

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. 929

H. P. 1354

House of Representatives, February 23, 1951

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

HARVEY R. PEASE, Clerk

Presented by Mr. West of Stockton Springs.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT to Incorporate the Stockton Springs Water District.

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

Sec. 1. Territorial limits; corporate name; purposes. The inhabitants of and the territory within the town of Stockton Springs, in the county of Waldo, are hereby created a body politic and corporate by the name of "Stockton Springs Water District" for the purpose of supplying the inhabitants of said district and the town of Stockton Springs with pure water for domestic, sanitary, agricultural, commercial, industrial and all lawful purposes.

Sec. 2. Powers. The said Stockton Springs 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 Stockton Springs or from any source now used by the Stockton Springs Water Company. The said district is also authorized to locate, construct and maintain dams, cribs, reservoirs, locks, gates, sluices, aqueducts, pipes, conduits, standpipes, hydrants, pumping stations and other necessary structures and equipment to carry out its purposes.

Sec. 3. 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 watershed, 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 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 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 au-

thorized 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 Waldo 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 Stockton Springs 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 Stockton Springs 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.

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 Stockton Springs 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 3rd 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 Stockton Springs, and said town of Stockton Springs 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 not to exceed \$100,000, 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 Stockton Springs.

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 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.

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. Authorized to acquire property and franchises of Stockton Springs Water Company. Said district is hereby authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain, which right is hereby expressly delegated to said district for said purpose, the entire plant, properties, franchises, rights and privileges, except cash assets and accounts receivable, owned by the Stockton Springs Water Company, situate in the town of Stockton Springs including all lands, waters, water rights, dam structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in

supplying water in the town of Stockton Springs. If and when so acquired, the said district, in addition to the powers conferred by this act, shall have and enjoy and be entitled to exercise all the rights, privileges and franchises of said Stockton Springs Water Company and may do and perform any and all the acts and things authorized by the original charter of said Stockton Springs Water Company, as amended, insofar as they are not inconsistent with the provisions of this act.

Sec. 17. Procedure in case trustees and water company fail to agree upon terms of purchase. In case said trustees fail to agree with said Stockton Springs Water Company upon the terms of purchase of the above-mentioned property, on or before January 1, 1953, said district, through its trustees aforesaid, is hereby authorized to take said plant, property and franchises, as for public use by petition therefor in the manner hereinafter provided. And said district, through its trustees, is hereby authorized on or before July 1, 1953 to file a petition in the clerk's office of the supreme judicial court for the county of Waldo, in term time or in vacation addressed to any judge of such court, who, after due notice to said Stockton Springs Water Company and its mortgagees, shall, after hearing and within 30 days after the date on which said petition is returnable, appoint 3 disinterested appraisers for the purpose of fixing a valuation of said plant, property and franchises. At the hearing aforesaid, such justice upon motion of the petitioner, may order the production and filing in court, for the inspection of the petitioner, of all books and papers pertinent to the issue and necessary for a full understanding of the matter to be heard by said appraisers, the terms and conditions of so producing and filing such books and papers to be determined by the justice in his order therefor and to be enforced from time to time as any justice of the supreme judicial court, in term time or in vacation, upon motion of either party, may deem reasonable and proper in the premises.

At such hearing, such justice upon motion of the petitioner, may fix a time at which the said water company shall file in the clerk's office of the supreme judicial court for the county of Waldo for the inspection of the petitioner, so far as they relate to the service in the town of Stockton Springs, the following: 1st, schedule showing the names, residences and water service of all its customers of the Stockton Springs Water Company on the 1st day of January, 1953, with the rates charged therefor; 2nd, copies of all contracts in force on said 1st day of January, 1953; 3rd, an itemized statement of the gross income earned during its last complete fiscal year and up to said 1st day of January, 1953; and all operating expenses and fixed charges, paid or incurred during such period and

