

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

NINETY - SECOND LEGISLATURE

Legislative Document

No. 1207

H. P. 1503

House of Representatives, July 9, 1946

Received by unanimous consent and referred to the Committee on Public Utilities. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Morrison of Winter Harbor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SIX

AN ACT to Incorporate the Sullivan Water District.

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

Sec. 1. Territorial limits; name; purposes; plans of system to be submitted to public utilities commission for approval. That part of the town of Sullivan in Hancock county within the area hereinafter described, and the inhabitants within that area, are hereby created a body politic and corporate by the name of Sullivan Water District for the purpose of supplying the inhabitants of said district with pure water for domestic, sanitary, agricultural, industrial and all lawful municipal purposes.

The area within the district is to be comprised of that part of the town of Sullivan bounded and described as follows: Beginning at the junction of Bert Gray Road, so called, and U. S. Route No. 1; thence southerly on the course of said Bert Gray Road to tidewater on Frenchman's Bay; thence northwesterly along the shore of said Frenchman's Bay through The Falls, so called, to the Crabtree and Havey wharf; thence northeasterly to the intersection of the Sullivan-Franklin town line and aforesaid Bert Gray Road; thence southerly along said Bert Gray Road to the place of beginning.

Provided, however, that it shall not construct any system of pipe lines or development, without first having submitted its plan 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. Powers of said Sullivan Water District. The said district, for the purposes of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from any lake or pond in the town of Sullivan and from any surface or underground brook, spring or vein of water in said town.

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, real estate and personal estate, and any interest therein necessary for such purposes, by purchase, lease, or otherwise, and is hereby authorized to exercise the right of eminent domain as hereinafter provided, to acquire for such purposes any land or interest therein or water rights necessary for erecting and maintaining dams, plants and works, for flowage, for power, for pumping, for supplying water through its mains and system, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining mains, aqueducts, and other structures for taking, distributing, discharging and disposing of water, for forming basins, reservoirs and outlets, for erection of buildings for pumping works for use therein, for laying pipes and maintaining same, and for such other objects necessary, convenient and proper for the purposes of its incorporation, and for rights of way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures, plants, works, facilities and lands.

The said district is hereby authorized to lay in and through the streets, roads, ways and highways within the town, 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 any of its corporate purposes and authorities, and whenever said district shall lay or install any pipes, aqueducts, or fixtures 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 so replaced as to leave the surface in proper condition.

Provided, however, nothing herein contained shall be construed as authorizing said water 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 5 hereof.

Sec. 4. Liability for damages. Procedure for condemnation by said district shall be commenced by filing in the office of the County Commissioners of Hancock county a certificate of taking accompanied by plans and descriptions of said property, together with the names of the party or parties supposed to be owners thereof, and proceedings shall then be had for the appraisal of damages as in the case of laying out county highways by the county commissioners, except that notice of the time and place of meeting at which said commissioners shall view the premises and hear the parties interested shall be given at least fourteen days before said time, by one or more of the following methods: by service on the owner in hand or at his last and usual place of abode if within the state, or by publication in some public newspaper published in Hancock county, as the county commissioners may order. Said notice shall contain or be accompanied by a copy of the certificate of taking containing a description but need not contain a copy of the plan. Following said meeting, view and hearing said commissioners shall make a correct return of their doings signed by them, and state therein the names of the persons to whom damages are allowed and the amount allowed to each. Appeal therefrom under Revised Statutes of 1944, Chapter 79, shall be only to the amount allowed as damages.

When for any reason the district fails to acquire property which it is authorized to take and which is described in such certificate, or if the certificate so recorded is defective or uncertain, it may, at any time correct and perfect such certificate and file a new certificate thereof and in such case the district is liable in damages 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 correct and lawful. No entry shall be made on any private lands except to make surveys until the expiration of 10 days from such filing whereupon possession may be had of all such lands or interest therein so taken.

Sec. 5. Procedure if public utility must be crossed. 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 said district, the public utilities commission shall determine the place, manner and con-

ditions of such crossing; 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. All the affairs of said district shall be managed by a board of 3 trustees, resident therein, who shall be appointed by the municipal officers of the town of Sullivan. They shall hold office as hereinafter provided and until their respective successors are appointed and qualified. Whenever the term of office of a trustee expires, the municipal officers of the town of Sullivan shall appoint a successor to serve the full term of 3 years and in case of any other vacancy arising from any cause, it shall be filled in like manner for the unexpired term. When any trustee ceases to be a resident of said district, his office as trustee shall be declared vacant. During his term of office no selectman of said town of Sullivan shall serve as a member of the board of trustees of the district.

