

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES
OF THE
SEVENTY-THIRD LEGISLATURE
OF THE
STATE OF MAINE
1907.

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1907

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1907.

CHAP. 390—except-
tions.

catching or taking eels during said months, to remove and destroy the same except during the months of September and October in the territories excepted in section one.

Approved March 26, 1907.

Chapter 390.

An Act to incorporate the Livermore Falls Water District.

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

Territorial
limits
defined.

Section 1. The following territory and the people within the same, namely: All of the town of East Livermore except all that part of said town situated easterly of the road leading from East Livermore camp ground, so called, to Wayne village over Beech hill, so called, and south of the southerly line of Augustus Young's farm and bounded on the west by said road, on the south by the town of Wayne, on the east by the town of Wayne and Fayette and on the north by the southerly line of Augustus Young's farm, shall constitute a public municipal corporation under the name of the Livermore Falls Water District for the purpose of supplying the inhabitants of said district and of the towns of Livermore and Jay and such municipalities, together with the town of East Livermore, with pure water for domestic, sanitary and municipal purposes.

—corporate
name.

—purposes.

May take
water from
Moose Hill
pond and
North
Livermore
ponds.

Section 2. The said district, for the purpose of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from Moose Hill pond, so called, in said East Livermore and from the North Livermore ponds, so called, situated in the town of Livermore.

May take
land for
dams, reser-
voirs, etc.

Section 3. The said district, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, by purchase or otherwise, 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 water shed, 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. Nothing in this act shall authorize said district to erect or take any dam, or interest therein, on the Androscoggin river or to take any water right therein.

May lay
pipes, etc.,
in streets of

Section 4. The said district is hereby authorized to lay in and through the streets, roads, ways and highways of the towns

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Livermore,
Jay and
East Liver-
more.

named in section one and across private lands therein, and to maintain, repair and replace all such pipes, aqueducts and fixtures as may be necessary and convenient for its corporate purposes, and whenever said district shall lay any pipes or aqueducts 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.

Section 5. 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.

May main-
tain dams,
etc.

Section 6. In exercising any right of eminent domain conferred upon it by law, from time to time, or any right of eminent domain through or under the franchise of the water company by it acquired, the said district shall file in the office of the county commissioners of the county where such lands or water rights are situated and record 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 the property authorized to be taken, and which is described in such location, or the location 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 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 ten days from such filing, whereon possession may be had of all said lands or interests therein or water rights so taken, but title thereto shall not vest in said district until payment therefor.

Shall file
plans of all
lands taken
with
county
commis-
sioners and
registry of
deeds.

Section 7. 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 the county where said lands or water rights are situated, may have said damages assessed by them; the procedure and all subsequent proceedings and right 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 damages by the laying out of highways.

Damages,
how deter-
mined, if
parties fail
to agree.

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Place and manner of crossing railroad, how determined.

Section 8. In case of any crossing of a railroad, unless consent is given by the company owning or operating such railroad as to place, manner and conditions of the crossing, within thirty days after such consent is requested by said district, the railroad commissioners shall determine the place, manner and condition of such crossing; and all work within the limits of such railroad location shall be done under the supervision and to the satisfaction of such railroad company, but at the expense of the district.

Board of trustees, and appointment of.

Section 9. All the affairs of said district shall be managed by a board of trustees composed of three members. They shall be appointed by the municipal officers of the town of East Livermore on or before the fourth Monday of April, nineteen hundred and seven, and due certificate thereof filed with the town clerk of said town. The term of office of the trustees shall begin on the said fourth Monday of April. As soon as convenient after all the members of said board have been so chosen, said trustees shall hold a meeting at the selectmen's office in the town of East Livermore to be called by one of said trustees upon such reasonable notice therefor as he deems proper. They shall organize by the election of a president and a clerk, adopt a corporate seal and when necessary may choose a treasurer and all other needful officers and agents for the proper conduct and management of the affairs of said district. They may also ordain and establish such by-laws as are necessary for their own convenience and the proper management of the affairs of the district. At said first meeting the trustees so elected shall determine by lot the term of office of each trustee so that one trustee shall retire each year, and whenever the term of office of a trustee expires his successor shall be appointed by the municipal officers of the town of East Livermore. The trustee so appointed shall serve the full term of three years; and in case any vacancy arises in the membership of the board of trustees it shall be filled in like manner, for the unexpired term, by the municipal officers of said town of East Livermore. All such trustees shall be eligible to re-election, but no selectman of said town of East Livermore shall at any time be eligible to such office. Said trustees may procure an office and incur such expense as may be necessary. Each member shall receive in full compensation of his services an allowance of one hundred dollars per annum. At the close of each fiscal year the trustees shall make a detailed report of their doings, of the receipts and expenditures of said water district, of its financial and physical condition, and of such other matters and things pertaining to said district as shall show the inhabitants of said district how

