

MAINE STATE LEGISLATURE

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

Legislative Document

No. 454

H. P. 758

House of Representatives, February 2, 1951

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

HARVEY R. PEASE, Clerk

Presented by Mr. Plummer of Lisbon.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT to Incorporate the Lisbon Water District.

Emergency preamble. Whereas, the water supply for the town of Lisbon is inadequate for the needs of the inhabitants; and

Whereas, the present supply of water is diminishing with the possibility of its giving out entirely; and

Whereas, these conditions are likely to be injurious to the health and prosperity of the inhabitants; and

Whereas, it is imperative that action be taken at the earliest possible moment to relieve these conditions; and

Whereas, in the judgment of the legislature, these facts create an emergency within the meaning of the constitution 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; incorporation; purposes. Subject to the provisions of this act, the inhabitants of the territory within the town of Lisbon are hereby created a body politic and corporate under the name of

“Lisbon Water District” for the purpose of supplying the town and certain outlying territories and the inhabitants thereof with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires.

Sec. 2. Powers. The district is hereby authorized, for the purposes aforesaid, to take over and hold the existing water system of the town and to assume the obligation of the payment of any bonds presently outstanding against the town relating to the water system; and said town is hereby authorized to transfer and convey to said district any property, real, personal or mixed, now or hereafter owned or held by the town of Lisbon for water purposes. Before transferring and conveying any of said property or turning over any of said assets, the municipal officers of the town of Lisbon shall be duly authorized to do so by a majority vote of the legal voters present at any annual or special town meeting, the call for which shall have given notice of proposed action. Said district shall have all the authority given to said town by sections 2 and 3 of chapter 56 of the private and special laws of 1895, as amended.

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, 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 erection of buildings for pumping works for use therein, and for laying pipes and maintaining same for such other objects necessary, convenient and proper for the purposes of its incorporation and for rights-of-ways or roadways to the sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures, plant 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 highways, 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.

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; whereon 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. Liability for damages. 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 Androscoggin 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 damage 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. Trustees. All the affairs of the district shall be managed by a board of 3 trustees, residents therein, whose terms of office shall expire on the 1st Monday of March. The 1st board shall be elected 1 for 1 year, 1 for 2 years and 1 for 3 years, at a special town meeting to be called by the municipal officers of Lisbon within 60 days of the acceptance of this act; and thereafter, 1 member shall be chosen for 3 years at the annual town meeting. All elections of trustees shall be by written ballot in the same manner as other town officers are chosen. 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 clerk from their own number, adopt a corporate seal and bylaws 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. 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 Lisbon 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 Lisbon shall be a trustee of the water district.

Sec. 8. Authorized to negotiate temporary loans; and to issue notes and bonds; declare a quasi-municipal corporation; notes and bonds legal investment for savings banks. For accomplishing the purposes of this act, said district, through its trustees, without the necessity of a vote of the inhabitants of said district, is authorized to borrow money from time to time, not exceeding \$300,000, and to issue therefor the interest-bearing negotiable notes or bonds 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, to establish a fund therefor, of obtaining or providing money to pay or to meet any necessary 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 making extensions, additions and improvements to the same, the said district, through its trustees, without the necessity of a vote of the inhabitants of said district, may from time to time issue bonds or notes 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 investment for savings banks.

Sec. 9. Property, tax exempt. The property of said district shall be exempt from all taxation in the town of Lisbon.

Sec. 10. Water and rates; application of revenue; sinking fund. All individuals, firms and corporations, whether private, public or municipal, shall pay to the 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 subject to approval of the public utilities commission. Said rates shall be so established as to provide revenue for the following purposes:

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

II. To pay for improvements to the systems and to pay for additions and extensions when deemed necessary by the board of trustees;

III. To provide for the payment of the interest on the indebtedness created by the district;

IV. 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 not less than 1% of the amount of the bonds so issued shall mature and be retired each year.

Sec. 11. 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 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. 12. District and town authorized to make contracts. Said district, through its trustees, is authorized to contract with persons and corporations, including the town of Lisbon, and said town of Lisbon is authorized to contract with it, for the supply of water for municipal purposes.

Sec. 13. Emergency clause; effective date; referendum. In view of the emergency cited in the preamble, this act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the town of Lisbon at any regular or special town meeting called and held for the purpose not later than January 1, 1952. Such special election shall be called, advertised and conducted according to law relating to municipal elections; provided, however, that the board of registration in the town of Lisbon shall not be required to prepare for posting nor the town clerk to post a new list of voters, and for the purposes of registration of voters, said board shall be in session 1 hour preceding such election. The town clerk shall prepare the required ballots and thereon shall reduce the subject matter of this act to the following question: "Shall the Act to Incorporate the Lisbon Water District be accepted?" and the voters shall indicate by a cross or a check mark placed against the words "Yes" and "No" their opinion of the same. This act shall take affect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at said meeting; provided that the total number of votes cast for and against the acceptance of this act at said meeting equals or exceeds 20% of the total vote for all candidates for governor in said town at the next previous gubernatorial election. Failure of approval by the necessary percentage shall not prevent future elections within said period. The result in said district shall be declared by the municipal officers of the town of Lisbon and due certificate thereof filed by the town clerk with the secretary of state.