

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTIETH LEGISLATURE

OF THE

STATE OF MAINE

1901.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1901.

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**Chapter 465.**

An Act to authorize East Machias to aid General Hospital.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

Section 1. The inhabitants of East Machias are hereby authorized to appropriate, assess and expend a sum of money not to exceed five thousand dollars to be used in establishing a general hospital in Washington county for the treatment of persons requiring the aid of medical or surgical skill, care and attendance.

Town authorized to raise money in aid of a hospital.

Section 2. This act shall take effect when approved.

Approved March 21, 1901.

**Chapter 466.**

An Act to abate Taxes on township number four, range five, west of Kennebec river, in Somerset County.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

One hundred and seven dollars and ninety-six cents of the state tax for the year one thousand eight hundred and ninety-three, and ninety-eight dollars and four cents of the state tax for the year one thousand eight hundred and ninety-four, on township number four, range five, west of the Kennebec river, in Somerset county, are hereby abated.

Tax on township number 4, range 5 in Somerset county, abated.

Approved March 21, 1901.

**Chapter 467.**

An Act authorizing the inhabitants of Orono to supply the town of Orono with pure water.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

Section 1. The town of Orono, 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 the Penobscot river or its branches, or from any spring, pond, brook or other water sources, natural or artificial, in the town of Orono, sufficient for domestic purposes in said Orono, including a sufficient quantity for extinguishing fires, and the

Town of Orono authorized to take water for domestic purposes, etc.

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supply of hotels, livery stables and laundries, and for sprinkling streets and lawns within said town as well as for manufacturing purposes; and for the purposes aforesaid, to take and convey through, and to all parts of said Orono, any of the waters aforesaid, by aqueduct or pipe sunk to any depth desirable for said purposes.

May acquire by contract, a system of waterworks.

Section 2. The town of Orono, by said municipal officers, or by said commission, may make any necessary contract with any person or corporation for acquiring the ownership of a system of waterworks within said town of Orono, or the ownership of any part of said system of waterworks existing within said town of Orono, or the ownership of the whole or any part of the stock of any aqueduct corporation, or any other corporation owning a system of waterworks, or any part thereof, in said town of Orono, whereby the said town of Orono, 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.

Authorized to take lands.

Section 3. For the purpose of carrying out the provisions of this act, said town of Orono, by its municipal officers, or said commission, shall have power, and are hereby authorized to take and hold, by purchase or otherwise, any lands or real estate necessary for laying and maintaining pipes, aqueducts, locks, gates, dams, hydrants and reservoirs, for taking, conducting, holding, discharging, and distributing water, and for roadways to be used as approaches thereto, doing no unnecessary damage. They may enter upon said lands to make surveys and locations, and shall file in the registry of deeds, in the county in which such lands or property taken lies, plans of such locations and land, showing the property taken within said county, and within thirty days thereafter, publish such notice of such taking and filing in some newspaper in said county, wherein the said land is taken, such publication to be continued three 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 Orono, by its municipal officers, or by said commission, may permit the use, for said purposes, any lands so taken by it, by any person or corporation, with which it has made such a contract as is described in section two, whereby the said town of Orono may be entitled to acquire the ownership of any aqueduct or system of waterworks or any part thereof in said town of Orono.

—purposes.

—shall file plan of location with registry of deeds.

—may permit use of lands taken.

Damages, how ascertained in case of disagreement.

Section 4. Should the said town of Orono, by its municipal officers, or said commission, or such corporation, and the owner of such land, be unable to agree upon the damages to be paid

for such location, taking and holding, the land owner, or the town of Orono, by its municipal officers, or said commission, or such corporation, may within twelve months after the filing of said plans, and location, apply to the commissioners of the county of Penobscot 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 highways, so far as such law is consistent with the provisions of this act.

Section 5. The town of Orono, by its municipal officers, or said commission, are authorized and empowered to contract with any person or corporation to construct aqueducts, pipes, dams, reservoirs, locks, gates, hydrants, and other necessary structures upon lands so taken, as hereinbefore prescribed. And, in case any such 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 Orono in installments from year to year, as may be agreed upon.

Town may contract for construction of aqueducts, etc.

Section 6. For the purpose of carrying into effect the provisions of this act, the town of Orono, at a meeting duly called therefor, may, as soon as this act takes effect, if it so elects, or at any time thereafter, or whenever the said town of Orono comes into ownership, control or management of a system of waterworks, by building, purchase, or otherwise, elect by ballot three water commissioners, whose duty it shall be to perform all such acts for the town, necessary and convenient for the full operation of this act, as may be prescribed by ordinance, or as may be directed by the municipal officers of said town from time to time. The three persons first chosen as aforesaid, shall serve, one for one year, one for two years, one for three years, from the day of the annual March meeting then following, as may be designated by the municipal officers of the said town of Orono; and thereafterwards one commissioner shall be elected by ballot annually at the annual March meeting, to serve for the term of three years. The municipal officers of said town of Orono may fill any vacancy occurring by death, resignation or otherwise. The chairman of the municipal officers of said town of Orono for the time being shall be ex-officio a member of the board of water commissioners. Until such water commissioners are elected, the municipal officers of the said town of Orono shall perform the duties of the water commissioners.

