

MAINE STATE LEGISLATURE

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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. 1474

H. P. 2048

House of Representatives, April 12, 1949.

Reported by Mr. Wight from Committee on Public Utilities and printed under Joint Rule 10.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT to Create the Bangor Water District.

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

Sec. 1. Territorial limits; name, purposes. The inhabitants of and the territory within the city of Bangor are hereby created a body politic and corporate under the name of "Bangor Water District" for the purpose of supplying the inhabitants of said district with pure water for domestic, sanitary, commercial, industrial, municipal and all lawful purposes, and for the purpose of supplying such other persons, corporations, towns, cities or districts and the inhabitants thereof as may, consistent with the needs of the inhabitants of the district hereby created, wish to purchase water.

Sec. 2. Source of supply. For effecting and carrying out the purposes of its incorporation, the said district is hereby authorized and empowered to purchase, take, hold, divert, use and distribute water from the Penobscot river in the city of Bangor, the town of Veazie, and each of them, and from any driven or artesian wells or any other means or system of producing pure water, or from any surface or underground brook, spring or vein of water in said city of Bangor, the town of Veazie, and each of them; and said district is hereby fully authorized and empowered to purchase pure water from any source, by contract or otherwise; and said district is

hereby fully authorized and empowered to lease, purchase or otherwise acquire any water supply system which may be constructed or operated in the city of Bangor, the town of Veazie, or either of them, which said system of water supply has or shall have among its purposes the supplying of pure water to the inhabitants of said district.

Sec. 3. Contracts for supplying water. Said water district is hereby authorized and empowered to make contracts for the supply of pure water with the city of Bangor, the inhabitants thereof, and such other town, city, corporation or district, and the inhabitants thereof, as may, consistent with the needs of the inhabitants of the district hereby created, wish to purchase water. Said district is hereby authorized and empowered to collect and receive and each person, corporation, town, city or district is hereby authorized and empowered to contract for and to pay from time to time such sum or sums of money as may be agreed upon for all such water so supplied and used. Payment is to be made at such times and periods as may be agreed upon. Each town, city or district is hereby authorized to sell and deliver water to water users in such town, city or district and to establish and collect payment for such water so sold and delivered at such rates as may be established with the approval of the public utilities commission.

Sec. 4. Power of eminent domain. The said district, for the purposes of its incorporation, is hereby authorized to take and hold as and for public uses any real estate and any interest therein situate in the city of Bangor and the town of Veazie by purchase, lease or otherwise, including the right of eminent domain, and in connection with the exercise of such rights to acquire for such purposes and by such means or any of them, any land or interest therein or water rights necessary for erecting and maintaining a central water supply system, for plants and works, for laying and maintaining mains, aqueducts and other structures, for pumping, for supplying water through its mains, for preserving the purity of the water and the water shed, for taking, distributing, discharging and disposing of water, for rights of way or roadways to its sources of supply, water system, mains, aqueducts, structures, plants, works, facilities and lands, and for such other purposes as may be necessary, convenient or proper for the purposes of its incorporation.

The said district is hereby authorized to lay in and through the streets, roads, ways and highways within the said city of Bangor and town of Veazie and across private lands therein, and to maintain, repair and replace all such pipes, aqueducts, mains, conduits and fixtures as may be necessary or convenient for any of its corporate purposes and authorities, and when-

ever 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. The said district is hereby authorized, for the purposes of its incorporation, to erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes.

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 by subsequent act of the legislature.

Sec. 5. Procedure in exercising right of eminent domain and adjustment of damages. The said district in exercising, from time to time, any right of eminent domain conferred upon it by law 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 water district and for the safe, economical and efficient furnishing of an adequate water supply; 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. 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 pro-

vided, but title to such property shall not vest in the district until payment therefor has been made or tendered.

If any person sustaining damages by any taking as aforesaid shall not agree with the district upon the sum to be paid therefor, either party upon petition to the county commissioners of Penobscot county may have such damages assessed by them. The procedure and all subsequent proceedings and right of appeal therefrom 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. 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, how elected; meetings; vacancies, how filled. All the affairs of said district shall be managed by a board of 5 trustees, who shall be residents of said district, elected by the city council of the city of Bangor and shall hold office as herinafter provided and until their respective successors are appointed and qualified. Whenever the term of office of a trustee expires, the city council of said Bangor shall elect a successor to serve the full term of 3 years and any other vacancy arising from any cause 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. No member of the Bangor city council shall serve as a member of the board of trustees of the district and all trustees shall serve without compensation.

The first board of trustees shall be appointed within 10 days after the acceptance of this act by the voters of said district, 1 to serve until the 1st Monday in January next following the acceptance of this act, 2 to serve until the 2nd such 1st Monday in January next following the acceptance of this act and 3 to serve until the 3rd such 1st Monday in January next following the acceptance of this act. Thereafter, members shall be elected 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 members not less

than 2 full days before the meeting ; provided, however, that they may 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 1 year, fix the treasurer's salary, and fill vacancies in that office. The treasurer shall furnish a bond executed 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.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member as clerk pro tempore. They shall make and publish an annual report which shall also contain a report of the treasurer.

Sec. 8. Temporary loans, notes and bonds. 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 authorized or incurred under the provisions of this act, including but not limited to the expenses incurred in the creation of the district, in securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant 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, up to but not exceeding at any one time outstanding the sum of \$2,000,000, which said bonds may mature at any time or in uniform or varying installments and with or without call provisions. Said bonds shall be legal obligations of said water district, which is hereby declared to be a quasi-municipal corporation within a meaning of sections 132 and 133 of chapter 49 of the revised statutes of 1944 and all the provisions of said sections shall be applicable thereto. The said notes and bonds shall be legal investments for savings banks.

Sec. 9. Water rates, application of revenue and sinking fund. Moneys received by the district from the sale of water under the provisions of this act shall be applied as follows and shall be in such sum as to provide revenue for the following :

1. To pay the current expenses for operating and maintaining the water system.

2. To provide for the payment of the interest on the indebtedness created or assumed 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 or assumed by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of such 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 transferred to the sinking fund or used for such other corporate purposes as the trustees may determine upon.

Sec. 10. Property tax exempt. The property of said district, wherever located, shall be exempt from taxation.

Sec. 11. Incidental rights and privileges. All incidental rights, powers and privileges necessary to the accomplishment of the main object herein set forth are granted to the public municipal corporation hereby created.

Sec. 12. 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 of 1944 and all acts amendatory thereof or additional thereto.

Sec. 13. Saving clause. If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

Sec. 14. Referendum; effective date. 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 proposed district at a regular or special city election called by the municipal officers of the city of Bangor and held at the regular voting places in said city. The dates of said elections

shall be determined by said municipal officers, but the 1st such meeting shall not be later than the 15th day of December, 1951. The board of registration shall prepare and furnish separate check lists for such of the voters within the district as are then legal voters of said city of Bangor and reside in said district. 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 for posting nor the city 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 special election, the 1st and 2nd days 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. A check list shall be used at such election. The city clerk shall prepare the required ballots, on which he shall reduce the subject matter of this act to the following question: "Shall the Act creating the Bangor Water District, passed by the 94th Legislature, 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. A failure of approval shall not prevent the municipal officers of said city of Bangor from again submitting said question to the voters of said district in manner aforesaid.

The result of such election shall be declared by the municipal officers of the city of Bangor and due certificate thereof filed by the city clerk with the secretary of state. This act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at such election; but only if the total number of votes cast for and against the acceptance of this act at said election equaled or exceeded 20% of the total vote for all candidates for governor cast in said city at the next previous gubernatorial election.