

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

Legislative Document

No. 777

H. P. 709

House of Representatives, February 16, 1955

Referred to the Committee on Legal Affairs, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Beal of Lisbon by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT Relating to the Lisbon Water Department.

Emergency preamble. Whereas, acts and resolves do not become effective until 90 days after the legislature adjourns; and

Whereas, pure water is essential to the welfare and well-being of the inhabitants of the town of Lisbon; and

Whereas, the following legislation is vitally necessary to permit the inhabitants of the Town of Lisbon to vote thereon as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine 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. P. & S. L., 1903, c. 241, § 1, amended. Section 1 of chapter 241 of the private and special laws of 1903 is hereby amended to read as follows:

Sec. 1. Town of Lisbon authorized to take water; conduct same in pipes; construct standpipes; additions and extensions, etc. The town of Lisbon, ~~by its municipal officers or~~ by a commission as hereinafter provided, acting for and in behalf of said town, is authorized and empowered to take water from any river, lake, pond, stream, brook, spring or other water sources, natural or artificial, ~~except the springs owned by the Sylvester Aqueduct Company~~ within the towns of Lisbon, Bowdoin, or Webster, and from the Little River stream, a part of which is in Topsham, sufficient for domestic purposes in said Lisbon, in-

cluding a sufficient quantity to extinguish fires, supply hotels, laundries, livery stables, business places and private dwellings, as well as for the sprinkling of lawns and streets, and for manufacturing purposes; and for the purposes aforesaid, to convey any of the waters aforesaid by aqueducts or pipes, sunk to any depth desirable for said purposes, and to lay such aqueducts or pipes under or over any water course, stream, brook, street, railroad, highway or other way, in such manner as not unreasonably to obstruct the same; **to construct and maintain extensions of and additions to said pipes; to construct, erect and maintain reservoirs and standpipes** and to lay down, in and through streets and ways in said town of Lisbon, and take up, replace and repair all such aqueducts, pipes or service pipes, as may be necessary to carry out the purposes of a complete system of water works **and any and all necessary extensions of and additions to said system of waterworks.'**

Sec. 2. P. & S. L., 1903, c. 241, § 2, amended. Section 2 of chapter 241 of the private and special laws of 1903 is hereby amended to read as follows:

'Sec. 2. May make contract for acquisition of other system of water works. The town of Lisbon, ~~by said municipal officers, or~~ by said commission, may make any necessary contract with any person, company or corporation for acquiring the ownership of any aqueduct company or corporation, owning a system of water works **and any and all necessary extensions of and additions to** said town of Lisbon, ~~by its municipal officers or~~ said commission, may be entitled to purchase the whole at any one time, or to purchase the same in installments through a period of years.'

Sec. 3. P. & S. L., 1903, c. 241, § 3, amended. Section 3 of chapter 241 of the private and special laws of 1903 is hereby amended to read as follows:

'Sec. 3. May take lands; may enter on lands for surveys and locations; shall file and publish notice of location of land taken. For the purpose of carrying out the provisions of this act, said town of Lisbon, ~~by its municipal officers, or~~ said commission, shall have power and is hereby authorized to take and hold by purchase or otherwise, any lands or real estate, ~~excepting the springs owned by the Sylvester Aqueduct Company~~ necessary for laying and maintaining pipes, aqueducts, locks, gates, hydrants, dams, standpipes and reservoirs, for taking, conducting, conveying, holding, discharging and distributing, and for roadways to be used as approaches thereto, doing no unnecessary damage.

The said town, ~~by its municipal officers, or~~ said commission, may enter upon said lands or real estate so taken and held to make surveys and locations, and shall file in the registry of deeds in the county in which such lands or property lies, plans of such lands and locations, showing the property taken within said county, and within 30 days thereafter shall publish notice of such taking and filing in some newspaper published in said county wherein said land is taken, such publication to be continued 3 weeks successively, and such filing in the registry of deeds shall be in lieu of any other filing now required by law. Said town of Lisbon, ~~by its municipal officers, or~~ by said commission, may permit the use, for said purposes, of any lands so taken by it, by any person, company or corporation, with which it has made such a contract as it described in section 2, whereby the said town of Lisbon may be entitled to acquire the ownership of

any aqueduct or system of water works or any part thereof in said town of Lisbon.'

Sec. 4. P. & S. L., 1903, c. 241, § 4, amended. Section 4 of chapter 241 of the private and special laws of 1903 is hereby amended to read as follows:

'Sec. 4. County commissioners to assess damages in case of disagreement. Should the said town of Lisbon, by ~~its municipal officers or~~ said commission, and the owner of such land be unable to agree upon the damages to be paid for such taking, location and holding, the ~~land owner landowner~~ or the town of Lisbon by ~~its municipal officers, or~~ said commission may, within 12 months after the filing of said plans and location, apply to the commissioners of the county wherein said land lies, who shall cause such damages to be assessed in the same manner, and under the same conditions, restrictions, limitations and rights of appeal as are by law prescribed in the case of damages for the laying out of railroads, so far as such law is consistent with the provisions of this act.'

