

MAINE STATE LEGISLATURE

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THIRD SPECIAL SESSION

NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 1685

H. P. 1158

In House, May 6, 1958.

Received by unanimous consent and referred to Committee on Public Utilities.
Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Rowe of Limerick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-EIGHT

AN ACT to Incorporate the Limerick Water District.

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

Sec. 1. Territorial limits; name; purposes. The territory, and the inhabitants therein, of the Town of Limerick in the County of York is created a body politic and corporate under the name of "Limerick Water District" for the purpose of supplying the inhabitants of said district and others in said district and said Town of Limerick, with pure water for domestic, sanitary, commercial, industrial and municipal purposes.

Sec. 2. Source of supply. The said district, for the purposes of its incorporation, is authorized to take, hold, divert, use and distribute water from any river, lake, pond, stream, brook, spring or other source of water, natural or artificial, within the Town of Limerick or to contract to do any or all of the foregoing things.

Sec. 3. Right of eminent domain. The said district, for the purposes of its incorporation, is 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 expressly authorized to exercise the right of eminent domain, as hereinafter provided, to acquire for such purposes any lands or interests 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 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 authorized to lay in and through the streets, roads, ways and highways of the Town of Limerick, 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 or install any pipes, mains, conduits, aqueducts or fixtures 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 so replaced as to leave the surface in proper condition. The said district is authorized, for the purpose of its incorporation, to erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes.

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 in exercising right of eminent domain and assessment of damages; procedures on appeals. The said district in exercising, from time to time, any right of eminent domain conferred upon it herein or by other 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 interests 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 interests 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.

Sec. 5. 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. 6. Trustees; how elected; meetings; officers. All of the affairs of said district shall be managed by a board of 3 trustees, residents therein, who shall be chosen as hereinafter provided.

As soon as may be after the acceptance of this act as hereinafter provided, the municipal officers of the Town of Limerick shall appoint 3 trustees of said district to hold office as follows: one to serve until the first annual meeting of said town following the acceptance of this act; one to serve until the 2nd annual meeting of said town following such acceptance; and one to serve until the 3rd annual meeting of said town following such acceptance. At each annual meeting of said town, beginning with the first annual meeting after the acceptance of this act, one trustee shall be elected by ballot as hereinafter provided to serve until the annual meeting of said town occurring 3 years thereafter and until his successor is elected and qualified. Whenever any trustee ceases to be a resident of said district, he vacates the office of trustee. All trustees, if residents of said district, shall be eligible for re-election.

The nomination of all candidates for trustee to be elected as provided by this act shall be by nomination papers signed in the aggregate for each candidate by not less than 15 nor more than 50 qualified voters resident in said district. Each voter signing a nomination paper shall make his signature in person, and each voter may subscribe to as many nominations as there are trustees to be elected in said district and no more. Such nomination papers, before being filed, shall be submitted to the town clerk of the Town of Limerick, who shall forthwith certify thereon that number of the signatures which are names of qualified voters resident in said district; one of the signers to each such separate paper shall swear to the truth thereon, and the certificate of such oath shall be annexed to or made upon the nomination papers. Such nomination papers shall be filed with the town clerk of the Town of Limerick not less than 14 days, exclusive of Sundays, previous to the day of such election. With such nomination papers shall also be filed the consent in writing of the person or persons nominated. All nomination papers, being filed and being in apparent conformity with the foregoing provisions, shall be deemed to be valid; and if not in apparent conformity they may be seasonably amended under oath. In case any candidate who has been duly nominated under the provisions hereof shall die before the day of election, or shall withdraw in writing, or shall remove his place of residence from said district, the vacancy may be supplied in the manner herein provided for such nominations, except that the time limit for filing such nomination papers shall not apply. The name so supplied for the vacancy shall, if the ballots have not been printed, be placed on the ballots instead of the original nomination; or if the ballots have been printed, new ballots containing the new nomination shall, if practical, be furnished, or slips containing the new nomination shall be printed under the direction of the town clerk which shall be pasted upon said ballots and over the name of the candidate whose