—tenure.

—organization of board of trustees.

—may establish by-laws.

—vacancies, how filled.

—compensation of trustees.

—shall make report.

said trustees are fulfilling the duties and obligations of their trust, such reports to be made and filed with the municipal officers of the town of East Livermore.

Section 10. Said water 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, property, franchises, rights and privileges of the Livermore Falls Water Company, except its cash assets, including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by said company and used or usable in supplying water in East Livermore, Livermore and Jay, together with all real estate so used or usable. The said water company is hereby authorized to sell and transfer its franchises and property to said water district. All said franchises and properties shall be taken subject to all mortgages, liens and encumbrances thereon, all of which mortgages, liens and encumbrances shall be assumed and paid by said water district.

Authorized to acquire franchises, etc., of Livermore Falls Water Company.

—water company authorized to transfer its property to water district.

Section 11. The Livermore Falls Water Company may, at its option, on or before the second Monday of May, nineteen hundred and seven, file with said trustees an offer in writing stating therein the price at which it will sell and transfer, as authorized in section ten, its entire plant, property, franchises, rights and privileges, except its cash assets, subject to all liens, mortgages and encumbrances, to the said water district. Said offer shall provide that actual possession of the plant and property shall not be given until payment therefor, but that delivery of possession, when made, shall be as of the first day of October, nineteen hundred and seven, from which day interest on said price shall run at the rate of six per cent per annum and all net rents and profits accruing thereafter shall belong to said water district. Such offer shall further provide that payment of said price shall be made by said district at its option on or before the first day of October, nineteen hundred and seven. The said water district shall in writing accept or reject said offer on or before the second Monday in June of said year. In case of acceptance as aforesaid the said water company shall forthwith cause proper deeds of transfer and conveyance to be made and filed in the clerk's office of the supreme judicial court for the county of Androscoggin, for the inspection of said water district and to be approved by the court, or any justice thereof, in term time or in vacation. The said water district, through its trustees, shall file its petition when acceptance is made as aforesaid, in the clerk's office of the supreme judicial court for the county

Water company may file offer in writing, with trustees, stating price, etc., at which it will sell.

—proceedings in case acceptance.

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of Androscoggin, in term time or in vacation, addressed to any justice of said court, alleging its willingness to pay the agreed purchase price and interest into court before the first day of October, nineteen hundred and seven, for the benefit of the water company interested therein, and said court through any justice thereof, in term time or in vacation, after notice to the said water company and its mortgagees, and hearing thereon, shall make all necessary decrees for the vesting of full title in said water district to the entire plant, property and franchises of the defendant water company in such petition, subject to all liens, mortgages and encumbrances thereon; after such final decree and before transfer of the plant, property and franchises in accordance therewith, and before payment therefor, the court sitting in said county of Androscoggin, by a single justice thereof, as hereinbefore provided, shall, upon motion of either party, after notice and hearing, take account of all receipts and expenditures properly had or incurred by the defendant water company, belonging to the period from and after October first, nineteen hundred and seven, and all the net rents and profits accruing thereafter, and shall order the net balance due to either party to be added to or deducted from the amount to be paid under said final decree as the case may be. All findings of law or fact by any single justice at the hearing aforesaid shall be final. After any such acceptance as aforesaid, the water company interested therein may compel said water district, by appropriate process in equity, to perform its contract of acceptance, and to pay for the plant, property and franchises in accordance therewith.

Proceedings in case of disagreement as to terms of purchase.

