

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE

1909

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-fourth  
Legislature

1909

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CHAP. 264**Chapter 264.**

An Act authorizing the Plantation of Monhegan to issue bonds to raise money to pay the cost of building a Town Landing.

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

Plantation  
may issue  
bonds.

Section 1. The plantation of Monhegan is hereby authorized and empowered to issue and sell its bonds to an amount sufficient to procure funds to pay the cost of a town landing already built on the shore of the harbor of said plantation, and not exceeding twenty-five hundred dollars, in accordance with a vote passed in said plantation at a legal special plantation meeting held May first, one thousand nine hundred and eight.

Acts and  
doings con-  
firmed and  
made legal.

Section 2. All acts, doings and votes passed at said plantation meeting relative to said landing, and all bonds heretofore issued and sold by said plantation for the purpose, and under the vote, mentioned in the preceding section, are hereby ratified, confirmed and made legal.

Approved March 24, 1909.

**Chapter 265.**

An Act to incorporate the Brewer Water District.

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

Corporate  
limits.

Section 1. The territory and people constituting the city of Brewer shall constitute a public municipal corporation under the name of the Brewer Water District for the purpose of supplying the inhabitants of Brewer and of the towns of Veazie, Orrington, Eddington, and Holden, and all said municipalities, with pure water for domestic, sanitary, and municipal purposes.

—corpor-  
ate name.  
—purposes.

May take  
water from  
Hopkins,  
Parks and  
Fitz ponds,  
in town of  
Clifton, and  
Hatcase  
pond in  
Dedham.  
May take  
land and  
water  
rights.

Section 2. The said district, for the purposes of its incorporation, is hereby authorized to take, hold, divert, use, and distribute water from any or all of the following ponds: Hopkins pond, Parks pond, and Fitz pond, in the town of Clifton; Hatcase pond, in the town of Dedham.

Section 3. The said district, for the purposes of its incorporation, is hereby authorized to erect and maintain all dams, reservoirs, and structures necessary and convenient for its corporate purposes, and 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.

Section 4. Said district is hereby authorized to lay in and through the streets, roads, ways, and highways of the city of Brewer and of the towns of Veazie, Orrington, Eddington, Holden, Clifton, Dedham 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.

May lay pipes in streets and highways.

—shall not unnecessarily obstruct streets.

Section 5. In exercising any right of eminent domain conferred upon it by law, from time to time, or any rights of eminent domain through or under the franchises of any water company by it acquired, the said district shall file in the office of the county commissioners of the county in which the property is 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 right so taken, but title thereto shall not vest in said district until payment therefor.

Shall file plans of all lands and water rights to be taken.

—may correct location and file new description.

Section 6. 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 in which the property is situated, may have said damages assessed by them; the procedure and

Damages how assessed if parties fail to agree.

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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.

Place and manner of crossing railroad, how determined.

Section 7. 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 conditions of the crossing; and all work within the limits of such railroad location shall be done under the supervision and to the reasonable satisfaction of such railroad company, but at the expense of said district.

Board of trustees, how chosen.

Section 8. All the affairs of said district shall be managed by a board of trustees composed of five members to be chosen by the municipal officers of said Brewer. As soon as convenient after the members of said board have been chosen, said trustees shall hold a meeting at the city rooms in the city of Brewer, and organize by the election of a president and 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. At said first meeting said trustees shall determine by lot the term of office of each trustee, so that one shall serve for one year, one for two years, one for three years, one for four years, and one for five years; and whenever the term of a trustee expires, the body which appointed said trustee shall appoint a successor to serve the full term of five years; and in case any other vacancy arises it shall be filled in like manner for the unexpired term. Said trustees 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. The term of office of trustees shall begin on the first Monday of April. Said trustees may procure an office and incur such expenses as may be necessary. They shall render their services without compensation, but shall receive an allowance of two dollars apiece for each meeting of the board actually attended.

—election of officers.

—seal.

—tenure of trustees.

