

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 1049**

H. P. 1788

House of Representatives, March 21, 1941.

Reported by Mr. Farwell from Committee on Public Utilities and laid on table to be printed under Joint Rules.

HARVEY R. PEASE, Clerk.

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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 Creating the Limestone Water and Sewer District.**

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

**Sec. 1. Territorial limits and corporate name and purposes.** The inhabitants and territory within the town of Limestone in the county of Aroostook shall be, and hereby are, constituted a body politic and corporate under the name of the Limestone Water and Sewer District for the purpose of supplying the town of Limestone 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, and of supplying the town of Limestone and the inhabitants of said town or any part of said town with suitable and adequate sewerage facilities.

**Sec. 2. Powers of said Limestone Water and Sewer District.** Said Limestone Water and Sewer District is hereby authorized for the purposes aforesaid to take, collect, store, flow, use, detain, distribute and convey to the town of Limestone 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 Limestone, 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, and to do any and all things necessary in

providing a system of sewerage and drainage for public purposes and for the health, comfort and convenience of the inhabitants of said district.

**Sec. 3. Right 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 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, 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, its dams, power stations, reservoirs, mains, aqueducts, structures and lands. The said district may, for the purposes outlined in this section, do any and all things necessary in providing a system of sewerage and drainage for public purposes and for the health, comfort and convenience of the inhabitants of said district, provided however nothing herein contained shall be construed as authorizing said district to take by right of eminent domain any of the property or facilities of any other public service corporations or district used or acquired for future use by the owner thereof in the performance of a public duty unless expressly authorized thereto herein or by subsequent act of the legislature, or as provided in section 8 hereof.

**Sec. 4. Authorized to lay mains, pipes, conduits, 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 of the town of Limestone and across private lands therein, and to maintain, repair and replace all such pipes, mains, conduits, 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 unnecessary delay cause the earth and pavement removed by it to be replaced in proper condition.

**Sec. 5. Procedure in exercising right of eminent domain.** After the original acquisition for which provision is made in sections 8 and 9 of this act, the said district in exercising, from time to time, any right of eminent domain conferred upon it by law or through or under the franchise of any company by it acquired shall file written application with the public utilities commission requesting its approval of the proposed taking. Such application shall describe the property or rights to be taken, the purpose of

the taking, and shall name all parties who may be interested therein; the commission thereupon shall appoint a time for a hearing near the premises, and shall require such notice as the commission may direct to be given to the persons interested at least 14 days before the date of the hearing; the commission then shall view the premises, hear the parties, and shall determine how much, if any, of the property described in the petition should be taken for the reasonable purposes of the district and for the safe, economical and efficient furnishing of an adequate water supply and adequate sewerage facilities; and in authorizing any taking the commission may attach such reasonable terms limitations and restrictions as justice may require. If the commission shall find that any of the property described in the application is necessary for the aforesaid purposes of the district, it shall make a certificate containing a definite description of the property to be taken, and of any terms, restrictions and limitations in connection therewith, and shall furnish to the district a true copy thereof, attested by the clerk of the commission; and when such copy of the certificate is filed with the clerk of courts in the county where the property lies, the property shall be deemed and treated as taken; provided, however, that when property is held by a tenant for life and the reversion is contingent as to the persons in whom it may vest at the termination of the life estate, such fact shall be stated in the application and the commission, in addition to the notice to the tenant for life, shall require notice by publication, in such manner as it may deem proper, to all others interested. Entry may be made on any private land prior to the filing of any such application for the purpose of making surveys, the district being responsible for any damage resulting from such entry, and possession may be had of the property described in the certificate of the commission forthwith upon the filing and recording of such certificate as hereinbefore provided, but title to such property shall not vest in the district until payment therefor has been made.

**Sec. 6. Adjustment of damages.** If any person sustaining damages by any taking as aforesaid shall not agree with the said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Aroostook 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. 7. Procedure in crossing of railroads or utility rights of way.** In case of any crossing of a railroad, or the right of way occupied by the transmission or distribution lines of an electric company, unless consent is given by the company owning or operating such railroad or transmission

line, 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 or right of way shall be done under the supervision and to the satisfaction of such railroad company or electric company as the case may be, but at the expense of the district unless otherwise ordered by said public utilities commission, which shall award to said railroad or electric company any damage suffered by it occasioned by said crossing.

**Sec. 8. Authorized to acquire property and franchises of Limestone Water and Sewer Company.** Said 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 Limestone Water and Sewer Company, situate in said town of Limestone, including all land, waters, water rights, dam structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in the town of Limestone. 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 Limestone Water and Sewer Company, and may do and perform any and all of the acts and things authorized by the original charter of the said Limestone Water and Sewer Company, insofar as they are not inconsistent with the provisions of this act.

