brooks, within 30 days after the acceptance of this act by the inhabitants of said water district as hereinafter provided, but none of the selectmen of said town shall be appointed to the board of trustees. As soon as convenient after the members of said board have been appointed, said trustees shall hold a meeting in the town of Brooks, 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 1st 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 1st

trustee to expire shall end at the end of the municipal year of the town of Brooks 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 the trustee expires, the body which appointed said trustee shall appoint a successor to serve the full term of 3 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 Brooks he vacates the office of trustee. They may also ordain and establish such by-laws as are necessary for their own convenience and 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 Brooks.

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 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 Brooks; 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 proposed 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 Brooks, to be held at the voting place in town, the date of holding said election to be determined by said municipal officers but to be not later than

. 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 Brooks shall not be required to prepare for the posting or the town clerk to post a new list of voters, and for the purpose of registration of voters, and said board shall be in session the 3 secular days next preceding such election, the 1st 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 Brooks 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, within 6 years from the effective date of this act, the plant property, franchises, rights and privileges owned by the Consolidated Water Company and used or usable in supplying water in the town of Brooks, then this act shall become null and void.

Sec. 19. Effective date of act. 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.