properly chargeable thereto; 4th, a memorandum of all real estate, water rights or interest therein, owned or controlled on said 1st day of January, 1953 with such brief description thereof as will reasonably identify the same; 5th, brief descriptions, specifications and plans of all reservoirs, mains, pipes, service pipes, hydrants, gates, gate boxes, shut-off boxes, conduits, fixtures and machinery and all the physical elements in such water system, giving in detail quantities, sizes, lengths, and specifying the streets, roads, or ways where situated; 6th, an itemized list of all tools, apparatus, appliances and supplies used or usable in supplying water on said 1st day of January, 1953. Such orders may be enforced from time to time by any justice of said supreme judicial court, in term time or in vacation, upon motion of either party, as such justice may deem reasonable and proper in the premises. At such hearing the justice, then sitting, may upon motion of the petitioner, make all such decrees as he deems reasonable and proper to enable the petitioner, through its servants and employees, to ascertain the true condition of the water mains and pipes and conduits of said water company, externally and internally, in the presence of the officers or agents of said water company, the entire expense thereof to be borne by the said district. The said appraisers shall have the power of compelling attendance of witnesses and the production of all books, accounts and papers pertinent to the issue and necessary for a full understanding by them of the matter in question and may administer oaths; and any witness or person in charge of such books, accounts and papers refusing to attend or to produce the same shall be subject to the same penalties and proceedings, so far as applicable, as witnesses summoned to attend the supreme judicial court. Depositions may be taken as in civil actions. The appraisers so appointed shall, after notice and hearing, fix the valuation of said plant, property and franchises at what they are fairly and equitably worth, so that said water company shall receive just compensation for all and the same. The 1st day of January, 1953, shall be the date as of which the valuation aforesaid shall be fixed, from which date interest on said award shall run, and all rents and profits accruing thereafter shall belong to said district. The reports of said appraisers or a majority of them shall be filed in said clerk's office, in term time or in vacation, as soon as may be after their appointment, and such single justice, or, in case of his inability to act, any justice of said court appointed by the chief justice, may, after notice and hearing, confirm or reject the same, or recommit it if justice so requires. Before a commission is issued to said appraisers either party may ask for instructions to said appraisers, and all question of law arising upon said request for instructions, or upon any other matters in issue, may be reported to the law court for determination before appraisers proceed

to fix the valuation of the property, plant and franchises of said company. Upon the confirmation of said report the court so sitting shall thereupon, after hearing, make final decree upon the entire matter, including the application of the purchase money and transfer of property, jurisdiction over which is hereby conferred, and with the power to enforce said decree as in equity cases. All findings of fact by said court shall be final, but any party aggrieved may take exceptions as to any ruling of law so made, the same to be accompanied by so much of the case as may be necessary to a clear understanding of the question raised thereby. Such exceptions shall be claimed on the docket within 10 days after such final decree is signed, entered and filed and notice thereof has been given to the parties or their counsel, and said exceptions so claimed shall be made up, allowed and filed within said time unless further time is granted by the court or by agreement of the parties. They shall be entered at the next term of the law court to be held after the filing and entry of said decree and there heard unless otherwise agreed; or the law court for good cause shall order further time for hearing thereon. Before said plant, property and franchises are transferred in accordance with such final decree, and before payment therefor, as hereinbefore provided, such justice shall, upon motion of either party and after notice and hearing, take account of all receipts and expenditures properly had or incurred by the Stockton Springs Water Company in respect of the territory comprising said district belonging to the period, from and after said 1st day of January, 1953, and all net rents and profits accruing thereafter, and shall order the net balance to be added to or deducted from the amount to be paid under such final decree, as the case may be. All findings of law and fact by such justice at such hearing shall be final. On payment or tender by said district of the amount so determined and the performance of all other terms and conditions so imposed by said court, the entire plant, property and franchises of Stockton Springs Water Company used and usable in supplying water in the town of Stockton Springs shall become vested in said district. Either party may file and prosecute motions and petitions relating to the premises at any state of the proceedings, but the proceedings shall not be discontinued except upon consent of both parties.

If a vacancy occurs at any time in said board of appraisers from any cause, such sitting justice, or in case of his inability to act, any justice of said court appointed by the chief justice may, after notice and hearing, appoint a new appraiser or appraisers and make all such orders for hearing said cause by the appraisers, anew or for any extension of time for making their award, or otherwise, as the circumstances of the case may require.

Nothing herein contained shall preclude said district from acquiring said properties from said company at any time by mutual agreement.

Sec. 18. Valid contracts of water company to be assumed by the district. All valid contracts now existing between the Stockton Springs Water Company and any person or corporation for supplying water in the town of Stockton Springs shall, in the event of such acquisition, be assumed and carried out by said Stockton Springs Water District.

Sec. 19. 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 vote for all candidates for governor cast in said town at the next previous gubernatorial 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 Stockton Springs 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 December 1, 1951. 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 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 day next preceding said election to act on the registration of voters and 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 Stockton Springs 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 of the town of Stockton Springs and due certificate thereof filed by the town clerk with the secretary of state.