

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE

1913

Including Acts and Resolves of the Special Session held
in 1912.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-Sixth
Legislature

1913

CHAP. 210

Chapter 210.

An Act to Incorporate the Pittsfield Water District.

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

Corporate name.

Section 1. The territory of the town of Pittsfield in the county of Somerset and the present and future inhabitants thereof are hereby constituted a body politic and corporate by the name of the "Pittsfield Water District," for the public purpose of supplying the aforesaid inhabitants of said district with pure water for domestic, sanitary and municipal purposes. Said water district is hereby authorized for the purpose of this act to take water from any lake or pond, located wholly or partly in the towns of Pittsfield, Palmyra, Hartland, Canaan, Detroit or St. Albans, or any river or stream in either of said towns, or from wells or reservoirs therein, provided, however, if water is taken from Starbird pond, so-called, in Hartland, none shall be taken which is necessary for the use of the Hartland Water Company; or said water district may obtain water by contract from any person or corporation.

—purposes.

—authorized sources of water supply.

May take and hold lands.

Section 2. Said water district may take and hold by purchase or otherwise any land or real estate necessary for erecting dams, power, pumping station, wells, reservoirs, filter plant or for preserving the purity of the water and watershed, and for laying and maintaining aqueducts or pipe lines for taking, discharging and disposing of water. Any person, firm or corporation legally entitled to and suffering any damage by reason of the aforesaid rights granted to said corporation, shall receive from said corporation just compensation therefor, as hereinafter provided.

—damages.

Description of lands to be taken shall be filed with county com'rs.

Said corporation shall cause to be prepared and file a plan and description of the lands, easements, and other rights to be taken as aforesaid with the county commissioners of the county where the same are situate, and the clerk of their board shall endorse the time of filing thereon and record the description of said location and preserve such plan, and the filing of such plan and description as aforesaid shall be deemed and treated and constitute a taking of the property therein described as aforesaid, and the legal owners thereof shall be entitled to receive just compensation therefor in the manner hereinafter provided.

—new description may be filed.

If said corporation by said location fails to acquire the property therein described, or the location as 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 it is

liable in damages by reason of such new or amended location only for property embraced therein for which the owner had not previously been paid. CHAP. 210

Section 3. For the property so taken as aforesaid the owners are entitled to damages to be paid by said corporation and estimated by the said county commissioners, on written application of either party made within one year after the filing of the description and location as aforesaid, in the manner and with the rights as are provided in the revised statutes, by chapter fifty-one as amended, sections thirty-one and thirty-two, so far as the same can be made applicable hereto; section thirty-five of said chapter in regard to the commissioners' report of damages and expenses of the proceedings; section thirty-six in regard to the right of appeal and proceedings thereunder; section thirty-seven in regard to the deposit of damages and interest; section thirty-eight in regard to injunction proceedings and the rights thereunder; section thirty-nine in regard to the service of process; and section forty in regard to proceedings for breach of injunction, so far as the same can be, are made applicable to the proceedings under this act and shall constitute the method of procedure hereunder.

Damages, how determined.

The state shall not demand or receive any consideration for the use of any of the waters of any of the aforesaid lakes or ponds of more than ten acres in extent known as "great ponds."

State shall not demand pay for water taken from "great ponds."

Section 4. Said water district is hereby authorized to lay in and through the streets and highways of any or all of said towns, and to take up, repair and replace all such pipes, aqueducts and fixtures as may be necessary for the objects above set forth, and whenever said district shall lay any pipes or aqueducts in any street or highway it shall cause the same to be done with as little obstruction as possible to the public travel, and shall at its own expense without unnecessary delay cause the earth and covering removed by it to be replaced in proper condition.

Water district may lay pipes, etc.

—shall not unnecessarily obstruct public travel.

Said water district may supply persons, firms or corporations residing or located beyond the limits of said district with water.

Limits beyond district may be supplied with water.

Section 5. All the affairs of said water district shall be managed by a board of trustees composed of three members, to be chosen by ballot by the legal voters within said water district, the first election to be at the meeting of the legal voters of the said corporation to be called to accept this act, one to serve until the annual meeting to be held in nineteen hundred fourteen, one to serve until the annual meeting to be held in nineteen hundred fifteen, and one to serve until the annual meeting in nine-

Board of trustees.

—how chosen.

—terms of trustees.

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—annual election.

—organization of board of trustees.

—Compensation of trustees.

—trustees may adopt by-laws, etc.

Water district may acquire franchises, etc. of Hartland Water Co.