May elect water commissioners.

—tenure of.

—until commissioners are elected, town officers shall act as such.

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Rates for  
water, how  
fixed.

Section 7. Said municipal officers of said town of Orono, or said water commissioners, in case water commissioners are elected as hereinbefore provided, are authorized to fix the rates of water to be paid monthly, quarterly, semi-annually, or annually, by persons or corporations supplied with the same, and in the same manner determine the conditions and manner of such supply, and shall have general charge and control of the town's water system.

May lay  
pipes, etc.

Section 8. Said town of Orono, or said commission, or any corporation which either may obtain control directly or indirectly, as described in section two, are authorized, for the purposes of carrying into effect the provisions of this act, to dig up and excavate any highway, lay pipe therein, and fill the same under the directions of the road commissioner or such person acting in that behalf.

Shall file in  
registry of  
deeds notice  
of the taking  
of water, etc.

Section 9. Whenever said town of Orono, or said trustee, or any corporation of which either may obtain control, as provided in section two, either directly or through ownership of stock, shall, under section one, take water from any of the sources therein 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 Orono, or said trustee, or said corporation, 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 any other thing done by said town, or by said trustee, or by said corporation first named in this section, under the authority of this act, which shall be determined and assessed in the same manner as provided in section four, for land taken under the provisions of this act.

--damages for  
taking of  
water, how  
assessed.

Authorized to  
purchase  
property of  
Orono Water  
Company.

Section 10. Subject to the provisos hereinafter contained, the preceding sections of this act shall not take effect, until the said town of Orono shall, by its municipal officers or by its commission, provided for in section six of this act, give the Orono Water Company a written notice offering to buy so much of the property belonging to said company as may be located within the limits of the town of Orono at the time of such written notice together with such rights and privileges and franchises of said company pertaining to the same, except only cash assets, and shall also thereafter pay, or cause to be paid therefor, a price to be determined in a manner herein provided. Unless the town of Orono, by its officers aforesaid, and said company shall agree upon the price to be paid, or upon some other method of determining said price, then within three months, after the giv-

Commissioners shall be appointed to fix price in case of disagreement.

ing of said notice but not thereafter, either the said town or the said Orono Water Company may file in the clerk's office of the supreme judicial court, in and for the county of Penobscot, either in term time or vacation, a request to the court to appoint a commission, for the purposes hereinafter set out, to consist of three disinterested persons, none of whom shall be residents of Penobscot county; at least one of whom shall be a person learned in the law, and at least one a competent and skillful engineer, and the other a person well qualified to judge of the value of said property, rights, privileges and franchises. Thereupon, after reasonable notice ordered by the court sitting in said county, or by any judge, either the court, or such judge in vacation, in said county, or elsewhere, may appoint said commission. Such commission shall, as soon as may be, after reasonable notice, hear the parties, their proofs, and arguments, and determine the value of said property, rights, privileges and franchises, except only cash assets as aforesaid. In determining such value the commission shall take into account any existing contracts between the said company and the town of Orono, the considerations thereof and all acts done thereunder or in pursuance thereof. The commission shall have power to compel the attendance of witnesses, and the production of books and papers pertinent to the issue, and may administer oaths; and any witness or person in charge of such books or papers, refusing to attend or 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. The commission, or a majority thereof, after such hearing, shall report to the court, in said county, in term time, what in its judgment is a fair and just value of the property, rights, privileges and franchises, which it is directed to appraise, and all other findings which it may have been directed by the court or judge to make, and such papers and proofs taken by it, as the court or any judge thereof has directed, or may from time to time direct to return; and in its report, the commission shall state the date as of which the value aforesaid was fixed. The court may confirm such report, or reject it, or recommit the same, or submit the subject matter thereof to a new commission. The fees and expenses of all the commissioners shall be paid to them one-half by the town of Orono and one-half by the Orono Water Company. All proceedings of the court, or any judge, with reference to any matter herein, raising a question of law, whether in term time or vacation, shall be subject to exceptions in the manner provided by statute. But notwithstanding said exceptions, the case shall proceed at nisi prius, and shall not be

--qualifications of commission.

--powers of the commission.

--shall report to the court.

--court may confirm, reject or recommit.

--expenses.

--exceptions may be taken and proceedings thereon.



