

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. 1067

H. P. 2035

House of Representatives, March 23, 1939.

Reported by Mr. Farwell from Committee on Public Utilities 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-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 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 watershed, for laying and maintaining aqueducts 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, mains, aqueducts, structures and lands.

Sec. 4. Procedure as to the exercise of right of eminent domain. In exercising such rights of eminent domain as are herein conferred upon said district or any rights of eminent domain through or under the franchises of the Consolidated Water Company if and when by it acquired, the district shall file for record in the registry of deeds in the county of Waldo plans of the location of lands to be taken or any interest in which less than a fee is to be taken together with a description of such lands and of the interest therein to be taken 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. 5. Adjustment of damages. If any person sustaining damage 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 his damages assessed by them; the procedure and all subsequent proceedings and the rights of appeal thereon shall be had under the same conditions, limitations and restrictions as are or may be prescribed by statute in the case of damages by laying out of highways.

Sec. 6. 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, roadways and highways of the district as delimited 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, roadway 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 and without unnecessary delay cause the earth and pavement removed by it to be replaced in proper condition.

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 utilities commission on petition by either party, after notice to the adverse party and hearing, 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 the public utilities commission, 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 conferred upon said district for that 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 by it 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 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 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 Consolidated Water Company and said town of Brooks 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. 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 to which the provisions of section 117 of chapter 56 of the revised statutes shall be applicable. The said notes and bonds shall be legal investments for the savings banks of the state, and shall be exempt from taxation.

Sec. 11. 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 selectmen of the town of Brooks and who shall be sworn to the faithful performance of the duties of their office, the initial appointment to be made within 30 days after the acceptance of this act by the inhabitants of the town of Brooks as hereinafter provided but no person shall at the same time hold the offices of selectman of the town of Brooks and member of the board of trustees of said district. As soon as convenient after the members of said board shall have been first appointed, they shall hold a meeting in the town of Brooks and organize by the election of a president and clerk, shall adopt a corporate seal, and choose a treasurer. The term of office of said trustees shall be for 3 years to terminate on the 1st day of April save that at such first meeting they shall designate by agreement or failing to agree, by lot the member whose term shall expire on the 1st day of April of each of the 3 years next succeeding. Vacancies occurring in said board shall be filled by the selectmen of the town of Brooks for the unexpired term. When any trustee ceases to be a resident of the said town of Brooks, he thereby vacates the office of trustee. They may ordain and establish such by-laws as they shall deem necessary for their own convenience and the proper management of the affairs of the district, wherein they may make provision for all other needful officers and agents and prescribe the tenure of all officers and agents which they may be authorized to choose. It shall be within the discretion of the board to choose all their officers and agents except their president from without their own membership. The treasurer shall give bond to the district in such penal sum and with such sureties as may be prescribed and approved by the trustees.

Sec. 12. Property, tax exempt. The property of said district shall be exempt from all taxation in the town of Brooks.

Sec. 13. Execution of instruments. All deeds or other instruments which are required to be recorded in any registry of deeds shall be executed and acknowledged and the seal of the corporation shall be affixed by the president, but the trustees may by vote designate the officer or agent who may be authorized to execute other written instruments or to endorse checks and negotiable instruments, provided, however, that the facsimile signature of the treasurer shall be a sufficient signature upon interest coupons attached to any bonds which the district may issue.

Sec. 14. 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.

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. 15. 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 hereby created.

Sec. 16. 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. 17. 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.

Sec. 18. 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 19 hereof.

Sec. 19. Local referendum for town of Brooks; meeting, how called; form of ballot; certificate to secretary of state. This act shall take effect if and when accepted by a majority of the qualified voters of the said town of Brooks present and voting at a special election to be called and held for that purpose at such time as the selectmen of the town of Brooks shall determine but not later than the 1st day of September A. D. 1939. Such special election shall be called, warned, and conducted according to the law relating to municipal elections. The ballot to be used at said election shall bear the question "Shall the act to incorporate the Brooks Water District be accepted?" and the voters shall indicate their preference by placing a cross against the word "Yes" or "No" following the question. The votes shall be counted and the result declared by the selectmen in open town meeting and certificate of the result shall be filed with the secretary of state by the town clerk within 7 days after said election.