

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE

1903.

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1903

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1903.

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of any funds so received by said company shall be disbursed as dividends to individual stockholders, but may be applied towards the discharge of any obligations of the company on account of the building of such temple or making improvements or additions thereto, and when not required for such purpose shall be distributed among such fraternities having quarters in the building and owning stock in the company, as pay sick benefits to its members; such fraternities shall receive from such funds in proportion to its stock in the corporation.

—beneficiary funds, how applied and used.

Section 6. The said company for all its said purposes may hold real estate and personal property sufficient, necessary and convenient therefor.

May hold real estate.

Section 7. The first meeting of the corporation may be held at any time within sixty days after the passage and approval of this act by all the foregoing corporators participating therein and signing written waiver of notice thereof, otherwise any of the corporators may call said first meeting by giving the notice required by law in such case, and a majority of the corporators may hold such meeting. In either case all necessary business, the election of officers and the adoption of by-laws may be transacted at such meeting.

First meeting, how called.

Approved March 26, 1903.

Chapter 334.

An Act to incorporate the Augusta Water District.

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

Section 1. The following territory and the people within the same, namely: Wards one, two, three, four, six, seven and eight in the city of Augusta, shall constitute a body politic and corporate under the name of the Augusta Water District, for the purpose of supplying the inhabitants of said district and of the towns of Chelsea, Vassalborough, China and Manchester, and such municipalities, together with the city of Augusta, with pure water for domestic and municipal purposes.

Corporate limits.

--purpose.

Section 2. Said district is hereby authorized for the purposes aforesaid to take and hold sufficient water of the Kennebec river and China lake, and may take and hold by purchase or otherwise any land or real estate necessary for erecting dams, power, reservoirs, or for preserving the purity of the water and water shed, and for laying and maintaining aqueducts for taking, discharging and disposing of water. Nothing in this act shall

May take water of Kennebec river and China lake.

—shall not increase flowage on China lake.

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authorize said district to increase the present flowage upon China lake.

Liability for damages.

Section 3. Said district shall be liable for all damages that shall be sustained by any person or corporation in their property by the taking of any land whatsoever, or water, or by flowage, or by excavating through any land for the purpose of laying pipes, building dams or constructing reservoirs. If any person sustaining damage as aforesaid and said corporation shall not mutually agree upon the sum to be paid therefor, such person may cause his damages to be ascertained in the same manner and under the same conditions, restrictions and limitations as are or may be prescribed in the case of damages by the laying out of highways.

-damages, how determined.

May lay pipes.

Section 4. Said district is hereby authorized to lay in and through the streets and highways thereof and of said towns of Chelsea, Vassalborough, China and Manchester, 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 pavement removed by it to be replaced in proper condition.

Board of trustees.

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 the municipal officers of the city of Augusta, but no member of the city council shall during the term for which he is elected be chosen one of said board of trustees. 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 Augusta, 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 said municipal officers of the city of Augusta 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 the trustees shall begin on the first Monday of August. Said trustees may procure an office and incur such expenses as

-organization of board of trustees.

-tenure of trustees.

may be necessary. Each member shall receive in full compensation for his services an allowance of three hundred dollars per annum.

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 district for said purpose, the entire plant, property and franchises, rights and privileges now held by the Augusta Water Company within said district and said towns of Chelsea, Vassalborough, China and Manchester, 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 and towns and any other real estate in said district.

May acquire
Augusta
Water Co.

Section 7. In case said trustees fail to agree with said Augusta Water Company upon the terms of purchase of the above mentioned property on or before November first, nineteen hundred and three, 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 November sixth, nineteen hundred and three, to file a petition in the clerk's office of the supreme judicial court for the county of Kennebec in term time or in vacation, addressed to any justice of said court, who after notice to said Augusta Water 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 Kennebec, 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 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 Augusta Water Company shall receive just compensation for all the same. The first day of March, nineteen hundred and four, 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.

Proceedings
in case of
disagreement
as to terms
of purchase.

—appraisers.

—powers of
appraisers.

—duties of
appraisers.

—date when
valuation
shall be
fixed.

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--further
proceedings.

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 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 Kennebec, 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 Augusta Water Company belonging to the period from and after March first, nineteen hundred and four, 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 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 Augusta Water Company. After the filing of said petition it shall not be discontinued or withdrawn by said water district, and the said Augusta 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.

Section 8. All valid contracts now existing between the Augusta Water Company and any persons or corporations for supplying water within said district and in the said towns of Chelsea, Vassalborough, China and Manchester, shall be assumed and carried out by said Augusta Water District.

Existing valid contracts shall be assumed.

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 expenses incurred in the acquisition of the property of said Augusta Water Company, and the purchase thereof, and to secure a new source of water supply or the improvement of the present supply. 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 fifty-five, chapter forty-six 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.

May issue bonds.

Section 10. 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 running expenses for maintaining the water system and provide for such extensions and renewals as may become necessary.

II. To provide for payment of the interest on the indebtedness of 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 of the district, which sum shall be turned into a sinking fund to provide for the final extinguishment of the funded debt. The money

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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 city of Augusta.

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

When this act shall take effect.

Section 12. This act shall take effect when approved by a majority vote of the legal voters within said district voting at an election to be specially called and held for the purpose on the fourth Monday of June, nineteen hundred and three. The board of registration shall make and provide a separate check list for such of the voters within said district as are then legal voters of said city and all warrants issued to said city shall be varied accordingly to show that only such voters therein are entitled to vote hereon. 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 or the city 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 election, the first two days thereof to be devoted to registration 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 sessions. The city clerk shall reduce the subject matter of this act to the following question: "Shall the act to incorporate the Augusta Water District be accepted?" and the voters shall indicate by a cross placed against the words "yes" or "no" their opinion 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. This act shall take effect when approved by the governor so as necessary to empower the calling and holding of such election.

When certain sections of this act shall be void.

Section 13. Sections two, three and four of this act 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 now held by the Augusta Water Company within said district and said towns of Chelsea, Vassalborough, China and Manchester.

Costs and expenses, how borne and paid.

Section 14. All costs and expenses arising under the provisions of this act shall be paid and borne as directed by the court in the final decree provided by section seven.

Section 15. This act shall take effect when approved.