Section 12. Where the said trustees fail to agree with said water company upon terms of purchase, as hereinbefore provided, on or before July first, nineteen hundred and seven, then said water district, through its trustees, is hereby authorized to take the plant, property and franchises of such water company, as authorized in section ten, subject, however, to all mortgages, liens and encumbrances thereon as stated in section ten, as for public uses, by petition therefor in the manner hereinafter provided, wherein such water company and its mortgagees shall be the party defendant. And said water district, through its trustees, is hereby authorized on or before July fifteenth, nineteen hundred and seven, to file a petition in the clerk's office of the supreme judicial court, for the county of Androscoggin, in term time or in vacation, addressed to any justice thereof, who, after notice to said defendant water company and its mortgagees, shall after hearing and within thirty days after the filing of said petition appoint three disinterested appraisers,

—appraisers.

none of whom shall be residents of the county of Androscoggin, one of whom shall be learned in the law, for the purpose of fixing the valuation of the plant, property and franchises of said defendant water company as described in section ten. Said petition shall not be dismissed after filing but may and shall be amended in any manner required to enable the court to make all necessary decrees thereon. At the hearing aforesaid, such justice, upon motion of the petitioner, may order the production and filing in court, for the inspection of the petitioner, of all books and papers pertinent to the issue to be heard by said appraisers, the terms and conditions of so producing and filing such books and papers to be determined by said justice in his order therefor and to be enforced from time to time as any justice of said supreme judicial court in term time or in vacation, upon motion of either party, may deem reasonable and proper in the premises. At such hearing, such justice, upon motion of the petitioner, may fix a time at which the said defendant water company shall file in the clerk's office of the supreme judicial court for the county of Androscoggin, for the inspection of the petitioner, the following: First, schedules showing the names, residence, street number if any and water service of each customer on July first, in the year of our Lord one thousand nine hundred and seven, with rate charged therefor; second, copies of all contracts in force on said July first; third, an itemized statement of the gross income earned during its last complete fiscal year and all operating expenses and fixed charges paid or incurred during such year and properly chargeable thereto; fourth, a memorandum of all real estate, or interest therein, owned or controlled on said July first with such brief description thereof as will reasonably identify the same; fifth, a memorandum of all water rights used or owned on said July first with a brief description thereof and a concise statement of the method of acquiring the same; sixth, duplicate plans of all structures owned in whole or in part on said July first with specifications thereof; seventh, descriptions and specifications of all reservoirs and stand pipes owned on said July first; eighth, a description of all pipes, service pipes, hydrants, gates, gate boxes, shut off boxes, fixtures and machinery, and all the physical elements in such water system, giving in detail all quantities, sizes, lengths, specifying the streets, roads or ways where situated; ninth, an itemized list of all tools, apparatus and appliances used or usable in supplying water on said July first. Such orders may be enforced from time to time by any justice of said supreme judicial court, in term time or in vacation, upon motion of either party, as such justice may deem reasonable and

—justice
may order
production
of all books
and papers
for inspection
of
appraisers.

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proper in the premises. At such hearing the justice then sitting may, upon motion of the petitioner, make all such decrees as he deems reasonable and proper to enable the petitioner, through its servants and employees, to ascertain the condition of the mains and pipes of the defendant water company, externally and internally, all work connected therewith to be in the presence of the agents of the water company, and, at the election of the water company by its servants, otherwise by the petitioner, but wholly at the expense of said water district, said decree to fix the number of such examinations and to impose such conditions as may to the court seem just and proper in the premises. The said appraisers shall have the power of compelling 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 to 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. Depositions may be taken as in civil actions. The said appraisers may appoint a sufficient number of stenographers to enable a full report of the proceedings of each day to be in readiness for use the following day, each of said appraisers to so have one copy thereof, and the parties to receive such number of copies as the appraisers may deem necessary. The compensation and expenses of said stenographers shall be taxed and allowed by the appraisers and be paid and borne as hereinafter provided. Their reports, certified by said appraisers as correct, shall be filed with the award to be made by said appraisers and shall be legal evidence of all proceedings so reported. They shall make full report as required in trials had in the supreme judicial court. The appraisers so appointed shall, after due notice and hearing, fix the valuation of the plant, property and franchises of said defendant water company at what they are fairly and equitably worth, so that said water company shall receive just compensation for all the same. The first day of October, nineteen hundred and seven, shall be the date as of which the valuation aforesaid shall be fixed, from which date interest on said award at the rate of six per cent per annum shall run and all net rents and profits accruing thereafter shall belong to said water district. The report of said appraisers or of a majority of them, shall be filed in said clerk's office within six months after their appointment, but, if at the expiration of said six months the hearing before said appraisers should then be in progress and unfinished, their report may be so filed within thirty days after close of said hearing. After said report is

-powers of appraisers.