nomination has been vacated as aforesaid, and thereafter shall become part of said ballots as if originally printed thereon. The ballots in said district shall contain the names of all candidates so nominated in such district alphabetically arranged, printed in one column under the heading "For Trustee of the Limerick Water District." Above such heading shall be printed "Vote for (the number to be elected to be inserted therein). Make a cross or a check mark to the right of the name(s) voted for." As many blank spaces shall be left after the names of the candidates as there are trustees to be elected in which the voter may, by writing, insert the name of any person or persons for whom he desires to vote. In preparing his ballot the voter shall mark a cross (X) or a check mark (✓) against and to the right of such names on said ballot as he desires to vote for, not to exceed the number of trustees so to be elected in said district. At each annual meeting of said Town of Limerick, balloting for trustee of said district shall take place concurrently with balloting for the municipal officers of said town, but separate ballots shall be provided for the balloting for trustee of the district as hereinbefore provided. The result of such election shall be declared by the selectmen of said Town of Limerick and due certificate thereof filed with the town clerk and the clerk of the district. The district shall reimburse the town for the expense of any district election.

As soon as convenient after their appointment, the first board of trustees shall hold a meeting at some convenient place in the district, to be called by any member thereof in writing, designating the time and place and delivered in hand to the other 2 members, not less than 2 full days before the meeting; provided that they may meet by agreement without such notice. They shall then organize by electing from their own number a chairman and a clerk and, not necessarily from their own number, a treasurer. They shall adopt a corporate seal and may adopt by-laws and perform any other acts within the powers delegated to them by law. Within one week after each annual election in said district, the trustees shall elect from their own number a chairman and a clerk and, not necessarily from their own number, a treasurer to serve for the ensuing year and until their respective successors are elected and qualified.

The trustees from time to time may choose and employ and fix the compensation of any other necessary officers and agents, who shall serve at their pleasure. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost thereof to be paid by the district. Members of the board of trustees shall be eligible to any office under the board. The trustees, as such, shall receive as compensation for their services an amount to be determined by them not to exceed \$100 each per year; but the treasurer may be allowed such compensation as the trustees shall determine.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member who shall serve as clerk or clerk pro tem. They shall make and publish an annual report, including a report of the treasurer, and such report may be included in, and published as part of, the town report.

Vacancies in the office of trustee from whatever cause shall be filled by appointment by the remaining trustees until the next annual election. If at any

annual election there shall exist a vacancy in an unexpired term, a trustee shall be elected to fill such vacancy for such unexpired term, and the voters of the district shall cast their ballots as hereinbefore prescribed, voting for as many candidates as there are offices to be filled.

Sec. 7. District and town authorized to make contracts. The said district, through its trustees, is authorized to contract with persons and corporations including the Town of Limerick, which town is authorized to contract with it for the supply of water for municipal purposes, and for said purposes said town may raise money as for other municipal purposes.

Sec. 8. Authorized to acquire property, franchises of Limerick Water Company. The said district, through its trustees, is authorized to acquire by purchase the entire plant, properties, franchises, rights and privileges owned by Limerick Water Company, including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in the Town of Limerick and said company is authorized to sell, transfer and convey its said plants, properties, franchises, rights and privileges to said district. The said district is also authorized to acquire by purchase the stock of said Limerick Water Company.

Sec. 9. Valid contracts of Limerick Water Company to be assumed by district. All valid contracts now existing between the Limerick Water Company and any person or corporation, including the Town of Limerick, for supplying water in the Town of Limerick, and all liabilities of said Limerick Water Company shall be assumed and carried out by said Limerick Water District if said district acquires the entire plant, properties, franchises, rights and privileges of said Limerick Water Company as aforesaid.