**Sec. 9. Procedure in case trustees and water company fail to agree on terms of purchase.** In case said trustees fail to agree with said Limestone Water and Sewer Company upon the terms of purchase of the above-mentioned property, on or before January 1, 1942, said district, through its trustees aforesaid, is hereby authorized to take said plant, property and franchises, as for public use by petition therefor in the manner hereinafter provided. And said district, through its trustees, is hereby authorized on or before July 1, 1942, to file a petition in the clerk's office of the supreme judicial court for the county of Aroostook, in term time or in vacation, addressed to any justice of said court, who, after due notice to said company and its mortgagees, shall, after hearing and within 30 days after the date at which said petition is returnable, appoint 3 disinterested ap-

praisers, one of whom shall be learned in the law, and none of whom shall be residents of Aroostook 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 said supreme judicial court, in term 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 company shall file in the clerk's office of the supreme judicial court for the county of Aroostook for the inspection of the petitioner, so far as they relate to the service in the town of Limestone, the following: first, schedule showing the names, residences and 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 company, externally or internally, in the presence of the officers or agents of said company, the entire expense thereof to be borne by said 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 company shall receive just compensation for all and the same. The 1st day of January, 1942, shall be the date as of which 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 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 recommit it if justice so requires. Before a commission is issued to said appraisers either party may ask for instructions to said appraisers, and all questions 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 company 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. 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 said company used and usable in supplying water and sewerage facilities in the town of Limestone shall become vested in said 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.

If a vacancy occurs at any time in said board of appraisers from any cause, such sitting justice, or in case of his inability to act, any justice of said court appointed by the chief justice may after notice and hearing, appoint a new appraiser or appraisers and make all such orders for hearing said cause by the appraisers, anew or for any extension of time for making their award, or otherwise, as the circumstances of the case may require. Nothing herein contained shall preclude said district from acquiring said properties from said company at any time by mutual agreement.

**Sec. 10. Valid contracts of company to be assumed by district.** All valid contracts now existing between the Limestone Water and Sewer Company and said town and any persons or corporations for supplying water in the town of Limestone shall be assumed and carried out by said Limestone Water and Sewer District.

**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 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 Limestone Water and Sewer Company, by purchase or otherwise, or securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a waterplant and sewerage and drainage system 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 district, which is hereby declared to be a quasi-municipal corporation within the provisions of sections 116 and 117 of chapter 56 of the revised statutes, and all the provisions of said sections shall be applicable thereto. The said notes and bonds 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 Limestone, within 30 days after the acceptance of this act by the inhabitants of said 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 Limestone, 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 Limestone 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 a 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 Limestone he vacates the office of trustee. 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. 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 Limestone.

**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. 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 service 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 and sewer 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 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.

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 Limestone; meeting, how called; form of ballot; certificate to secretary of state.** This act shall take effect except as hereinafter provided when approved by a majority vote of the legal voters of said district, voting at an election specially called and held for the purpose, by the municipal officers of the town of Limestone, to be held at the voting places in said town at the next regular town meeting or at a special town meeting called before that time and after this act shall become a law, but if and only if the total number of votes cast for and against the acceptance of this act in said special election equals or exceeds 20% of the total number of names on the check list of voters of said dis-

trict provided for herein, but failure of approval by the necessary percentage of voters at such election shall not prevent a second election held at a regular town meeting within the time limitation of section 18 hereof. The board of registration shall prepare and furnish separate check lists for such of the voters within said district as are then legal voters of said town and reside in said district, and all notices, warrants or other proceedings shall be varied accordingly so as to show that only such voters as reside in said district as aforesaid are entitled to vote upon the above question. Such check list shall be used at elections held for the adoption of this act. Such special election shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, the board of registration shall not be required to prepare nor the town clerk to post a new list of voters; and for this purpose said board of registration shall be in session on the 3 secular days next preceding said election, the 1st and 2nd days thereof to be devoted to registration of voters and the last day to enable the board to verify the correction of said lists and to complete and close up its records of said session. The town clerk shall reduce the subject of this act to the following question: "Shall the act to incorporate the Limestone Water and Sewer 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 district shall fail to acquire before July 1, 1943 by purchase or by the exercise of the right of eminent domain, as in this act provided, the plant, property, franchises, rights and privileges owned by the Limestone Water and Sewer Company and used or usable in supplying water and in providing a system of sewerage and drainage in the town of Limestone, then this act shall become null and void.

**Sec. 19. Act effective 90 days after adjournment of legislature for purposes of local referendum.** This act shall take effect 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. Public utilities commission status shall govern the district.** Nothing herein contained except as provided in section 21 hereof 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. 21. P. & S. L., 1939, c. 63, repealed.** Chapter 63 of the private and special laws of 1939 is hereby repealed.