—vacancies, how filled.

—may establish by-laws.

—compensation of trustees.

May acquire property of Public Works Corporation.

Section 9. Said water district is hereby authorized and empowered to acquire by purchase or by exercise of the right of eminent domain, which right is hereby expressly delegated to said district for said purpose, so much of the plant, property and franchises, rights and privileges, excluding cash on hand, within said district and the town of Veazie, used for the supplying of water to the inhabitants thereof for domestic, sani-

tary, and municipal purposes, including the extinguishment of fires, but not including power station, now held by the Public Works Corporation or any similar corporation or company doing business within said district and said towns of Veazie, Orrington, Eddington, and Holden, including all lands, water rights, waters, dams, reservoirs, pipes, machinery, fixtures, hydrants, tools, and all apparatus and appliances, which are located in said district and said towns, owned by said Public Works Corporation or other company or companies and used in supplying water in said district and in said towns of Veazie, Orrington, Eddington, and Holden, excepting said pumps and power station. The said Public Works Corporation or other companies are hereby authorized to sell and transfer their respective franchises and properties in said district and towns to said water district. All said franchises and properties in said district and towns shall be taken subject to all debenture bonds, mortgages, liens, and encumbrances thereon, all of which debenture bonds, mortgages, liens, and encumbrances shall be assumed and paid by said Brewer Water District on any franchise and property in said district and towns, used for supplying water for the inhabitants thereof for domestic, sanitary, and municipal purposes, including the extinguishment of fires, except on said power station.

Section 10. Where the said trustees fail to agree with said Public Works Corporation or any of said water companies upon terms of purchase on or before July first, nineteen hundred and nine, then said water district through its trustees is hereby authorized to take all the plants, properties and franchises of such Public Works Corporation or water companies so failing to agree, subject, however, to all mortgages, liens and encumbrances thereon as stated in section nine, as for public uses, by a petition therefor in the manner hereinbefore provided, wherein such water companies and their mortgagees shall be the parties defendant. And said water district through its trustees, is hereby authorized on or before July fifteenth, nineteen hundred and nine, to file a petition in the clerk's office of the supreme judicial court for the county of Penobscot in term time or vacation, addressed to any justice thereof, who, after notice to said defendant water company and its mortgagees, shall, after hearing and within sixty days after the filing of said petition, appoint three disinterested appraisers, none of whom shall be residents of the county of Penobscot, one of whom shall be learned in the law, for the purpose of fixing the valuations respectively of the plant, prop-

May take plant and property of Public Works Corporation after July 1, 1909, if parties fail to agree upon terms of purchase.

—may file petition addressed to any justice of the supreme judicial court.

—who shall, within 60 days, appoint appraisers.

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erty and franchises of the said Public Works Corporation and of each of said defendant water companies described in section nine of this act. The time for so appointing said appraisers may be extended by the court an additional thirty days. 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, if the same are not voluntarily produced, may order under proper terms the production for inspection by the petitioner, of all books and papers pertinent to the issue to be heard by said appraisers. 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 witnesses 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 report of a stenographer, appointed by the appraisers, 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. The appraisers so appointed, shall, after due notice and hearing, fix the respective valuations of the plants, properties and franchises, of said defendant water companies as described in section nine of this act at what they are fairly and equitably worth, so that said water companies shall severally receive just compensation for all the same. The first day of January, nineteen hundred and ten, shall be the date as of which the valuations 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, unless the time is extended by the court for cause. After said report is 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 recommital such justice may order new hearing and new report thereon. The award of the appraisers shall be conclusive as to valuations. Upon the confirmation of their report, the court so sitting, in term time or

—time for appointing appraisers may be extended.

—proceedings at hearing.

—powers of appraisers.

—depositions may be taken.

—appraisers shall fix valuation.

—date when valuation shall be fixed.

—report of appraisers shall be filed.

