

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 490**

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H. P. 1196

House of Representatives, February 4, 1941.

Referred to the Committee on Public Utilities and 500 copies ordered printed. Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Hall of Wilton by request.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-ONE

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**AN ACT to Incorporate the Wilton Water District.**

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

**Sec. 1. The territorial limits and corporate name and purposes.** The inhabitants and territory within the town of Wilton, in the county of Franklin, shall be, and hereby are, constituted a public municipal corporation under the name of the Wilton Water District for the purpose of supplying the inhabitants of the town of Wilton and the inhabitants of the villages of North Jay and Bean's Corner in the town of Jay with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires.

**Sec. 2. Powers of said Wilton Water District.** Said Wilton Water District is hereby authorized for the purposes aforesaid to take, collect, store, flow, use, detain, distribute and convey to the town of Wilton and to the villages of North Jay and Bean's Corner in the town of Jay water from Varnum Pond, Wilson Lake, or from any spring not in actual use for domestic purposes, or any lake, pond or stream in the town of Wilton, or from Hill's Pond in Perkins Plantation, 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. 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, roads, ways and highways in said district and in and to the villages of North Jay and Bean's Corner in the town of Jay 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. Whenever the 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.

**Sec. 4. Rights of eminent domain conferred.** The said district for the purposes of its incorporation is hereby authorized to take and hold as for public uses, by purchase, eminent domain, or otherwise, any land therein that may be necessary for supplying water, laying and maintaining its pipe lines and for such other purposes as may be necessary for accomplishing the purposes of this act.

**Sec. 5. Taking over the property of the Wilton Water Company.** The said district is hereby authorized to take and hold 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 and franchises, rights and privileges, except cash assets, including all land, waters, water rights, machinery, fixtures, tools, apparatus and appliances owned by the Wilton Water Company and used or capable of being used for the purpose of maintaining a public water supply together with all books and accounts now due or which may hereafter become due to the Wilton Water Company for service rendered by that company.

**Sec. 6. Procedure in case trustees and Water Company fail to agree on terms of purchase.** In case said trustees fail to agree with the said Wilton Water Company upon the terms of purchase of the above mentioned property, on or before May 1, 1942, said district, through its trustees afore-said, is hereby authorized to take said plant, property and franchises, as for public use by petition therefor in the manner hereinafter provided. And said water district, through its trustees, is hereby authorized on or before August 1, 1942, to file a petition in the clerk's office of the supreme judicial court for the county of Franklin, in term time or in vacation, addressed to any justice of said court, who, after due notice to said Wilton Water Company and its mortgagees, shall, after hearing and within 30 days after the filing of said petition, appoint 3 disinterested appraisers, none of whom

shall be residents of Franklin county, for the purpose of fixing a valuation of said plant, property and franchises. At the hearing aforesaid, such justice, upon motion of the petitioner, may order the production and filing in court, for the inspection of the petitioner, of all books and papers pertinent to the issue and necessary for a full understanding of the matter to be heard by said appraisers, the terms and conditions of so producing and filing such books and papers to be determined by the justice in his order therefor and to be enforced from time to time as any justice of the supreme judicial court, in court time or in vacation, upon motion of either party, may deem reasonable and proper in the premises. At such hearing, such justice upon motion of the petitioner, may fix a time at which the said water company shall file in the clerk's office of the supreme judicial court for the county of Franklin for the inspection of the petitioner, so far as they relate to the service in the town of Wilton and in the villages of Bean's Corner and North Jay, the following: first, schedule showing the names, residences and water service of all its customers on the 1st day of January, 1942, with the rate charged therefor; second, copies of all contracts in force on said 1st day of January, 1942; third, an itemized statement of the gross income earned during its last complete fiscal year and up to said 1st day of January, 1942, and all operating expenses and fixed charges, paid or incurred during such period and properly chargeable thereto; fourth, a memorandum of all real estate, water rights, or interest therein, owned or controlled on said 1st day of January, 1942, with such brief description thereof as will reasonably identify the same; fifth, brief descriptions, specifications and plans of all reservoirs, mains, pipes, service pipes, hydrants, gates, gate boxes, shut-off boxes, fixtures and machinery and all the physical elements in such water system, giving in detail quantities, sizes, lengths, and specifying the streets, roads, or ways where situated; sixth, an itemized list of all tools, apparatus, appliances and supplies used or usable in supplying water on said 1st day of January, 1942. Such orders may be enforced from time to time by any justice of said supreme judicial court, in term time or in vacation, upon motion of either party, as such justice may deem reasonable and proper in the premises. At such hearing the justice then sitting may, upon motion of the petitioner, make all such decrees as he deems reasonable and proper to enable the petitioner, through its servants and employees, to ascertain the true condition of the mains and pipes of the said water company, externally or internally, in the presence of the officers or agents of said water company, the entire expense thereof to be borne by said water district. The said appraisers shall have the power of compelling attendance of witnesses and the production of all books, accounts and papers pertinent

