

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

AS PASSED BY THE

## Eightieth Legislature

OF THE

## STATE OF MAINE

1921

Including Acts and Resolves of the Special Session held in 1920.

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Published by the Secretary of State, in accordance with the Resolves of the Legislature approved June 28, 1820, March 18, 1840, and March 16, 1842.

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Private and Special Laws

OF THE

STATE OF MAINE

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**Sec. 5. Duties and powers of selectmen of Town of Belgrade not restricted.** Nothing in this act shall be construed to deprive the Town of Belgrade and the selectmen of Belgrade of any power over or duties to the property and inhabitants of Belgrade Village.

Approved March 30, 1921.

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## Chapter 101.

An Act to Incorporate the Dixfield Water District.

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

**Sec. 1. Territorial limits, purposes and corporate name.** The following territory and the people within the same, namely: That part of the Town of Dixfield described and known as the Dixfield Village Corporation and such additions as may be made to it from time to time, together with all other land owned by the Dixfield Light & Water Company, for the purpose of protecting its water shed and preserving the purity of its water supply, shall constitute a public municipal corporation under the name of the Dixfield Water District, for the purpose of supplying the inhabitants of said district and also the several towns of Dixfield and Mexico or any portion of either of said towns, with pure water for domestic, sanitary and municipal purposes.

**Sec. 2. Source of supply.** The said district, for the purpose of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from Aunt Hannah brook, so called, in the Town of Dixfield, and from Podunk pond, so called, in the Town of Carthage.

**Sec. 3. Right of eminent domain.** 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 its water and watershed, 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.

**Sec. 4. Authorized to lay pipes etc. through public ways.** The said district is hereby authorized to lay pipes in and through the streets, roads, ways and highways of the towns named in sections one and two 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, roadway

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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.

**Sec. 5. Authorized to erect and maintain dams and reservoirs.** 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.

**Sec. 6. Procedure as to exercise of right of eminent domain.** 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 light and water company or companies 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 interest therein or water rights, to be taken, with an appropriate description and the names of the owner 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 the 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 land or interests therein or water rights so taken, but title thereto shall not vest in said district until payment therefor.

**Sec. 7. Adjustment of damages.** 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 restriction, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

**Sec. 8. Management of affairs of district.** All the affairs of said water district shall be managed by a board of trustees composed of three members, chosen by the municipal officers of Dixfield. As soon as convenient after the members of said board have been chosen, said trustees shall hold a meeting 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 they shall determine by lot the term of office of each trustee so that one shall serve for one year, one for two years and one for three years, and whenever the term of office of a trustee expires, the body which appointed said trustee shall appoint a successor to serve the full term of three years, and in case any other vacancy arises it shall be filled in like manner for the unexpired term. 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. The term of office of said trustees first chosen shall be considered to date from the first Monday of April, in the year of our Lord nineteen hundred and twenty-one. Said trustees may procure an office and incur such expenses as may be necessary. Each member shall receive in full compensation for his services an allowance of fifty 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 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 Dixfield.

**Sec. 9. May take over plant of Dixfield Light & Water Company either through purchase or by right of eminent domain.** 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 purposes, the entire plant, property, franchises, rights and privileges now held by the Dixfield Light & Water Company and intended, used and provided by said company for the purposes of supplying water for domestic or municipal purposes or both, 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 in said district, together with all real estate so used or usable. The said Dixfield Light & Water Company is hereby authorized to sell and transfer its franchises and property to said water district.

**Sec. 10. Procedure in case trustees cannot agree with Dixfield Light & Water Company, as to purchase price.** In case the said trustees fail to agree with the aforesaid company upon terms of purchase, on or before September fifteenth, nineteen hundred and twenty-one, then said water district, through its trustees, is hereby authorized to take the plant, property and franchises of the aforesaid company as authorized

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in section nine as for public uses, by petition therefor in the manner provided wherein such companies and their mortgagees shall be parties defendant. And said water district, through its trustees, is hereby authorized on or before November first, nineteen hundred and twenty-one, to file a petition in the clerk's office of the supreme judicial court for the County of Oxford, in term time or in vacation, addressed to any justice thereof, who, after notice to said defendant company and its mortgagees, shall after hearing and within thirty days after the filing of said petition appoint three disinterested appraisers, none of whom shall be residents of the County of Oxford, one at least of whom shall be learned in the law, for the purpose of fixing the valuation of the plant, property and franchises of said defendant company as described in section nine. 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 company shall file in the clerk's office of the supreme judicial court of the County of Oxford, 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 September fifteenth in the year of our Lord one thousand nine hundred and twenty-one, with rate charged therefor; second, copies of all contracts in force on said September fifteenth; 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 September fifteenth, with such brief description thereof as will reasonably identify the same; fifth, a memorandum of all water rights used or owned on said September fifteenth 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 September fifteenth, with specifications thereof; seventh, descriptions and specifications of all reservoirs and stand pipes owned on said September fifteenth; eighth, a description of all pipes, service pipes, hydrants, gates, gate boxes, shut-off boxes, fixtures and machinery, and all physical elements in such water system, giving in detail all quantities, sizes and 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 September fifteenth. 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 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 conditions of the mains and pipes of the defendant company, externally and internally, all work connected therewith to be in the presence of the agents of the aforesaid company, 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 is to have one copy thereof, and the parties to receive such numbers 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 a 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 the defendant company at what they are fairly and equitably worth, so that said defendant company shall receive just compensation for all the same. The first day of November, nineteen hundred and twenty-one, 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 filed, such single justice, so appointing said appraisers, or in case of his inability to act, then any