—award shall be conclusive.



vacation, shall thereupon, after hearing, make final decree upon the whole matter, including 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 be accompanied only by 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 plants, properties and franchises or any of them are transferred in accordance with such final decree, and before the payment therefor, the court sitting in said county of Penobscot, 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 had and incurred by each of said water companies belonging to the period from and after January first, nineteen hundred and ten, 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 amounts so fixed and

—costs and expenses, how paid.

—finding shall be final.

—exceptions as to rulings of law.

—exceptions shall be claimed within ten days.

—when exceptions shall be entered.

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the performance of all other terms and conditions so imposed by the court, the entire plants, properties and franchises respectively of said water companies as described in section nine, shall become vested in said water district, subject to all liens, mortgages and encumbrances theretofore created by said water companies, or either of them. After the filing of said petition it shall not be discontinued or withdrawn by said water district, and the said water companies, or either of them, may thereafter cause said valuations 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 plants, properties 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 Penobscot, 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  
on board of  
appraisers.  
how filled.

Section 11. All valid contracts now existing between said Public Works Corporation, or other similar corporations, and any municipal corporation for supplying water within the city of Brewer or the towns of Orrington, Eddington, and Holden, shall be assumed and carried out by said Brewer Water District.

Existing  
contracts  
shall be  
carried out.

Section 12. 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 said Public Works Corporation, by purchase or otherwise, or assuming and paying the mortgages, liens, and encumbrances thereon as provided in section nine, of securing sources of supply, taking water and land, 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

May borrow  
money and  
issue notes.

—may is-  
sue bonds.

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legal obligations of said 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 banks.

—declared to be quasi-municipal corporation.  
—bonds legal investment for banks.

Section 13. 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.

—running expenses.

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

—payment of interest.

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.

—sinking fund.

IV. If any surplus remains at the end of the year, it may be paid to the city of Brewer.

—surplus.

Section 14. 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 granted.

Section 15. This act, so far as it includes the territory and people constituting the Brewer Water District, as provided in section one hereof, shall not take effect unless accepted and approved by a majority vote of the legal voters of the city of Brewer, voting at an election to be specially called and held for the purpose on the second Monday of August, nineteen hundred and nine. Such special election shall be called, advertised, and conducted according to the law relating to municipal elections, provided, however, that the board of registration shall not be required to prepare for posting or the city clerk to post a new list of voters, and for the purpose of registration of voters said board shall be in session the three secular days next preceding such election, the first two days thereof to be devoted to regis-

When this act shall take effect as to territory and people of Brewer Water District.

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tration of voters and the last day to enable the board to verify the corrections of said lists and to complete and close up its records of said session. The city clerk shall reduce the subject matter of this act to the following question: 'Shall the act to incorporate the Brewer Water District be accepted?' and the voters shall indicate by a cross placed over the words "yes" or "no" their option of the same. The result shall be declared by the mayor and aldermen and due certificate thereof filed by the city clerk with the secretary of state.

Sections 2, 3, 4, 5, 6 and 7, when null and void.

Section 16. Sections two, three, four, five, six, and seven 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 Public Works Corporation, or other similar corporation, in said district, and said town of Veazie, excepting said power station, so far as the same pertain to the purposes of this corporation.

When this act shall take effect.

Section 17. 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 fifteen hereof.

Approved March 24, 1909.

### Chapter 266.

An Act to amend Chapter seventy-nine of the Private and Special Laws of nineteen hundred and five, relating to fishing in Great Brook and tributaries in Oxford County.

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

Part of chapter 79, special laws, 1905, prohibiting fishing in Great brook and tributaries, repealed.

So much of chapter seventy-nine of the private and special laws of nineteen hundred and five as prohibits fishing in Great brook, so called, in Stoneham, in Oxford county, above the falls on said brook near the Hilton-McAllister place, so called, and in the tributaries to said Great brook, including Beaver brook, so called, Willard brook, so called, Shirley brook, so called, and Red Rock brook, so called, in accordance with the general law of the state, is hereby repealed.

Approved March 24, 1909.