Sec. 5. P. & S. L., 1903, c. 241, § 5, amended. Section 5 of chapter 241 of the private and special laws of 1903 is hereby amended to read as follows:

'Sec. 5. May contract for construction. The town of Lisbon, by ~~its municipal officers or~~ said commission, is authorized and empowered to contract with any person or corporation to construct aqueducts, pipes, locks, gates, hydrants, dams, standpipes and reservoirs and any other structures necessary for a system of water works upon lands taken as hereinbefore prescribed. ~~And in case any such company or corporation is organized to construct any such aqueduct, it is empowered to place all or any part of its capital stock in the name of a trustee or trustees, and to contract that said trustee, or trustees, shall sell and deliver the same to the said town of Lisbon in installments from year to year, as may be agreed upon.'~~

Sec. 6. P. & S. L., 1903, c. 241, § 6, amended. Section 6 of chapter 241 of the private and special laws of 1903 is hereby amended to read as follows:

'Sec. 6. Water commissioners; election, tenure, vacancies, restrictions, salaries. For the purpose of carrying into effect the provisions of this act, the town of Lisbon, at a meeting duly called therefor, may as soon as this act takes effect, if it so elects, or at any time thereafter elect by ballot 3 water commissioners, whose duty it shall be to perform all such acts for the town as are necessary and convenient for the full operation of this act ~~and such as may be prescribed by town ordinance or lawfully directed by the municipal officers of said town~~ and all the affairs of the town in connection with or incidental to the management and operation of said water system.

The 3 persons first chosen, as aforesaid shall serve one for 1 year, one for 2 years, one for 3 years from the date of the annual March meeting, following their election. ~~Their terms of service being designated by the municipal officers of the town of Lisbon, and thereafter~~ Thereafter one commissioner shall be elected by ballot annually at the annual March meeting, to serve for the term of 3 years.

~~The municipal officers of said town of Lisbon may fill any vacancy occurring by death, resignation or otherwise. Until such water commissioners are elected, the municipal officers of said town of Lisbon shall perform the duties of the water commissioners.~~

The Board of Selectmen of said town of Lisbon shall fill any vacancy in the Board of Water Commissioners occurring by death, resignation, removal of domicile from the town of Lisbon, or other legal cause. Any member of the Board of Water Commissioners who removes or changes his domicile to any place outside the town of Lisbon shall be deemed to have automatically vacated his office. Any vacancy so filled by the Board of Selectmen shall be deemed to have been filled only until the next annual March town meeting.

No other elected officer of the town of Lisbon shall be eligible to be elected to or appointed to the Board of Water Commissioners. No member of the Board of Water Commissioners shall be eligible to be elected to any other office in said town of Lisbon.

The salary of the members of the Board of Water Commissioners shall be determined by vote at the annual town meeting.'

Sec. 7. P. & S. L., 1903, c. 241, § 7, amended. Section 7 of chapter 241 of the private and special laws of 1903 is hereby amended to read as follows:

'Sec. 7. Water commissioners may fix water rates. Said ~~municipal officers of said town of Lisbon, or said water commissioners in case water commissioners are elected as hereinbefore provided~~ are authorized to fix the rates for water to be paid monthly, quarterly, semi-annually or annually by persons or corporations supplied with the same, or by the state of Maine if so supplied, and in the same manner determine the conditions and methods of such supply, and shall have general and exclusive charge and control of the town's water system.'

Sec. 8. P. & S. L., 1903, c. 241, § 8, amended. Section 8 of chapter 241 of the private and special laws of 1903 is hereby amended to read as follows:

'Sec. 8. May dig up streets, lay pipes, etc., under direction of road commissioner. Said town of Lisbon, through ~~its municipal officers, or~~ said commissioner, is authorized for the purpose of carrying into effect the provisions of this act, to dig up and excavate any highway in said town, lay pipes therein, and fill the trenches under the directions of the road commissioner of said town or such person as may be acting in that capacity for the time being.'

Sec. 9. P. & S. L., 1903, c. 241, § 9, repealed and replaced. Section 9 of chapter 241 of the private and special laws of 1903 is hereby repealed and the following enacted in place thereof:

'Sec. 9. Town liable for damages; how assessed. Whenever the Board of Water Commissioners of the town of Lisbon takes water from any of the sources hereinbefore named, it shall file in the registry of deeds in the county in which such source of supply is located a notice of such taking, describing the size, location and depth of the pipe, or pipes, through which said water is to be taken from said source or sources.'

The said town of Lisbon, by its Board of Water Commissioners, shall pay all damages sustained by any person or corporation in property, by the taking of any water, water sources, water right or easement, or by anything done by said Water Commissioners, under the authority of this act, which shall be determined and assessed in the same manner as provided in section 4 for land taken under the provisions of this act.'