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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 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 Oxford, 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 said light and water company belonging to the period from and after November first, nineteen hundred and twenty-one, 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 such final decree, as the case may be. All findings of law or fact by such single justice at such hearings shall be final. The amount to be paid for the plant of the said light and water company shall

be paid to the trustee of the mortgage of said company and by such trustee distributed pro rata upon the outstanding bonds secured by such mortgage, until the principal of said bonds with all earned interest thereon shall have been paid in full and any balance of said amount shall be paid by said trustee to the said light and water company. On payment of 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 plants, property and franchises of said defendant company as described in section nine shall become vested in said water district and be free from all liens, mortgages and incumbrances theretofore created by the said Dixfield Light & Water Company. After the filing of said petition it shall not be discontinued or withdrawn by said water district, and the said light and water company may thereafter 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 plants, property and franchises in accordance therewith. If any 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 Oxford, 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.

**Sec. 11. Valid contracts of Dixfield Light & Water Company to be assumed by district.** All valid contracts, made in good faith, now existing between said defendant company and any person, firm or corporation for supplying water within the towns named in section one shall be assumed and carried out by said Dixfield Water District.

**Sec. 12. Bonds may be issued and temporary loans negotiated; legal investments for savings banks.** 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 paying or refunding the indebtedness so created, of paying any necessary expenses incurred in the creation of the district, in acquiring the property and franchises of the Dixfield Light & Water Company, by purchase or otherwise, or in the purchase or acquisition of the property and franchises of said defendant company, 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

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obligations of the water district, which is hereby declared to be a quasi municipal corporation within the meaning of section one hundred five, chapter fifty-one of the revised statutes, and all provisions of said section shall be applicable thereto. The said notes and bonds shall be legal investments for savings banks.

**Sec. 13. Property exempt from taxation.** The property of said district shall be exempt from all taxation in the town or towns where said water district is located.

**Sec. 14. Water rates.** 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:

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 by the district.

III. To provide each year a sum equal to not less than one-half of one per cent nor more than five per cent of the entire indebtedness created by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of said indebtedness. The money set aside for the sinking fund shall be devoted to the retirement of the obligations of the district or invested in such securities as savings banks are allowed to hold.

**Sec. 15. Incidental powers, rights and privileges.** 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.

**Sec. 16. Acceptance subject to referendum; meeting for acceptance, how called; procedure before and after.** This act shall take effect when approved by a majority vote of the legal voters of that portion of said water district comprised by the Dixfield Village Corporation, at a special meeting in the Dixfield Village section of said water district, to be held on the third Monday of August, in the year of our Lord one thousand nine hundred and twenty-one. Said special meeting shall be called by the assessors of the Dixfield Village Corporation, and shall be called, warned and conducted according to the law relating to municipal elections, provided however, that the assessors of said Dixfield Village

Corporation shall not be required to prepare for posting new lists of voters included with said water district and described in section one. For the purpose of registration of voters, said board of assessors of the Dixfield Village Corporation shall be in session at its office the secular day next preceding said special election. The clerk of the Dixfield Village Corporation shall reduce the subject matter of this act to the following question: "Shall the Act to Incorporate the Dixfield Water District be Accepted?" and the voters shall indicate by a cross placed over the words "yes" or "no" their opinion of the same. The result of the balloting in each case shall be declared by the assessors of said Dixfield Village Corporation and certificate thereof shall be filed by the clerk of said Dixfield Village Corporation with the secretary of state.

**Sec. 17. Trustees to be elected if act is accepted.** If the Dixfield Village Corporation section of said water district shall approve said act to incorporate said water district by a majority of the legal voters at said special election, then the territory within said Dixfield Village Corporation and the people within the same shall constitute the water district hereby created, and shall be empowered with all the rights, privileges and franchises conferred by this act, and shall be authorized to proceed in all acts, matters and things necessary to carry out the purposes of this act. As early as may be after said special election, if said act has been approved by the Dixfield Village Corporation, the municipal officers of the Town of Dixfield shall as soon as may be thereafter meet and choose three members, who shall constitute the board of trustees for said water district.

**Sec. 18. Certain sections void unless plant of Dixfield Light & Water Company is acquired.** Sections two, three, four, five, six and seven shall be inoperative, null and void unless 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 Dixfield Light & Water Company.

**Sec. 19. When effective as to referendum.** This act shall take effect in ninety days after the final adjournment of the legislature, so far as necessary to empower the calling and holding of the election authorized in section sixteen herein provided for.

Approved April 1, 1921.