

MAINE STATE LEGISLATURE

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Legislative Document

No. 1093

H. P. 991

House of Representatives, February 24, 1953.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Stanwood of Steuben.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT to Incorporate the Addison Point Water District.

Emergency preamble. Whereas, the water supply for the Addison Point District of the town of Addison, 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 of said district; 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; name, purposes. That part of the town of Addison, and the inhabitants within the same, which is bounded and de-

scribed as follows: Commencing on the bank of Pleasant river, so called, where the south line of the town of Columbia Falls intersects said river; thence generally westerly by and with the south line of the town of Columbia Falls and the south line of the town of Columbia to the intersection of the south line of said town of Columbia with Branch stream, so called, of Pleasant river; thence generally southerly by and with the easterly bank of Branch stream, so called, to Pleasant river; thence generally easterly and northerly by and with said Pleasant river to the place of beginning; are hereby created a body politic and corporate by the name of the Addison Point Water District for the purpose of supplying the inhabitants of said district with pure water for domestic, sanitary, commercial and municipal purposes.

Sec. 2. Powers of said Addison Point Water District. The said district, for the purpose of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from any surface or underground brook, spring or vein of water in said town of Addison.

Sec. 3. May exercise eminent domain. The said district, for the purpose 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 interest therein or water rights necessary for erecting and maintaining dams, for flowage, for power for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining aqueducts and other structures for taking, distributing, discharging and disposing of water, and for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands.

The said district is hereby authorized to lay in and through the streets, roads, ways and highways within the district as described in section 1 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 its corporate purposes, and whenever said district shall lay any pipes or equeducts 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.

Provided, however, nothing herein contained shall be construed as au-

thorizing 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, or as provided in section 6 hereof.

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 to 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 Washington 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. Board of trustees; how elected; meetings; officers; vacancies filled for the unexpired term. All the affairs of the district shall be managed by a board of 5 trustees, resident therein, whose terms of office shall

expire on the 1st Monday of April. The first board shall be elected 1 for 5 years, 1 for 4 years, 1 for 3 years, 1 for 2 years and 1 for 1 year, at a special meeting of the district to be called by any 3 members of said district within 30 days of the acceptance of this act; and thereafter, 1 member shall be chosen for 5 years at the annual district meeting. All elections of trustees shall be by written ballot in the same manner as other town officers are chosen. In case of vacancies in the office of a trustee arising from any cause it shall be filled for the unexpired term at any annual or special meeting of the members of the district called for that purpose. When any trustee ceases to be a resident of said district, his office as trustee shall be declared vacant.

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 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, which shall in no case exceed \$100 per year, and fill vacancies in that office. 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 is to be borne by the district. Members of the board shall be eligible to any office under the board, but shall not receive any compensation therefor, except as trustee, unless authorized by vote of the members of the district. The compensation of the trustees shall not exceed \$25 per year, unless otherwise provided by vote, as above defined.

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. Annual meeting of district; qualification of voters of district.

The annual meeting of the district shall be held within the district on the 1st Monday in April, 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 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. Ten percent of the voters resident in the district qualified to vote in town 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 2 months from said date.

All persons resident in said district and qualified to vote in town meeting under the laws of this state shall be entitled to vote in any meeting of the district, including the meeting for acceptance of this charter.

Sec. 9. Trustees granted certain powers of selectmen. After the meeting for acceptance of this charter, 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 1 hour 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. 10. District and town authorized to make contracts. Said district, through its trustees, is authorized to contract with persons and corporations, including the town of Addison, and said town of Addison is authorized to contract with it, for the supply of water for municipal purposes.

Sec. 11. Authorized to acquire property and franchises of Addison Point Aqueduct 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 Addison Point Aqueduct Company, situate in the town of Addison, 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 event of the failure of the parties to agree upon a purchase price therefor, such price shall be fixed by arbitration and appraisers shall be appointed upon petition filed by the district in the clerk's office of the supreme judicial court for the county of Washington in term time or vacation and addressed to any judge of such court. Said judge, after due notice to Addison Point Aqueduct Company and to the district, and after hearing, shall appoint 3 disinterested appraisers for the purpose of fixing a fair purchase price for the said facilities and properties of said Addison Point Aqueduct Company. The fair purchase price fixed by such appraisers or

by a majority of them and certified to the district and to the Addison Point Aqueduct Company shall be final and binding upon both parties; but in fixing such fair price, no account shall be taken by the appraisers of the cost or value of labor or other benefits furnished or contributed by governmental or other agencies without expense to the town.

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, without the necessity of a vote of the inhabitants of said district, is authorized to borrow money from time to time, not exceeding \$15,000, 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. For the purpose 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. 13. Property, tax exempt. The property of said district shall be exempt from all taxation in the town of Addison.

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. 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 $3\frac{1}{3}\%$ nor more than $6\frac{2}{3}\%$ 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 $3\frac{1}{3}\%$ 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. 15. Incidental powers granted. All incidental powers, rights and privileges necessary to the accomplishment of the main object herein set forth are granted to the corporation hereby created.

Sec. 16. 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 right 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 thereto or additional thereto.

Sec. 17. Act void unless property of Addison Point Aqueduct Company is acquired. If said district shall fail to purchase or file its petition to take by eminent domain before July 1, 1954 as in this act provided, the plant, properties, franchises, rights and privileges owned by the Addison Point Aqueduct Company and used or usable in supplying water in the Addison Point District, so-called, in the town of Addison; then this act shall become null and void.

Referendum; emergency clause; effective date. 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 territory embraced within the limits of the district at any regular or special town meeting called and held for the purpose not later than April 1, 1954: the date of said meeting to be determined by the municipal officers of the town of Addison, but the 1st such meeting shall not be later than the July 1, 1953.

Said municipal officers 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 upon the question. Such special election shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the municipal officers 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 municipal officers shall be in session 1 hour preceding such meeting.

The town clerk shall prepare the required ballots upon which he shall reduce the subject matter of this act to the following question: "Shall the Act to Incorporate the Addison Point Water District, passed by the 96th 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. This act shall take effect 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 equals or exceeds 20% of the total number of names on the check list of voters of said district used at said meeting; but failure of approval by the necessary percentage of voters shall not prevent subsequent elections within said period.

The result in said district shall be declared by the municipal officers of the town of Addison and due certificate filed by the town clerk with the secretary of state.