Sec. 10. Authorized to borrow money, to issue bonds and notes. For accomplishing the purposes of this act, and for such other expenses as may be necessary for the carrying out of said purposes, said district, through its trustees, without district vote, is authorized to borrow money temporarily and to issue therefor its negotiable notes, and for the purpose of renewing and refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this act, including organizational and other necessary expenses and liabilities whether incurred by the district or the Town of Limerick, the district being authorized to reimburse said Town of Limerick for any such expenses incurred by it, and in acquiring properties, paying damages, laying pipes, mains, aqueducts and conduits, constructing, maintaining and operating a water plant or system and making renewals, additions, extensions and improvements to the same, and to cover interest payments during the period of construction, said district, through its trustees, without district vote, is also authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in one series, or in separate series, in such amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine; provided that the total indebtedness of said district at any one time outstanding shall not exceed the sum of \$200,000. Said bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the trustees may determine, but none of them shall run for a longer period than 40 years from the date of original issue thereof.

Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same prior to maturity, and if callable may be made callable at par or at such premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "Limerick Water District", shall be signed by the treasurer and countersigned by the chairman of the board of trustees of the district, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer. All such bonds, notes and evidences of indebtedness so issued by the district shall be legal obligations of the district, which is hereby declared to be a quasi-municipal corporation within the meaning of the Revised Statutes of 1954, chapter 53, section 137, and chapter 90-A, section 23, as enacted by the public laws of 1957, chapter 405, section 1, and all the provisions of said sections shall be applicable thereto. The said district may refund and reissue, from time to time, in one or in separate series, its bonds, notes and other evidences of indebtedness, and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by said district shall be legal investments for savings banks in the State of Maine and shall be tax exempt.

Sec. 11. Property tax exempt. The property, both real and personal, rights and franchises of said district shall be forever exempt from taxation.

Sec. 12. 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 water used by them. Said rates shall be uniform within the territory supplied by the district and shall be subject to the approval of the Public Utilities Commission. Said 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 to provide for such extensions and renewals as may become necessary;
- 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 in this State are now or hereafter allowed to hold. Provided 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;
- IV. If any surplus remains at the end of the year, it may be turned into the sinking fund.

Sec. 13. 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 the Revised Statutes of 1954, chapter 44, and all acts amendatory thereof or additional thereto.

Sec. 14. Special meetings; qualifications of voters of district. Special meetings of the district may be called by the board of trustees at any time, and notice of special meetings, stating the place and time thereof and the business to be transacted thereat, shall be signed by the chairman or clerk of the board of trustees and shall be conspicuously posted in at least 2 public places within the district, not less than 7 days, exclusive of Sundays, before the meeting. Any such meeting may be adjourned from time to time by vote of the qualified voters present thereat, though less than a quorum, and without notice of the time and place of the adjourned session, other than announcement at the meeting. Fifteen persons qualified to vote in such meetings shall constitute a quorum. 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. All persons resident in said district and qualified to vote for Governor 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. 15. 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 office of the said district for one hour next before the opening of any meeting; and notice thereof shall be given in the call for the meeting.

Sec. 16. Incidental powers and rights. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this act, as hereinafter set forth, are granted to said district.

Local referendum; 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 present and voting at a special election or elections to be called by the selectmen of the Town of Limerick, any such special election to be held not later than one year after adjournment of the Legislature. Any such special election shall be called, advertised and conducted according to the law relating to municipal elections in said town; provided that the selectmen of said town shall not be required to prepare for posting nor the town clerk to post a new list of said voters, and for the purpose of registration of voters, said selectmen shall be in session on the secular day next preceding any such special election. The town clerk of said Town of Limerick 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 Limerick Water District, enacted by the 98th Legislature, be accepted?" and the voters shall indicate by a cross or check mark placed upon their ballots against the words "Yes" or "No" their opinion of the same.

This act shall take complete effect for all purposes immediately upon its acceptance by a majority of the legal voters resident in said district voting

thereon at any such election, provided that the total number of votes cast for and against acceptance of this act equals or exceeds 20% of the total vote for all candidates for Governor cast in said town at the next previous gubernatorial election. If, at the first such special election, the total number of votes cast for and against acceptance of this act is less than 20% of the total vote for all candidates for Governor cast in said town at the next previous gubernatorial election, the selectmen may call not more than one more such special election to be held within the time prescribed above.

The result of such elections shall be declared by the selectmen of the Town of Limerick, and due certificates thereof filed by the town clerk with the Secretary of State.