

MAINE STATE LEGISLATURE

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N I N E T Y - S E C O N D L E G I S L A T U R E

Legislative Document

No. 446

H. P. 845

House of Representatives, February 7, 1945.

Referred to Committee on Public Utilities, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Boulier of Stacyville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-FIVE

AN ACT to Incorporate the Patten Water District.

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

Sec. 1. Territorial limits; corporate name; purposes. That part of the town of Patten, in the county of Penobscot, and the Inhabitants within the same, which is bounded and described as follows: the following lots according to the plan and survey of said town of Patten, to wit: lots 12, 13, 14, 15, 16 and the south $\frac{1}{2}$ of lot 17, the east half of the south $\frac{1}{2}$ of lot 32, the east half of lots 33, 34, 35, 36, and 37 are hereby created a body politic and corporate by the name of the Patten Water District for the purpose of supplying the inhabitants of said district with pure water for domestic, sanitary, commercial and municipal purposes, and for the purpose of furnishing sewers for the use of the inhabitants thereof. Provided, however, that it shall not construct any system of pipe lines or development, without first having submitted its plans to the public utilities commission, and obtained its advice therefor in writing, under power vested in said commission by section 13 of chapter 40 of the revised statutes of 1944.

Sec. 2. Source of supply. The said district for effecting and carrying out the purposes of its incorporation, is hereby authorized to take hold, divert, use, and distribute water from any stream, spring or underground vein of water in said town of Patten, or in the town of Mount Chase, in said county or in the town of Crystal, in the county of Aroostook.

Sec. 3. Right of eminent domain conferred; authorized to lay pipes over public ways; authorized to erect reservoirs. The said district, for the purposes of its incorporation is hereby authorized to take and hold, as for public uses, by purchase or otherwise, including the exercise of eminent domain, any land or interests therein or water rights necessary for erecting and maintaining dams, wells and standpipes, for flowage, for power for pumping its water supply through its standpipes and mains, for reservoirs, for preserving aqueducts and other structures, for taking distributing and discharging and disposing of water, for rights of way or roadways to its source of supply, dams, standpipes, reservoirs, wells, mains, aqueducts, structures and lands, and for disposal of sewage.

The said district is hereby authorized to lay water pipes, sewage pipes, aqueducts and fixtures as may be necessary and convenient for its purposes in and through the streets, ways and highways of the said district and across private lands therein, and to maintain, repair and replace all such pipes, aqueducts and fixtures, and whenever said district shall lay any pipes, sewers, or aqueducts in any street, road, way or highway, it shall cause the same to be done with as little obstruction to public travel as practicable, and shall at its own expense without unnecessary delay cause the earth and pavement removed by it to be replaced in proper condition.

The said district is hereby authorized, for the purpose of its incorporation, to erect and maintain reservoirs, wells, standpipes and other structures necessary and convenient for its corporate purposes.

• 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 corporation 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 hereof.

Sec. 4. Procedure in exercising right of eminent domain. 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 water 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 interest 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 shall then 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 water district and for its safe, economical an efficient furnishing of an adequate water supply and sewage disposal system; 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 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 the certificate as hereinbefore provided, but title to such property shall not vest in the district until payment therefor has been made.

If any person sustaining damages by any taking as aforesaid, shall not agree with said district upon the sum to be paid therefor, either party upon petition to the county commissioners of the county wherein the property is located may have said damages assessed by them; the procedure and all subsequent proceedings and rights of appeal thereon shall be had under the same restrictions, conditions, and limitations as are or may by law prescribed in the case of damages by the laying out of highways.

Sec. 5. Procedure in crossing public utility rights of way. In case of any crossing of any public utility, unless consent is given by the company owning or operating such public utility 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 determine the place, manner and conditions of such crossings; and all work on the property of such

public utility shall be done under the supervision and to the satisfaction of such public utility, but at the expense of the district.

Sec. 6. Board of trustees; election. Within 60 days of the time said district is accepted by the Inhabitants of said town of Patten the selectmen of Patten shall call a meeting of the Inhabitants of said district in the same manner in which a town meeting is called. Said meeting shall organize by the election of a moderator and then shall elect 3 trustees by the Australian ballot as provided for in sections 46 to 60, inclusive, of chapter 80 of the revised statutes of 1944. All inhabitants of said district who are bona fide voters in said town of Patten shall be entitled to vote in said meeting and in subsequent district meetings. The selectmen of Patten shall prepare a check list of the inhabitants of said district entitled to vote in said meetings. Said trustees elected at said first district meeting shall determine by lot the term of office of each trustee so that one shall serve until the day of the next annual district meeting, one until the second annual district meeting and one until the third annual district meeting. On the same day of the annual town meeting of inhabitants of said Patten in each year there shall be held the annual meeting of the inhabitants of the water district. At each annual meeting of said district the voters therein shall elect 1 trustee to hold office for a term of 3 years. Said meeting shall also determine the compensation to be given said trustees for their services and shall make recommendations to the trustees as to the manner in which the affairs of the district are to be handled. Each trustee shall hold office until his successor is elected and signifies his acceptance of his office. No oath of office shall be required of said trustees. In case of the resignation, removal of his principal place of abode from said district or inability of a trustee to serve, the selectmen of said town of Patten shall declare a vacancy in the office of said trustee and they shall immediately thereafter select a new trustee to serve until the next annual meeting of said district at which a trustee shall be elected to serve the balance, if any, of the term of office of the said trustee. No member of the board of selectmen of said town of Patten shall be a trustee of the water district.

