

MAINE STATE LEGISLATURE

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NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 948

H. P. 667

House of Representatives, February 21, 1957.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Emmons of Kennebunk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Amending the Charter of the Kennebunk, Kennebunkport and Wells Water District.

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

Sec. 1. P. & S. L., 1921, c. 159, § 2, repealed and replaced. Section 2 of chapter 159 of the private and special laws of 1921 is hereby repealed and the following enacted in place thereof:

'Sec. 2. Source of water supply; eminent domain; property of other utilities. Said district, for the purposes of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from any surface or underground river, lake, pond, stream, brook, spring or other source of water, natural or artificial, in the towns of Kennebunk, Kennebunkport and Wells, and in the portions of the town of York and the city of Biddeford above described, including, without limitation by the foregoing, water from Branch Brook and the Merriland River and their tributaries from their sources to their mouths, or from any of said sources, or to contract to do any or all of the foregoing things.

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 or convenient for such purposes, by purchase, lease or otherwise, and is hereby expressly 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 standpipes, for preserving the purity of the water and watershed, for protecting the sources of its water supply, for

laying and maintaining mains, 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, standpipes, mains, aqueducts, structures and lands.

Said district is hereby authorized, for the purpose 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 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. 2. P. & S. L., 1921, c. 159, § 3, repealed and replaced. Section 3 of chapter 159 of the private and special laws of 1921 is hereby repealed and the following enacted in place thereof:

'Sec. 3. Damages, how ascertained. Said district in exercising, from time to time, any right of eminent domain conferred upon it by law or through or under the franchise of any water company by it acquired shall file in the office of the county commissioners of York County and cause to be recorded in the registry of deeds in said county plans of the location of all lands or interest therein or water rights 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 and 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 acts 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 said lands or interest therein or water rights and other property and rights as aforesaid to be taken, but title thereto shall not vest in said district until payment therefor.

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 York 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.

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.'