

No. 759, A.]

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CHAPTER 483.

AN ACT to authorize the town of Eagle River, Vilas county, Wisconsin, to build and maintain a dam across the Wisconsin river in said town, for public uses and purposes; to authorize said town, by the exercise of eminent domain, to acquire all such rights and property as may be necessary for effectuating such purpose, and repealing chapter 190 of the laws of 1897, authorizing William J. Walsh, Fred Morey and W. A. Bradford, their associates, heirs and assigns to build and maintain a dam across the Wisconsin river in Vilas county, Wisconsin.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Location of dam. SECTION 1. The town of Eagle River, Vilas county, is hereby authorized to build, construct and maintain a dam not exceeding twenty feet in height across the Wisconsin river at such place on government lots numbers seven (7) and eight (8), in section thirty-six (36), township forty (40) north, range nine (9) east, in said town of Eagle River, as the town board of said town shall, by ordinance or resolution, hereafter determine, for the following purposes:

To obtain hydraulic power for generating electricity for lighting the streets, bridges and public buildings of the unincorporated village of Eagle River in said town, and furnishing electric light to the inhabitants thereof;

To obtain hydraulic power for operating water works for the purpose of supplying said village and inhabitants thereof with water;

To obtain hydraulic power to be used for any other lawful municipal purpose.

Sub-lease authorized. SECTION 2. In case the said dam as so constructed and maintained shall make available for use any electrical power which shall not be continuously needed and used for the purposes aforementioned, the said town is hereby authorized and empowered to let, lease or rent the same for use for any lawful private purpose, such lease, however, not to be for a longer term than twenty years.

Sluice way required. SECTION 3. Said dam shall be so built and maintained as not to materially obstruct or impede the navigation of said river, or the running of logs or forest products down said river, and that a suitable logslide or sluice way of sufficient width shall be maintained as may be necessary to pass all logs and forest products down said river without unnecessary delay.

Powers conferred. SECTION 4. For the purpose of erecting said dam and maintaining and operating the same at such height authorized by this act, the said town is hereby authorized to take, over-flow and use any land or lands which will at any time be over-flowed by reason of the construction and operation of said dam and maintaining the same and to take and use all other property necessary for such purposes, or for any of the public uses and purposes for which authority is by this act granted to erect such dam and maintain the same.

For the purpose of acquiring title to such lands and other property, the said town is hereby authorized to exercise the right of eminent domain under and in pursuance with sections 1777a, 1777b, 1777c and 1777d of the statutes of 1898 and laws amendatory thereof and supplemental thereto.

This act shall be deemed to authorize the taking and acquisition of title to any lands or other property already devoted to public uses to such extent as may be necessary for effectuating the purposes of this act by the exercise of the right of eminent domain under and in pursuance with said sections 1777a, 1777b, 1777c, 1777d of the statutes of 1898 and laws amendatory thereof and supplemental thereto, as fully as if such lands or other property were devoted to private uses.

Judgments for damages, how collected. SECTION 5. Any damage for which said town may be liable by reason of the exercise of the powers of eminent domain, authorized to be exercised by said town by this act, or by reason of the construction, maintenance or operation of said dam, shall not be a lien on any of the property of said town, but shall be collected as other judgments against towns, cities and villages are collected.

Submission to vote of electors. SECTION 6. The authority herein granted to the town of Eagle River shall not be exercised by said town until the same shall have been authorized and the powers herein granted shall have been consented to by the

electors of said town by a majority of the votes cast on said question at any general or special election at which said question shall have been submitted; and the town board of said town is hereby authorized to provide by resolution for the submission of said question to the electors of said town at any such election, and to provide for the holding of any such special election for such purpose.

Conditions of grant. SECTION 7. This act is passed in consideration of and upon the following expressed conditions:

1. The dam herein authorized shall be constructed within four years from the date of the passage of this act.

2. If so built and constructed, it must be maintained and operated continuously and its maintenance and operation must not be discontinued or cease for any length of time, exceeding two years, at one time.

3. The water power acquired under and by virtue of this act shall not be operated or its operation suspended pursuant to any contract, agreement or understanding express or implied, in violation of any law of this state or of the United States.

4. In case the owner thereof desires to let, lease, rent or furnish any hydraulic power or accumulation of water procured or created under this act, for public purposes or for any lawful private purpose, it shall not charge or collect more than a reasonable rental therefor. In case the owner of such dam and the lessee of any part of said hydraulic power or accumulation of water shall be unable to agree upon the price to be paid for the use of the same, they shall submit the matter to arbitration, and for this purpose the owner of such power or accumulation of water shall select an expert engineer, the lessee shall select another expert engineer and the two engineers so chosen shall select a third, who shall constitute arbitrators and have full authority to determine the price that shall be paid for the use of such power or accumulation of water. Their decision shall be reduced to writing and signed by a majority of such arbitrators, and shall be final and conclusive upon the parties in interest.

Forfeiture, what shall constitute. SECTION 8. The refusal of the owner to submit to arbitration as herein provided, the question of the price at which hydraulic power or accumulation of water shall be rented, as herein provided, or their failure to furnish such hydraulic power or accumulation of water at the price fixed by the said arbitrators, as hereinbefore provided, if such

power or accumulation of water is not needed for other use, or their failure to comply with all the conditions of this act, shall terminate and forfeit the franchise hereby granted, and the failure of the lessee or lessees of such hydraulic power or accumulation of water to submit the question of price to be paid for the same to arbitrators, as herein provided, or after submission to pay the price determined by such arbitrators, shall work a forfeiture of his lease or leases, if any he or they had, of such power or accumulation of water.

Said dam shall be provided with a sufficient fishway or fishways, to be approved by the board of commissioners of fisheries, and such fishway or fishways shall at all times be kept and maintained in good repair and open for the free passage of fish up and down said river.

Conflicting laws repealed. SECTION 9. Chapter 190 of the laws of 1897, is hereby repealed.

Legislative power reserved. SECTION 10. The right of the legislature to amend or repeal this act at any time is hereby reserved.

SECTION 11. This act shall take effect and be in force from and after its passage and publication, and the approval of the same by the electors as provided in section 6 of this act and the filing in the office of the secretary of state written acceptance of the conditions herein contained by the town board of said town.

Approved June 20, 1905.