

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(Transmitted by Director of Legislative Research pursuant to joint order.)

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

Legislative Document

No. 1256

H. P. 1885

House of Representatives, March 3, 1949.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Dunham of Ellsworth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT to Incorporate the Bluehill Water District.

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

Sec. 1. Territorial limits and corporate name and purposes. That part of the town of Bluehill in the county of Hancock, within the area hereinafter described, and the inhabitants within that area, are hereby created a body politic and corporate by the name of "Bluehill Water District" for the purpose of supplying the inhabitants of said district, and the town of Bluehill, with pure water for domestic, sanitary, agricultural, commercial, industrial and all lawful purposes. The area within the district is to be comprised of that part of the town of Bluehill bounded and described as follows:

Beginning at the intersection of the Kingdom road, so called, with highway No. 177; thence on a straight line to the intersection of highway No. 15, and the western end of the Mountain road, so called; thence following the Mountain road easterly to its intersection with highway No. 15 at the eastern end of the Mountain road; thence in a straight line about southeasterly to Brooks corner, so called, on the road leading from Bluehill Village to East Bluehill; thence westerly to the shore of Bluehill Bay; thence following the shore to Mill Island Bridge, so called, at Bluehill

Falls; thence in a straight line about northwesterly to the Mines road, so called, at its intersection with the Grindle Ville road, so called; thence following the Mines road westerly to the brook running from Third pond to Second pond; thence north to the Kingdom road; thence following the Kingdom road easterly to the place of beginning.

Sec. 2. Powers of said Bluehill Water District. The said Bluehill Water District for the purposes of its incorporation is hereby authorized to take, hold, divert, use and distribute water from any surface or underground lake, pond, stream, brook, spring or vein of water in said town of Bluehill. The authority to supply the inhabitants of said town of Bluehill who are not within said district shall be subject to the discretion of the board of trustees.

Said district is also authorized to locate, construct and maintain dams, cribs, reservoirs, locks, gates, sluices, aqueducts, pipes, conduits, stand-pipes, hydrants, pumping stations and other necessary structures and equipment therefor.

Sec. 3. The right of eminent domain. The said district for the purposes of its incorporation and within said town is hereby authorized to take and hold as for public use, water, water sources and supplies, real estate and personal estate and any interest therein necessary for such purposes, by purchase, lease or otherwise, and to exercise the right to 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, works, for flowage, for power, for pumping and supplying through its mains, systems and reservoirs, for preserving the purity of the water and water shed, for laying and maintaining mains, aqueducts and other structures for taking, distributing, discharging and disposing of water and for basins, reservoirs and outlets, and the erection of buildings for pumping works for use therein, and laying pipes and mains and maintaining same, and such other objects necessary, convenient and proper for the purposes of its incorporation, and for rights-of-way or roadways to its source 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, 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 ex-

pense 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.

Sec. 4. Procedure as to the exercise of right of eminent domain. In exercising any rights of eminent domain that are herein conferred upon said district, the district shall file for record in the registry of deeds in said county plans of the location of lands or interest therein to be taken with an appropriate description 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 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 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, but title thereto shall not vest in said district until paid for.

Sec. 5. Adjustment of damages. If any person sustaining damages by any 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 Hancock 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. 6. 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 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. 7. 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 Bluehill and who 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 Bluehill shall appoint a successor to serve the full term of 3 years, and vacancies from any other cause shall be filled in like manner for the unexpired term. When any trustee shall cease to be a resident of the district, his office as trustee shall be declared vacant. During his term of office, no selectman of the town of Bluehill shall serve as a member of the board of trustees of the district.

Sec. 8. Trustees, how elected, meetings, officers, vacancies filled for the unexpired term. Within 10 days after the acceptance of this act by the voters of said district, the 1st board of trustees shall be appointed, 1 trustee to serve until the 1st annual meeting of the district; 1 trustee to serve until the 2nd annual meeting, and 1 trustee to serve until the 3rd annual meeting; thereafter 1 trustee shall be appointed at the time of each annual meeting to serve for a term of 3 years. As soon as convenient after the members of said board of trustees have been appointed, said trustees shall hold a meeting in the town of Bluehill and organize by electing a president and clerk from their own number, adopting a corporate seal and by-laws, and performing any other acts delegated to them by law. If necessary, they may choose agents and other needful officers who shall serve at their pleasure and whose compensation shall be fixed by said board of trustees. They shall choose annually a treasurer to serve for the term of 1 year, and fix the treasurer's salary. Whenever a vacancy occurs in the office of president, clerk or treasurer, it shall be promptly filled by said board of trustees. 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 shall be borne by the district. Compensation of the trustees shall not exceed \$50 each per year, unless otherwise provided by vote at the annual meeting of the district. Members of the board of trustees shall be eligible to any office under the board, but shall not receive compensation therefor, except as trustee, unless authorized by vote of the inhabitants of the district at an annual meeting.

Sec. 9. 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 2nd 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 president or clerk of the board, shall be conspicuously posted 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. Ten per cent of the voters qualified to vote in such meeting 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 at any meeting of the district, including the meeting for acceptance of this charter.

Sec. 10. 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 8, 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. 11. District and town authorized to make contracts. Said district, through its trustees, is hereby authorized to contract with persons and corporations, including the town of Bluehill, and said town of Bluehill is hereby authorized to contract with it, for the supply of water for municipal purposes.

Sec. 12. 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, for 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 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, with or without call provisions and at or without any premium. 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. 13. Property tax exempt. The property of said district shall be exempt from taxation by the town of Bluehill.

Sec. 14. 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:

- I. To pay current expenses for operating and maintaining the water system and sewer system.
- II. To provide for the payment of the interest on the indebtedness created by the district.
- III. 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 no less than 1% of the amount of the bonds so issued shall mature and be retired each year.

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

Sec. 15. 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. 16. Local referendum; meeting, how called; effective date; certificate to secretary of state. This act shall take effect 90 days after the adjournment of the legislature, only for the purpose of permitting its submission to the legal voters of the district at an election specially called and held for the purpose. This act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the voters voting at such election, but only if the total number of votes cast for and against the acceptance of this act in said special election equals or exceeds 25% 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 Bluehill and shall be held at the regular voting place in the town; the dates of said elections to be determined by said municipal officers, but the 1st such meeting shall not be later than November 1, 1949. The board of registration of the town of Bluehill 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 and 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 question. Such special elections shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the board of registration shall not be required to prepare nor the town clerk to post a new list of voters; and for the purpose of registration of voters said board 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 prepare the required ballots, on which he shall reduce the subject matter of this act to the following question: "Shall the Act to Incorporate the Bluehill Water District be accepted?" and the voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same. The result of said election shall be declared by the municipal officers and due certificate thereof filed by the town clerk with the secretary of state.