to the issue and necessary for a full understanding by them of the matter in question and may administer oaths; and any witness or person in charge of such books, accounts and papers refusing to attend or to produce the same shall be subject to the same penalties and proceedings, so far as applicable, as witnesses summoned to attend the supreme judicial court. Depositions may be taken as in civil actions. The appraisers so appointed shall, after notice and hearing, fix the valuation of said plant, property and franchises at what they are fairly and equitably worth, so that said water company shall receive just compensation for all and the same. The 1st day of January, 1942, shall be the date as of the valuation aforesaid shall be fixed, from which date interest on said award shall run, and all rents and profits accruing thereafter shall belong to said water district. The report of said appraisers, or a majority of them shall be filed in said clerk's office, in term time or in vacation, as soon as may be after their appointment, and such single justice, or, in case of his inability to act, any justice of said court appointed by the chief justice, may, after notice and hearing, confirm or reject the same, or commit it if justice so requires. Before a commission is issued to said appraisers either party may ask for instructions to said appraisers, and all question of law arising upon said requests for instructions, or upon any other matters in issue, may be reported to the law court for determination before appraisers proceed to fix the valuation of the property, plant and franchises of said company. Upon the confirmation of said report the court so sitting shall thereupon after hearing, make final decree upon the entire matter, including the application of the purchase money and transfer of property, jurisdiction over which is hereby conferred, and with the power to enforce said decree as in equity cases. All findings of fact by said court shall be final, but any party aggrieved may take exceptions as to any ruling of law so made, the same to be accompanied by so much of the case as may be necessary to a clear understanding of the question raised thereby. Such exceptions shall be claimed on the docket within 10 days after such final decree is signed, entered and filed and notice thereof has been given to the parties or their counsel, and said exceptions so claimed shall be made up, allowed and filed within said time unless further time is granted by the court or by agreement of the parties. They shall be entered at the next term of the law court to be held after the filing and entry of said decree and there heard unless otherwise agreed; or the law court for good cause shall order further time for hearing thereon. Before said plant property and franchises are transferred in accordance with such final decree and before payment therefor, as hereinbefore provided such justice shall, upon motion of either party, after notice and hearing take account of all receipts and expenditures,

properly had or incurred by the Wilton Water District in respect of the territory comprising said district belonging to this period, from and after said 1st day of January, 1942, and all net rents and profits accruing thereafter, and shall order the net balance to be added to or deducted from, the amount to be paid under such final decree, as the case may be. All findings of law and fact by such justice at such hearing shall be final. On payment or tender by said district of the amount so determined and the performances of all the other terms and conditions so imposed by said court, the entire plant, property and franchises of Wilton Water Company used and usable in supplying water in the town of Wilton and in the villages of Bean's Corner and North Jay shall become vested in said water district. Either party may file and prosecute motions and petitions relating to the premises at any state of the proceedings, and the proceedings shall not be discontinued except upon consent of both parties.

**Sec. 7. 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 Wilton Water Company by it acquired, the district shall file for record in the registry of deeds in the county of Franklin 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 best in said district until paid for.

**Sec. 8. Adjustment of damages.** If any person sustaining damages by 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 Franklin 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. 9. Liability for injuries.** Said district shall be liable to any person injured by any fault of said district or its agents, or any defect in the highway occasioned by the construction of the works of said district during said construction or after the same has been completed or while the same is undergoing repairs or extensions are being made; and the said district shall also be liable to the town of Wilton for any and all costs, damages and expenses which said town may suffer or be put to by reason of the default, neglect, negligence or carelessness of said district or any of its officers, servants or agents in constructing, maintaining or repairing said system.

**Sec. 10. 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 of 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. 11. Valid contracts of Water Company to be assumed by district; district and town authorized to make contracts.** All valid contracts made in good faith now existing between the Wilton Water Company and said town of Wilton and any persons or corporations for supplying water in the town of Wilton and in the villages of North Jay and Bean's Corner shall be assumed and carried out by said Wilton Water District.

Said district through its trustees is authorized to contract with persons and corporations, including the town of Wilton, and said town of Wilton is authorized to contract with it, for the supply of water for municipal purposes.

**Sec. 12. Property, tax exempt.** The property of said district shall be exempt from all taxation in the town of Wilton and in all other towns where any part of its plant may be located.