-may appoint stenographers.

-duties of appraisers.

-date when valuation shall be fixed.

-further proceedings.

filed, such single justice, so appointing said appraisers, or in case of his inability to act, then any justice designated for the purpose by the chief justice, may, after notice and hearing, confirm or reject the same or recommit, if justice so requires, and in case of such rejection or recommittal such justice may fix the times for new hearings and new report thereon. The award of the appraisers shall be conclusive as to valuations. Upon confirmation of their report, the court so sitting, in term time or in vacation, shall thereupon, after hearing, make final decree upon the whole matter, including the transfer of the properties and franchises, jurisdiction over which is hereby conferred with the same power to enforce said decree as in equity cases. All the costs and expenses arising under such petition and appraisal shall be paid and borne as directed by the court in said final decree. The findings of such justice as to such costs and expenses and their apportionment shall be final. In all other matters the justice so making such final decree shall, upon request of any of the parties, make separate findings of law and fact. All such findings of fact shall be final, but any party aggrieved may take exceptions to any rulings of law so made, the same to be accompanied by only such parts of the case as are necessary to a clear understanding of the questions raised thereby. Such exceptions shall be claimed on the docket within ten days after such final decree is signed, entered and filed, and notice thereof has been given by the clerk to the parties or their counsel, and said exceptions so claimed shall be made up, allowed and filed within said time unless further time is granted by the court or by agreement of the parties. They shall be entered at the next term of the law court to be held after the filing of such exceptions and there heard unless otherwise agreed, or the law court shall for good cause order a further time for hearing thereon. Upon such hearing the law court may confirm, reverse or modify the decree of the court below or remand the cause for further proceedings, as it seems proper. During the pendency of such exceptions the cause shall remain on the docket of the court below, marked, 'law,' and decree shall be entered thereon by a single justice, in term time or in vacation, in accordance with the certificate and opinion of the law court. Before the aforesaid plant, property and franchises are transferred in accordance with such final decree, and before the payment therefor, the court sitting in said county of Androscoggin, by a single justice thereof, as hereinbefore provided, shall, upon motion of any party, after notice and hearing, take account of all receipts and expenditures properly

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had and incurred by said water company, belonging to the period from and after October first, nineteen hundred and seven, and all net rents and profits accruing thereafter, and shall order the net balance due to any party to be added to or deducted from the amount to be paid under said final decree, as the case may be. All findings of law or fact by such single justice at such hearings shall be final. On payment or tender by said water district of the amount so fixed and the performance of all other terms and conditions so imposed by the court, the entire plant, property and franchises of said water company as described in section ten shall become vested in said water district subject to all liens, mortgages and encumbrances thereon theretofore created by said water company. After the filing of said petition it shall not be discontinued or withdrawn by said water district, and the said water company may thereafterwards cause said valuation to be made as herein provided, and shall be entitled to appropriate process to compel said water district to perform the terms of the final decree and to pay for said plant, property and franchises in accordance therewith. If a vacancy occurs at any time in said board of appraisers, from any cause, any justice of the supreme judicial court, sitting in said county of Androscoggin, may, in term time or in vacation, after notice and hearing, appoint a new appraiser or appraisers, and make all such orders for hearing said cause by the appraisers anew or for any extension of time for making their award, or otherwise, as the circumstances of the case may require.

—vacancy
in board
of ap-
praisers,
how filled.

Existing
valid con-
tracts shall
be assumed.

Section 13. All valid contracts, made in good faith, now existing between said water company and any person or corporations for supplying water within the towns named in section one shall be assumed and carried out by said Livermore Falls Water District.

May bor-
row money
and issue
notes.