Sec. 7. Board of trustees; powers and duties. All the affairs of the said district shall be managed by said board of trustees. As soon as convenient after the members of said board have been elected, said trustees shall meet and organize by the election of a chairman and a clerk, adopt a corporate seal and choose a manager who shall handle the funds of said district, and such other employees as they deem necessary and proper. Said manager shall be bonded in an amount considered proper by said trustees and the cost of said bond shall be borne by the district. All trustees shall be

eligible for reelection. The said manager and other employees shall hold offices during the pleasure of the trustees. They may also ordain and establish such by-laws not inconsistent of the laws of the state, as are necessary for their convenience and the proper management of the affairs of said district. Said trustees may have the use of the municipal offices of the town of Patten for the transaction of their business. At the close of each fiscal year the trustees shall make a detailed report of their doings, of the receipts and expenditures of said water district, of its financial and physical condition, and of such other matters and things pertaining to said district as shall show the inhabitants of said district how said trustees are fulfilling the duties and obligations of their trust. Such reports shall be made and filed with the board of selectmen of the town of Patten on or before March 1st of each year.

Sec. 8. District and town authorized to make contracts. Said district through its trustees is authorized to contract with persons and corporations including the town of Patten for supply of water, and said town of Patten is authorized to contract with it for the supply of water for municipal purposes.

Sec. 9. Authorized to acquire property and franchises of Patten Water Company. Said water district is hereby authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain, the entire plant, properties, franchises, rights and privileges, except cash assets and accounts receivable, owned by the Patten Water Company, situated in the town of Patten, including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in the town of Patten.

Sec. 10. Procedure in case trustees and water company fail to agree on terms of purchase. In case said trustees fail to agree with said Patten Water Company upon the terms of purchase of said property, on or before January 1, 1947, said district, through its trustees aforesaid, is hereby authorized to take said plant, property and franchises, if for public use in the manner described in section 4 hereof.

Sec. 11. All valid contracts to be assumed. In the event that the district acquires the present Patten Water Company then all valid contracts then existing between the Patten Water Company and any persons or corporations for supplying water in the town of Patten shall be assumed and carried out by said Patten Water District.

Sec. 12. Authority to borrow money. For accomplishing the purposes of this act, said water district, through its trustees, without the necessity of

a vote of the inhabitants of said district, is authorized to borrow money for long terms and temporarily, and to issue therefor the interest-bearing negotiable bonds and notes of the district, for the purpose of refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of the act, including the expenses incurred in the creation of the district in acquiring the aforesaid properties and franchises of the Patten 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 sewage disposal system and making extensions, additions and improvements to the same. 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 sections 132 and 133 of chapter 49 of the revised statutes of 1944, and all the provisions of said section shall be applicable thereto. The said notes and bonds shall be legal investments for savings banks.

Sec. 13. Property tax exempt. The property of said district shall be exempt from all taxation in the town of Patten and in any towns where any part of its plant may be located.

Sec. 14. Water rates; 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 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 the bonds of the district so that no 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 rights and 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. Local referendum. This act shall take effect, except as hereinafter provided, when accepted by a majority vote of the legal voters of said town of Patten at either a regular annual town meeting or at a special town meeting to be held prior to January 1, 1947. The town clerk shall reduce the subject of this act to the following question: "Shall the act to incorporate the Patten Water District be accepted?" and the voters shall indicate by a cross placed in the box following the words "Yes" or "No" their opinion of the same. The result shall be declared by the selectmen and due certificate thereof filed with the secretary of state by the town clerk.

Sec. 17. Act void unless property of water company is acquired. If said water district shall not have in operation or in the process of construction a water system or have purchased the properties of the Patten Water Company within 2 years of the date of acceptance of this act by the inhabitants of the town of Patten as provided in section 16, then this act shall become null and void.

Sec. 18. Effective date. For the purposes set out in section 16 hereof this act shall become effective 90 days after the final adjournment of the legislature.

Sec. 19. Repealing clause. 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 40 of the revised statutes of 1944, and all acts amendatory or additional thereto.