Terms of purchase, how determined.

teen hundred sixteen. Whenever the term of office of a trustee shall expire the legal voters of the said water district shall elect a successor to serve for a full term of three years, and if any other vacancy occurs it may be filled in like manner for the unexpired term. The annual election of officers shall be in the month of March to be called and held in the manner hereafter provided for the first meeting of said water district. As soon as convenient after the board of trustees has been chosen, the said trustees shall hold a meeting at the office of the selectmen in the town of Pittsfield and organize by the election of a chairman and clerk, adopt a corporate seal, and choose a treasurer and all other needful officers and agents for the proper management of the affairs of said water district. Said trustees may procure an office and incur such expenses as may be necessary. Each member shall receive in full compensation for his services such sum as the said water district at any legal meeting may prescribe; and at any legal meeting thereof called for the purpose, may adopt such by-laws and provisions, not inconsistent with the laws and constitution of this state and the United States, as they may deem expedient and necessary for the better government and regulation of the municipal affairs within said water district, in which case such by-laws and provisions so adopted, shall extend to said water district as fully, to all intents and purposes, as the other provisions of this act, subject only to alterations or additions by a two-thirds vote, at a legal meeting of the water district called for the purpose.

Section 6. 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 water district for said purpose, the entire plant, property and franchises, rights and privileges now held by the Hartland Water Company, including all lands, waters, water rights, dams, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by said company and used or usable in supplying water.

Section 7. In case said trustees fail to agree with said Hartland Water Company upon the terms of purchase of the above mentioned property on or before September first, nineteen hundred and thirteen, said water district through its trustees is hereby authorized to take said plant, property and franchises as for public uses by petition therefor in the manner hereinafter provided. And said water district through its trustees is hereby authorized on or before January first, nineteen hundred and fifteen, to file a petition in the clerk's office of the supreme ju-

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dicial court for the county of Somerset, in term time or in vacation, addressed to any justice of said court, who after notice to said Hartland Water Company and its mortgagees shall after hearing, and within thirty days after the filing of said petition, appoint three disinterested appraisers, one of whom shall be learned in the law, for the purpose of fixing the valuation of said plant, property and franchises. The said appraisers shall have the power of compelling 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 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. The appraisers so appointed shall after due notice and hearing fix the valuation of said plant, property and franchises at what they are fairly and equitably worth; so that the said company shall receive just compensation for all the same. The date of filing of said petition shall be the date as of which the valuation aforesaid shall be fixed, from which day interest on said award 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, in term time or vacation, within five months after their appointment, and such single justice, 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 it if justice so requires. The award of the appraisers shall be conclusive as to valuations. Upon the confirmation of said report the court so sitting shall thereupon, after hearing, make final decree upon the entire matter, including the application of the purchase money, discharge of incumbrances and transfer of the property, jurisdiction over which is hereby conferred, with the same power to enforce said decree as in equity cases. Upon request of either party the justice so making such final decree shall make separate findings of law and fact. All such findings of fact shall be final, but either party aggrieved may take exceptions to any rulings of law so made, the same to 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

—appointment of appraisers.

—powers of appraisers.

appraisers shall fix valuation.

—report of appraisers shall be filed.

—award of appraisers shall be conclusive as to valuation.

Court shall make a final decree.

—exception to rulings of law may be taken.

—further proceedings.

CHAP. 210 by the court or by agreement of parties. They shall be entered at the next term of the law court to be held after the filing of said decree, 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 said plant, property and franchises are transferred in accordance with such final decree, and before the payment therefor, the court sitting in said county of Somerset, 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 Hartland Water Company belonging to the period from and after the date of filing said petition, 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 such single justice at such hearing 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, said entire plant, property and franchises shall become vested in said water district and be free from all liens, mortgages and incumbrances theretofore created by the Hartland Water Company. After the filing of said petition it shall not be discontinued or withdrawn by said water district, and the said Hartland Water Company may thereafterwards on its part 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.

Valid contracts of Hartland Water Co. shall be assumed.

Section 8. All valid contracts now existing between the Hartland Water Company and any persons or corporations for supplying water, and all duties imposed by law on said Hartland Water Company, shall be assumed and carried out by said water district after it has acquired the property of said Hartland Water Company.

Water district may issue bonds.

Section 9. For accomplishing the purposes of this act said water district, through its trustees, is authorized to issue its bonds to an amount sufficient to procure funds to pay the ex-

penses, incurred in the acquisition of the property of said Hartland Water Company, and the purchase thereof, to pay off obligation incurred by taking over the water works of the town of Pittsfield, and to secure a new source of supply, or the improvement of the present supply, and to make such extensions of the present system as the interests of the said water district shall demand. Said bonds shall be a legal obligation of said water district, which is hereby declared to be a quasi-municipal corporation within the meaning of section ninety-six, of chapter forty-seven of the revised statutes, and all the provisions of said section shall be applicable thereto. The said bonds shall be a legal investment for savings banks.

Section 10. All individuals, firms and corporations, whether private, public, or municipal, shall pay to the treasurer of said water 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 water district.

Trustees
may estab-
lish water
rates.

Said rates shall be so established as to provide revenue for the following purposes:

(1) To pay the current running expenses for maintaining the water system and provide for such extensions and renewals as may become necessary.

To pay
expenses.

(2) To provide for payment of the interest on the indebtedness of the water district.