Sec. 10. P. & S. L., 1903, c. 241, § 10, repealed and replaced. Section 10 of chapter 241 of the private and special laws of 1903 is hereby repealed and the following enacted in place thereof:

'Sec. 10. May issue bonds. For accomplishing the purposes of this act, the town of Lisbon through its board of selectmen and its Board of Water Commissioners, after vote by the town, is authorized to borrow, in behalf of said town, amounts of money which taken in connection with the other indebtedness of the town, will not exceed the amount limited by the State of Maine, from time to time, temporarily or for long terms, and to issue therefor the interest bearing negotiable bonds and notes of the town, maturing serially, or otherwise, or to make subsequent renewals of the same in whole or in part, and for said purposes and for the purpose of refunding any bonds, notes or other debt of the town for said water system and for the purpose of establishing a fund or funds therefor, and for the purpose of obtaining or providing money to pay any necessary expenses and liabilities under the provisions of this act, in securing sources of supply in taking water and land and acquiring the properties of those persons and companies hereinbefore set forth, in paying damages, laying pipes, constructing and maintaining a water plant and making extensions, additions and improvements to the same, said town through its board of selectmen and its Board of Water Commissioners may, from time to time, issue negotiable notes and bonds of the town to an amount necessary in the judgment of the Board of Water Commissioners, maturing at one time or in uniform or varying installments, with or without provisions for calling the same for payment before maturity, and in case of such call provisions, with or without providing for the payment of a premium of not exceeding 5% of the principal upon such call. Said notes and bonds shall be legal obligations of said town. The said notes and bonds shall be legal investments for savings banks. Such bonds shall be signed by the board of selectmen and by the Board of Water Commissioners of the town and by the treasurer of said town, but the coupons need be signed by the treasurer only, and shall be designated "The Lisbon Water Department Loan."'

Sec. 11. P. & S. L., 1903, c. 241, §§ 11-26, repealed and replaced by §§ 11-15, inclusive. Sections 11 to 26, inclusive, of chapter 241 of the private and special laws of 1903 are hereby repealed and the following sections to be numbered 11 to 15, inclusive, enacted in place thereof:

'Sec. 11. Rules and regulations. The Board of Water Commissioners shall have the general and exclusive authority and responsibility to prepare and issue rules and regulations for the management and operation of said water system, subject to the laws of the State of Maine concerning service corporations.

Sec. 12. Extensions; when and how made. The Board of Water Commissioners shall have the general and exclusive authority and responsibility to de-

termine when, where and under what terms and conditions extensions to said water system shall be made and shall engage and consult all professional advice and opinion which they deem necessary and proper; provided, however, that no extension shall, in any event, be constructed until after vote of a legal town meeting nor until after majority vote of said Board of Water Commissioners.

Sec. 13. Moneys of Water Department; how disbursed; not to be transferred to another department. All moneys received from water rentals, notes, bonds or other sources in connection with said water department shall be deposited in such banks or depositories as the Board of Water Commissioners shall determine in separate accounts entitled "Town of Lisbon Water Department" and all withdrawals from said account shall be over or upon the orders or warrants of the Board of Water Commissioners or a majority of said Board, said warrants and orders to be directed to the Town Treasurer. The Treasurer of said Town shall execute and carry out all such orders and warrants without requiring the signature of the Board of Selectmen.

No money or surplus shall be transferred by vote of the Town or otherwise from the water department to any other department of the Town.

Sec. 14. Water rates; how determined; sinking fund. All individuals, firms and corporations whether private, public or municipal shall pay to the said water department the rates established by said Board of Water Commissioners for the service used by them, and said rates shall be uniform within the territory supplied by the water department, 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 and department;
- II. To provide for the payment of the interest on the indebtedness created by the water department;
- III. To provide each year a sum necessary to cover current replacements and minor additions as determined by the Board of Water Commissioners but not exceeding \$3,500 per year;
- IV. To provide each year a sum equal to the annual depreciation as determined by the Board of Water Commissioners, said sum to be used only for replacing damaged, worn out or obsolete pipe lines and equipment;
- V. To provide each year a sum equal to not less than 1% nor more than 10% of the entire indebtedness created by the Water Department, 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 Water Department or invested in such securities as savings banks or fiduciaries or trustees are now or hereafter allowed to hold. Provided, however, that the board of selectmen and the Board of Water Commissioners may, after vote of the town, in their discretion and in lieu of the establishment of a sinking fund, issue the

bonds of the Water Department so that not less than 1% of the amount of the bonds so issued shall mature and be retired each year;

VI. If any surplus remains at the end of the year, it may on order of the Board of Water Commissioners be turned into the sinking fund.

Sec. 15. Annual report; audit. The Board of Water Commissioners shall prepare a written annual report which shall include an audited financial report, a report of physical accomplishments for the year and a summary of its plans and recommendations for the ensuing year, which said report shall be incorporated in full by the board of selectmen in the annual town report for the current year.'

Emergency clause; referendum; 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 town of Lisbon at a meeting which shall be called by the selectmen of the town of Lisbon, at such time as the selectmen may determine, within 60 days after approval of this act. At such meeting the vote shall be by ballot bearing the question: "Shall 'An Act Relating to the Lisbon Water Department' passed by the 97th 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 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 number of voters on the official check list of the town. The result of said voting shall be declared by the selectmen of the town of Lisbon and due certificate thereof filed by the town clerk with the Secretary of State.