

MAINE STATE LEGISLATURE

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

Legislative Document

No. 99

H. P. 124

House of Representatives, January 21, 1947.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Patterson of Freeport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT to Incorporate the South Freeport Water District.

Emergency preamble. Whereas, that portion of the town of Freeport, known as South Freeport, and hereinafter bounded and described, is a thickly populated and built-up residential area; and,

Whereas, large portions of said area have no public water supply available for domestic, commercial or other necessary purposes; and,

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Territorial limits; name; purposes. That part of the town of Freeport within the area hereinafter described, and the inhabitants within that area, are hereby created a body politic and corporate by the name of South Freeport Water District for the purpose of supplying the inhabitants of said district with pure water for domestic, sanitary, agricultural, commercial and municipal purposes; 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.

The area within the district shall be that part of the town of Freeport bounded and described as follows: Beginning at the point where the easterly bank of Spar Creek intersects the center line of the travelled way of South Street, thence North six degrees and thirty-seven minutes East (N6-37'E) a distance of Six hundred thirty-three (633) feet to a point near said Creek, thence North forty-eight degrees and Thirty-eight minutes East (N48-38'E) a distance of Eleven hundred eighty-three (1183) feet to a point; thence Due North a distance of Fourteen Hundred and Thirty (1430) feet to a point; thence North Two degrees and fifteen minutes East (N2-15'E) a distance of Eighteen Hundred and eighty (1880) feet to a point; thence North Nine degrees and forty-five minutes East (9-45'E) a distance of Twenty-six hundred and fifty-eight (2658) feet to a point; thence South Eighty-three degrees and Forty-five minutes East (83-45'E) a distance of Six Hundred and Eighty-nine feet (689) to a point; thence South Six degrees and Fourteen minutes West (6-14'W) a distance of Fifteen Hundred and Nineteen (1519) feet to a point; thence South Fifty degrees and Six minutes East (S50-06'E) a distance of Seven Hundred Ninety-five (795) feet to a point; thence South Thirty-two degrees and twenty-six minutes West (S32-26'W) a distance of Thirteen Hundred thirty-three (1333) feet to a point; thence South Eleven degrees and Four minutes East (11-04'E) a distance of Seven Hundred and three (703) feet to a point; thence South Forty-six degrees Thirty-two minutes West (S46-32'W) a distance of Six hundred sixty-one (661) feet to a point; thence South Twenty-one degrees and Twenty-two minutes West (S21-22'W) a distance of One hundred twenty-four (124) feet to a point; thence South No degrees and forty-five minutes East (S0-45'E) a distance of Three hundred eighty (380) feet to a point; thence East Two Hundred feet to a point; thence South, Two hundred (200) feet to a point; thence West, Two hundred (200) feet to a point; thence South No degrees and Fifty-two minutes East (S0-52'E) a distance of Three Hundred Thirty (330) feet to a point; thence South Sixty-one degrees and Nine minutes East (S61-09'E) a distance of Two hundred Eighty (280) feet to a point; thence North Thirty-seven degrees and Fifty-eight minutes East (N37-58'E) a distance of Twenty-one Hundred and five (2105) feet to a point; thence South Sixty-one degrees and twenty-three minutes East (S61-23'E) a distance of Seven Hundred Sixty (760) feet to High Water Mark of Casco Bay; thence Southerly, and by High Water Mark of Casco

Bay to the Northerly Bank of Spar Creek; thence by the left, or North-erly, bank of Spar Creek to the point of beginning.

Sec. 2. Source of supply. The said district, for the purposes of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from any stream or underground vein of water in said town of Freeport.

Sec. 3. Eminent domain; pipes and 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, for preserving the purity of the water and watershed, and for all other purposes incidental thereto.

The said district is hereby authorized to lay water pipes, aqueducts and fixtures as may be necessary and convenient for its purposes in and through the streets, ways and highways within the 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, aqueducts or fixtures 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 purposes 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 10 hereof.

Sec. 4. Procedure in eminent domain. If any person, sustaining damages by any taking authorized by this act shall not agree with said district

upon the sum to be paid therefor, either party upon petition to the county commissioners of Cumberland County 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 be by law prescribed in the case of damages by the laying out of highways.