To pay
interest.

(3) To provide each and every year after April first, nineteen hundred and fourteen, a sum equal to, not less than one per cent nor more than five per cent of the entire indebtedness of the water district, which sum shall be turned into a sinking fund to provide for the final extinguishment of the funded debt. The money set aside for the sinking fund shall be devoted to the retirement of the obligations of the water district or invested in such securities as savings banks are allowed to hold.

To pro-
vide a
sinking
fund.

(4) If in any year there remain a surplus at the end of the year, the amount of such surplus shall be paid to the town of Pittsfield, and if in any year there be a deficit, the water district may raise by assessment such sum of money as may be necessary and sufficient to liquidate such deficit.

Surplus
earnings,
how dis-
posed of.

All money raised by said water district for the purpose aforesaid shall be assessed upon the property and polls within the aforesaid territory, by the trustees of said corporation, in the same manner as is provided by law for the assessment of county and town taxes; and said trustees may copy the last valuation of said property by the assessors of the town of Pittsfield, and assess the taxes thereon if said water district shall so direct,

Taxes raised
by water
district, °
how
assessed.

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and may abate any tax by them so assessed, the tax on polls not to exceed, at any one assessment, the sum of one dollar to any one person in any one year.

Trustees shall assess taxes.

(5) Upon a certificate being filed with the trustees of said water district by the clerk thereof, of the amount of money raised at any meeting for the purposes aforesaid, it shall be the duty of said trustees, as soon as may be, to assess said amount upon the estate and polls of persons residing on the territory of said water district, and upon the estates of non-resident proprietors thereof, and the trustees to certify and to deliver to the treasurer of said water district, whose duty it shall be to collect the same in like manner as county and town taxes are, by law, collected by towns, and said water district shall have power to direct the mode of collection of said taxes as towns have in the collection of town taxes.

Incidental powers granted.

Section 11. All the incidental powers, rights and privileges necessary to the accomplishment of the main objects herein set forth are granted to the corporation hereby created.

This act shall take effect when accepted by voters.

Section 12. This act shall take effect when accepted by a majority vote of the legal voters within said water district, voting at a meeting to be specially called and held for the purpose on the second day of August, nineteen hundred and thirteen. Such special meeting, or any other, shall be called by the selectmen of Pittsfield, advertised and conducted according to the law relating to town meetings in said Pittsfield, provided, however, that the board of registration shall not be required to prepare, or the town clerk to post a new list of voters, and for this purpose said board shall be in session the three secular days next preceding such meeting, the first two days thereof to be devoted to registration of voters, and the last day to enable the boards to verify the corrections of said lists and to complete and close up its records of said sessions. The town clerk shall reduce the subject matter of this act to the following question: "Shall the act to incorporate the Pittsfield Water District be accepted?" and the voters shall indicate by a cross placed against the words "yes" and "no" their opinion of the same. The result shall be declared by the selectmen of Pittsfield, and due certificate thereof filed by the town clerk with the secretary of state.

—form of question to be submitted.

Voters shall also vote to grant to water district the water works plant of town.

Section 13. For this act to take effect a majority of said voters voting at said special election shall also vote in favor of granting to said Pittsfield Water District the water works plant of said town of Pittsfield, its pumping station and all machinery, tools and paraphernalia therein, its land and buildings connected

therewith, mains and other pipes and pipe lines, its standpipe or water tower and the lot on which the same stands, and all other property, real or personal, and of every description, wherever the same may be situate, used in connection with or in the operation of said water works plant.

The town clerk shall reduce the subject matter of such vote to the following question: "Shall the town of Pittsfield grant its water works system to the Pittsfield Water District?" And the voters shall indicate by a cross placed against the words "yes," or "no" their vote upon the question.

The declaration of the vote aforesaid in favor of such proposition shall constitute a grant of all the property aforesaid and the title thereto shall at once pass to and vest in said Pittsfield Water District; and as the consideration therefor the trustees of said district shall at once and before entering into the possession thereof, by instrument in writing under their hands and under the seal of said corporation, assume and agree to pay on or before maturity, all the indebtedness of said town of Pittsfield then incurred on account of said water works system, both principal and interest, and in accordance with the terms of the obligation of said town; and to at once take over the possession, management and control of said water works system, and to operate and continue to operate, and to keep the same in repair and in good working order.

Section 14. Said water district shall not acquire said property of the Hartland Water Company until a majority of the qualified voters of said water district voting at said special meeting, or at any other special or regular meeting shall have voted in favor thereof.

Section 15. The trustees of said Pittsfield Water District shall, each year prepare a detailed report for the past year 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 corporation as shall show the inhabitants of said district how said trustees are fulfilling the duties and obligations of their trust.

Approved April 1, 1913.

Form of
question to
be submit-
ted.

Acquisition
of Hartland
Water Co.
until quali-
fied voters
vote in
favor.

Annual re-
ports shall
be made.