Sec. 7. Trustees; how elected; meetings; officers; vacancies filled for the unexpired term. The first board of trustees shall be appointed within 10 days after the acceptance of this act by the voters of said district, one to serve until the first annual meeting of the district, one until the second, and one until the third such meeting. Thereafter, one member shall be appointed at the time of each annual meeting to serve for a term of 3 years. As soon as convenient after their appointment, the trustees first appointed 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 two members not less than 2 full days before the meeting; provided, however, that they meet by agreement and waiver 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. As necessary, they may choose agents and other needful officers who shall serve at their pleasure, and whose compensation shall be fixed by said trustees. They shall choose annually a treasurer to serve for a term of one year, fix the treasurer's salary, which shall in no case exceed \$200 per year, and fill vacancies in that office. The treasurer shall furnish a bond, issued in such sum by a surety company as the trustees may approve, and the expense of securing the bond is to be borne by the district. Members of the board shall be eligible to any office under the board, but shall not receive compensation therefor, except as trustee, unless authorized by vote of the municipal officers of the town of Sullivan.

The compensation of the trustees shall not exceed \$50 each per year, 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 tempore. They shall make and publish an annual report, which shall also contain a report of the treasurer.

Sec. 8. Annual meeting of district; qualification of voters of district. After the acceptance of this charter and the organization of the board, the annual meeting of the district shall be held within the district on the 1st 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 2 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 notice of special meetings shall state the business to be transacted thereat. Ten per centum of the voters qualified to vote in such meetings shall constitute a quorum. If for any reason a legally sufficient annual meeting is not held on the above date, a meeting in lieu thereof may be called in like manner to be held within 2 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 the district, including the meeting for acceptance of this charter.

Sec. 9. Trustees granted certain powers of selectmen. After the meeting of the voters of the district, for acceptance of this charter, and after the organization of the board under the provisions of section 9, the trustees 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 they shall be in session at the place designated for holding the meeting between the hours of 10 o'clock in the forenoon and 12 o'clock noon on the secular day next before the date of every meeting, and also 2 hours before the opening of the meeting, and notice thereof shall be given in the call 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. 10. District and town authorized to make contracts. Said district through its trustees is authorized to contract with persons and corporations, including the town of Sullivan, and said town of Sullivan is authorized to contract with it, for the supply of water and facilities for municipal purposes. Said district may acquire by gift, purchase or lease the assets,

rights and properties of any company, person or persons, in whole or in part engaged in distributing water within the area comprising said district.

Sec. 11. Authorized to negotiate temporary loans; and to issue notes and bonds; declared a quasi-municipal corporation; notes and bonds legal investment for savings banks. For accomplishing the purposes of this act, said district, through its trustees, is authorized to borrow money from time to time, and to issue therefor the interest-bearing negotiable notes of the district, maturing serially or otherwise, and to make subsequent renewals of the same in whole or in part, and for said purposes and for the purpose of refunding any notes, bonds or other lawful indebtedness and to establish a fund therefor, of obtaining or providing money to pay or to meet any necessary expenses and liabilities under the provisions of this act, including expenses in the creation of this district, in 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, 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, maturing at one time or in uniform or varying installments, and with or without call provisions. Said notes and bonds shall be legal obligations of said 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. The said notes and bonds shall be legal investments for savings banks.

Sec. 12. Property tax exempt. The property of said district shall be exempt from all taxation by the town of Sullivan.

Sec. 13. 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 service used by them, and said rates shall be uniform within the territory supplied by the district, and the water rates shall be subject to the approval of the public utilities commission. Said water and sewer 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 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 or fiduciaries or trustees are now or hereafter 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. 14. Local referendum for the town of Sullivan; meeting; how called; certificate to secretary of state. This act shall take effect except as hereinafter provided when accepted at an election specially called and held for the purpose, but only if the total number of votes cast for and against 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 district provided for herein, which check list shall be used at such election; but failure of approval by the necessary percentage of voters shall not prevent subsequent elections. Said elections shall be called by the municipal officers of the town of Sullivan and shall be held at the regular voting place in the town; the dates of said elections shall be determined by said municipal officers but the first such meeting shall not be later than the 1st day of November, 1947. 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 special elections 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. Absent voting ballots shall not be used. The town clerk shall reduce the subject of this act to the following question: "Shall the act to incorporate the Sullivan 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. 15. Act effective for referendum. Despite the provisions of section 14 hereof providing for acceptance of this act by vote of the district, this act shall take effect 90 days after the final adjournment of the legislature for all purposes and for the performance of all acts, including the calling and holding of the special elections authorized in section 14, necessary or permissible hereunder until the act be accepted in accordance with section 14 whereupon the act take complete effect.

Sec. 16. 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 40 of the revised statutes, and all acts amendatory thereof or additional thereto.

Sec. 17. P. & S. L., 1935, c. 114, repealed. Chapter 114 of the private and special laws of 1935, as amended, is hereby repealed.