Section 14. For accomplishing the purposes of this act, said water district, through its trustees, is authorized to borrow money temporarily and to issue therefor the interest-bearing negotiable notes of the district, and for the purpose of refunding the indebtedness so created, of paying any necessary expenses and liabilities, incurred under the provisions of this act, including the expenses incurred in the creation of the district, in acquiring the property and franchises of the Livermore Falls Water Company, by purchase or otherwise, or in the purchase or acquisition of the property and franchises of said water company, of assuming and paying the mortgages, liens and encumbrances thereon as provided in section ten, of securing sources of supply, taking water and lands, paying damages, laying pipes, constructing, maintaining and operating a water plant,

and making renewals, extensions, additions and improvements to the same, the said water district, through its trustees, may from time to time issue bonds of the district to an amount or amounts necessary in the judgment of the trustees therefor. Said notes and bonds shall be legal obligations of the water district, which is hereby declared to be a quasi municipal corporation within the meaning of section ninety-six, chapter forty-seven of the revised statutes, and all the provisions of said section shall be applicable thereto. The said notes and bonds shall be legal investments for savings banks.

—may issue
bonds.

Section 15. 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, and said rates shall be uniform within the territory supplied by the district. Said rates shall be so established as to provide revenue for the following purposes:

Water
rates..

I. To pay the current expenses for operating and maintaining the water system.

II. To provide for the payment of the interest on the indebtedness created or assumed by the district.

III. To provide each year a sum equal to not less than one nor more than five per cent of the entire indebtedness created or assumed by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of such 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.

IV. If any surplus remains at the end of the year it may be paid to the town of East Livermore.

Section 16. All incidental powers, rights and privileges necessary to the accomplishment of the main object herein set forth are granted to the public municipal corporation hereby created.

Incidental
powers,
etc.,
granted.

Section 17. This act shall take effect when approved by a majority vote of the legal voters of the town of East Livermore voting by ballot at an election to be specially called and held for the purpose on the second Monday of April, nineteen hundred and seven. Such special election shall be called, warned and conducted according to the law relating to municipal elections in said town, provided, however, that the selectmen shall not be required to prepare for posting or the town clerk to post a new list of voters, and for the purpose of registration of voters said selectmen shall be in session the secular day next preceding such election. The town clerk shall reduce the subject matter of

When this
act shall
take effect.

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--form of
vote to be
submitted.

this act to the following question: 'Shall the act to incorporate the Livermore Falls Water District be accepted?' and the voters shall indicate by a cross placed upon their ballots over the words 'Yes' or 'No' their opinion of the same. The result shall be declared by the selectmen and due certificate thereof filed by the town clerk with the secretary of state.

When cer-
tain sec-
tions of this
act shall be
void.

Section 18. Sections two, three, four, five, six, seven and eight shall be inoperative, null and void unless the said water district shall first acquire by purchase or by the exercise of the right of eminent domain as in this act provided, the plant, property and franchises, rights and privileges of the Livermore Falls Water Company.

When act
shall take
effect.

Section 19. This act shall take effect when approved by the governor, so far as necessary to empower the calling and holding of the election authorized in section seventeen hereof.

Approved March 26, 1907.

Chapter 391.

An Act to amend an act incorporating the city of Waterville, and relating to the tenure of office of the members of the Fire Department of said city.

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

Section 5,
chapter 195,
private and
special laws
1887,
amended.

Section 1. Section five of chapter one hundred ninety-five of the private and special laws of eighteen hundred and eighty-seven is hereby amended by inserting after the word "other" in the twenty-first line of said section before the word "each" the following: 'But all members and officers of the fire department shall be continued in the service of said department without re-election or re-appointment unless removed for inefficiency or other cause or retired on arrival at an age limit which may be determined by the city council of said city,' so that said section as amended shall read as follows:

Powers
vested in
mayor and
aldermen.

'Section 5. The executive powers of said city generally, and the administration of police and health departments, with all the powers of selectmen and overseers of the poor, except as modified by this act, shall be vested in the mayor and aldermen. All the powers of establishing watch and ward, now vested by the laws of the state in the justices of the peace and municipal officers or inhabitants of towns, are vested in the mayor and aldermen, so far as relates to said city, and they are authorized to unite the watch and police departments into one department, and establish suitable regulations for the govern-