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marked 'law' until after judgment is entered, as hereinafter set forth, unless the court or the judge being of opinion that any question involved is sufficiently important, shall otherwise order. When the court confirms the report of the commission, it shall enter judgment thereon and within two calendar months after the entry of such judgment, the town shall notify the Orono Water Company, in writing, either of its willingness to purchase said property, so situated within the limits of said town of Orono, rights, privileges and franchises, at the price determined by said judgment, and to pay therefor, or of its determination to reject the same. And within two calendar months after such notice is received by said company, it shall notify said town, in writing, that it will or will not, sell its property as aforesaid to said town at said price. And if said company shall accept the offer, it shall forthwith cause deeds of transfer and conveyance to be made, and filed in the clerk's office of the supreme judicial court for Penobscot county, for the inspection of the town of Orono, and to be approved by the court or any justice thereof, in term time or vacation. Said deeds shall convey all the property, rights, privileges and franchises, except cash assets, then owned by the Orono Water Company, within said town of Orono, to said town, or to such person or persons or corporation in trust, for the benefit of said town, as the said town may designate, subject to any mortgages pro rata in relation to such rights, privileges, property and franchises given to secure the payment of bonds not then due, existing thereon at the time the notice is given by the town, as hereinbefore provided, and subject to a lien for the adjustment of matters remaining to be adjusted as hereinafter set out. And if said town shall designate that said property, rights, privileges and franchises, shall be conveyed to any person or persons, or corporation, in trust, as aforesaid, it shall also designate the terms of said trust, which shall be incorporated in said deed. And when said deed or deeds shall be approved, as aforesaid, they shall be delivered to the said town or said trustee, as the case may be, and said town or said trustee, shall thereupon pay said company the amount determined by said judgment, and interest thereon, less the face value and accrued interest of the pro rata part or proportion as the value of said property, rights, privileges and franchises bear to the whole value of bonds so secured by any existing mortgage of the property, rights, privileges and franchises as hereinbefore provided. The pro rata value of such face value and accrued interest of any bonds so secured by any existing mortgage, which pro rata value thereof the said town is to have deducted

--if company accepts offer, deeds shall be made and placed in clerk's office.

--what deeds shall convey.

--town may direct the conveyance of the property in trust.

--when payments shall be made.

from the amount determined by said judgment is to be estimated by the three commissioners provided for in this section, and said commission are thereupon to determine what deduction shall be made therefor from said judgment of the value of the property, rights, privileges and franchises by them found. But in case it shall be found by said commission that the face value and accrued interest of the said pro rata value of such face value and accrued interest of the bonds so secured by any existing mortgage, is in excess of the amount determined by said judgment as the fair and just value of the property, rights, privileges and franchises, which it was directed to appraise without deducting anything by way of bonds or mortgages thereon, then, and in that case, the said commission is vested with authority and power to make such equitable adjustment of the amounts to be paid or deducted, by either party, as to said commission may be deemed proper. Nothing in this act, nor any proceedings thereunder, so long as the same are pending, until conveyance is made, as hereinbefore directed, shall prevent or embarrass the Orono Water Company from supplying water in the town of Orono, as authorized by its charter, or making any improvements which will inure to its own interests, or the interests of the inhabitants of Orono, nor from receiving water rents, and other dues and tolls, thereafter accruing. After said property, rights, privileges and franchises as aforesaid are transferred, as hereinbefore provided, the court shall take account of all receipts and expenditures properly had or incurred by the Orono Water Company, from and after the date on which said property is valued, as aforesaid, and shall enter judgment for the net balance for or against the said Orono Water Company, as the case may be, and shall fix the time within which the same shall be paid. And in the event the same is in favor of the Orono Water Company, and not paid within the time so fixed, the court shall enforce the same against the property, rights, privileges and franchises, conveyed as aforesaid by sale, or otherwise, according to the principles governing courts in equity, with reference to enforcing liens and securities, and by execution against the town, so far as lawfully may be done under the constitution of the state, against such person, or corporation or trustee; and in like manner it shall issue execution against the Orono Water Company, for any balance then due from it. When said conveyance is made, as aforesaid, to said town, or trustee, the town shall thereupon enter into and upon possession and control of the property, rights, privileges and franchises therein trans-

—when town  
may enter  
into posses-  
sion.

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ferred, subject to be divested thereof only upon a failure to pay the said pro rata proportion of the mortgaged indebtedness, as found and determined by the said commission hereinbefore provided. Provided, nevertheless, that if the said Orono Water Company shall refuse to accept the price as determined by said judgment, less the said pro rata proportion of the said mortgaged indebtedness as found by said commission, or to sell its property therefor, or shall neglect to notify the said town, within the time limited by this section, of their acceptance or refusal, then all other sections of this act shall have the same effect as though this section did not exist.

Town may  
issue bonds.

Section 11. For the purpose of raising money to carry out the provisions of this act, the town of Orono may issue its bonds, with interest coupons, in behalf of said town, signed by the municipal officers of said town, and the treasurer of said town, when authorized by a vote of said town, to an amount which, taken in connection with the other indebtedness of the town, will not exceed the amount limited by the constitution of Maine.

—how signed.

And such bonds shall be signed by the municipal officers of the town and the treasurer of said town, but the coupons need be signed by the treasurer only, and shall be designated and marked "The Orono Water Loan."

Water rates,  
how fixed.

Section 12. The rates for the supply of water under this act shall be fixed so that all expenses for repairs and management shall be paid annually, together with interest, and such amounts as the town may determine to be paid annually upon the principal expenditures; unless the Orono Water Company shall decline to accept the price adjudicated to be paid by the town of Orono, and shall elect to enter into competition with said town in its water supply, in which case the provisions of this section shall be null and void.

When act  
shall take  
effect.

Section 13. Except as herein otherwise provided, this act shall take effect when approved.

Approved March 21, 1901.