**Sec. 13. Board of trustees.** All the affairs of said district shall be managed by a board of 3 trustees, residents therein, who shall be elected by the legally registered voters of the district. They shall hold office for the term of 3 years and until their respective successors are chosen and qualified, except, however, as hereinafter provided.

**Sec. 14. Trustees; how elected, meetings, officers.** Vacancies shall be filled for the unexpired term. The first board of trustees shall be elected at the same time as the referendum for the town of Wilton for the acceptance of the provisions of this act is held as hereinafter provided, one to serve until the 1st annual meeting of the district, one until the 2nd, and one until the 3rd such meeting. Thereafter, one member shall be elected at the time of each annual meeting to serve for the term of 3 years.

As soon as convenient after the 1st election the trustees shall hold a meeting at some convenient place in the district to be called by any member thereof in writing designating the time and place and delivered in hand to the other 2 members not less than 2 full days before the meeting; provided, however, that they may meet by agreement without such notice. They shall then organize by the election of a chairman and clerk from their own number, adopt a corporate seal and by-laws, and perform any other acts within the powers delegated to them by law. When necessary they may choose a treasurer and other needful officers and agents who shall serve at their pleasure and whose compensation shall be fixed by said trustees. 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, but shall not receive any compensation therefor except as trustees unless authorized by vote of the legally registered voters of said district as hereinafter provided to conduct meetings of the district.

The compensation of the trustees shall be \$50 per annum unless otherwise provided by vote as above defined.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member as clerk or clerk pro tem. They shall make and publish an annual report including a report of the treasurer.

**Sec. 15. Annual meeting of district; qualification of voters of district.** The annual meeting of the district shall be held in the district on the 3rd Monday of March, at such hour and place as may be designated by resolution of the board of trustees as provided in the by-laws. Notice thereof, signed by the chairman or clerk of the board, shall be conspicuously posted in 3 public places within the district, not less than 7 days before the meeting. Special meetings may be called by the board in like manner at any time, and notices of special meetings shall state the business to be transacted thereat. Eleven persons qualified to vote in such meetings shall constitute a quorum. If for any reason an annual meeting is not held on the above date, a meeting in lieu thereof may be called in like manner to be held within 3 months from said date.



All persons resident in said district and qualified to vote for governor under the laws of this state shall be entitled to vote in any meeting of this district, including the meeting for the acceptance of this charter and the election of the first board of trustees.

**Sec. 16. Manner of obtaining list of voters of district.** The list of voters in said district as prepared by the selectmen of Wilton as qualified to vote at the annual meeting of said town shall be used as the list of voters qualified to vote at the annual meeting of the district. For the holding of a special meeting of said district the trustees of said district shall have the same powers and perform the same duties as otherwise are exercised and performed by the selectmen of towns in correcting and preparing lists of the persons qualified to vote in said district, and for that purpose shall be in session at a place set by the trustees between the hours of 10 o'clock in the forenoon and 12 o'clock noon on the secular day next before the date of the meeting.

All meetings of the district shall be presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings.

**Sec. 17. Authorized to borrow money, issue notes, etc.** For accomplishing the purposes of this act said water district, through its trustees, is hereby authorized to borrow money and issue therefor the interest bearing negotiable notes and/or bonds of said water district and for the purpose of refunding or paying said indebtedness, may from time to time issue its negotiable notes and/or bonds of said district to an amount necessary in the judgment of said trustees therefor. Said notes and/or bonds shall be legal obligations of said water district and all the provisions of section 117 of chapter 56 of the revised statutes of 1930, shall be applicable thereto. The bonds of said district shall be legal investments for the savings banks of the state and shall be exempt from taxation.

**Sec. 18. 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 the approval of the public utilities commission. Said rates shall be established so 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.

If any surplus remains at the end of the year it may be turned into the sinking fund.

**Sec. 19. 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. 20. Local referendum for town of Wilton; meeting, how called; form of ballot; certificate to secretary of state.** This act, subject to the provisions of section 15 shall take effect when approved by a majority of the legal voters of said district present and voting by written ballot, which is hereby authorized, for or against the acceptance of the district as herein-after provided for in this section at an election specially called and held for the purpose, by the municipal officers of the town of Wilton, to be held at the voting place in the town, the date of holding said election to be determined by said municipal officers but to be not later than November 1, 1941. 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 Wilton 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 Wilton 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. 21. 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 six years from the effective date of this act, the plant property, franchises, rights and privileges owned by the Wilton Water Company and used or usable in supplying water in the town of Wilton and the villages of North Jay and Bean's Corner, then this act shall become null and void.

**Sec. 22. 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 sections 14, 15, and 20.

**Sec. 23. 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.