Sec. 5. Procedure in crossing public utility. 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 conditions 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 the district shall be managed by a board of 3 trustees elected by and from the inhabitants of the district who are legal voters qualified to vote in town meetings in the town of Freeport. They shall hold office as hereinafter provided and until their respective successors are chosen and qualified. Whenever the term of office of a trustee expires, a successor shall be elected for a term of 3 years. In case of the death, resignation, removal of his principal place of abode from the district, or inability of a trustee to serve, the selectmen of the Town of Freeport shall declare his office vacant and shall immediately appoint a new trustee from the inhabitants of said district to serve until the next annual meeting of the district, at which time a trustee shall be elected to serve the balance of the unexpired term. No member of the board of selectmen of the town of Freeport shall be a trustee of said district.

The first board of trustees may be elected either at the special meeting for the acceptance of this act under section 14 or at a special meeting of the district called by the selectmen of the town of Freeport in the same manner in which a town meeting is called in said town, at a time and place designated by said board of selectmen within said district. The first board of trustees so elected shall meet and determine by lot the term of office of each trustee, so that one shall serve until the next annual district meeting, one until the 2nd annual district meeting and one until the 3rd annual district meeting. Said board of trustees shall organize by the election of a chairman and a clerk and adopt a corporate seal.

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 1 year, fix the treasurer's salary, and fill vacancies in that office. The treasurer shall furnish a bond to the satisfaction and approval of said trustees, the expense of said bond to be borne by the district.

Sec. 7. Annual district meeting; qualification of voters. After the acceptance of this charter an 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 the trustees. 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. If for any reason a legally sufficient annual meeting is not held on the day above designated, a meeting in lieu thereof may be called and held in like manner.

All persons resident in said district qualified to vote at town meetings in the town of Freeport shall be entitled to vote in any meeting of the district.

Ten percent of the voters qualified to vote in said district shall constitute a quorum.

Sec. 8. 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 6, 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. 9. District and town authorized to make contracts. Said district through its trustees is authorized to contract with persons and corporations, including the town of Freeport, and said town of Freeport is authorized to contract with it, for the supply of water for municipal purposes.

Sec. 10. Authorized to acquire property and franchises of South Freeport Water Company. Said 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 South Freeport Water Company, situated in the town of Freeport, including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all appurtenant apparatus and appliances used or usable in supplying water in the town of Freeport.

If the district acquires the South Freeport Water Company all valid contracts then existing between the South Freeport Water Company and any person or corporations for supplying water in the district shall be assumed and carried out by the district.

Sec. 11. Authority to borrow money. For accomplishing the purposes of this act, said district, through its trustees, is authorized to borrow money from time to time, temporarily or for long terms, and to issue therefor the interest-bearing negotiable bonds and 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 bonds, notes or other debt of the district and for the purpose of establishing a fund or funds therefor, and for the purpose of obtaining or providing money to pay any necessary expenses and liabilities under the provisions of this act, including expenses incurred in the creation of the district, in securing sources of supply and taking water and land, in acquiring the properties and franchises of the South Freeport Water Company, in paying damages, laying pipes, constructing and maintaining a water plant and making extensions, additions and improvements to the same, said district through its trustees may from time to time issue negotiable notes and bonds of the district, to an amount necessary in the judgment of the trustees therefor, maturing at one time or in uniform or varying instalments, with or without provisions for calling the same for payment before maturity, and in case of such call provisions with or without providing for the payment of a premium of not exceeding 5% of the principal upon such call. 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 Freeport.

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 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 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. This act shall take effect, except as hereinafter provided, when accepted by a majority vote of the legal voters of the town of Freeport who are inhabitants of said district at a meeting called by the selectmen of the town of Freeport at some place within said district as fixed by said selectmen at such time as the selectmen shall fix but within 60 days of the effective date of this act. Said meeting shall be warned in the same manner as town meetings are warned in said town.

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 at such meeting. At such meeting the vote shall be by ballot bearing the question "Shall the act to incorporate the South Freeport 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 selectmen and due certificate thereof filed with the secretary of state by the town clerk.

Sec. 15. Saving 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 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 thereof or additional thereto.

Emergency clause. In view of the emergency cited in the preamble this act for all purposes shall take effect when approved.