

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 568

H. P. 429

House of Representatives, January 26, 1965

Referred to the Committee on Public Utilities, sent up for concurrence and ordered printed.

JEROME G. PLANTE, Clerk

Presented by Mr. Richardson of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT Relating to Cumberland Water District and Portland Water District.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment of the Legislature unless enacted as emergencies; and

Whereas, the Cumberland Water District, a public municipal corporation organized and existing pursuant to the provisions of Chapter 157 of the Private and Special Laws of 1957, as amended, is engaged in supplying water in part of the Town of Cumberland, the Portland Water District, a public municipal corporation organized and existing pursuant to the provisions of Chapter 433 of the Private and Special Laws of 1907, as amended, is engaged in supplying water in another part of said town, and parts of said town are without water service; and

Whereas, the existing plants and facilities of the Cumberland Water District and the Portland Water District located within the Town of Cumberland are not adequate to meet the expanding need for water of the inhabitants of said town; and

Whereas, this condition constitutes a menace to the health, welfare and safety of the inhabitants of the Town of Cumberland; and

Whereas, it is necessary to take immediate steps to alleviate said condition, and to develop a unified plan to enlarge and improve the existing plants and facilities located within the Town of Cumberland to provide an adequate supply of water to meet the expanding needs therefor of the inhabitants of said Town; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legis-

lation as immediately necessary for the preservation of the public peace, health and safety ; now, therefore,

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

Sec. 1. Portland Water District authorized to acquire property of Cumberland Water District. The Portland Water District, a public municipal corporation organized and existing pursuant to chapter 433 of the Private and Special Laws of Maine of 1907, as amended, is authorized, by votes of its trustees, to acquire all, but not less than all, of the plant, properties, assets, franchises, rights and privileges owned by the Cumberland Water District including, without limitation, all lands, buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools, equipment and appliances used or useful in supplying water for domestic, commercial, industrial and municipal purposes. If the trustees of the Portland Water District shall authorize the acquisition by it of the plant, properties, assets, franchises, rights and privileges of the Cumberland Water District pursuant to the preceding provisions of this section, the consideration to be paid therefor shall be the assumption by the Portland Water District of all of the outstanding debts, obligations and liabilities of the Cumberland Water District, including, without limitation, the assumption by the Portland Water District of the liability represented by the \$192,000 aggregate principal amount of outstanding Cumberland Water District Bonds of 1958, dated January 1, 1958 and due January 1, 1978.

Sec. 2. Cumberland Water District authorized to sell property to Portland Water District. Cumberland Water District, a public municipal corporation organized and existing pursuant to Chapter 157 of the Private and Special Laws of 1957, as amended, is authorized, by votes of its trustees, to sell, transfer and convey by appropriate instruments of conveyance, all, but not less than all, of its plant, properties, assets, franchises, rights and privileges, including without limitation, all lands, buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools, equipment and appliances used or useful in supplying water for domestic, commercial, industrial and municipal purposes to the Portland Water District in consideration of the assumption by said Portland Water District of all of the outstanding debts, obligations and liabilities of the Cumberland Water District, including, without limitation, the liability represented by the \$192,000 aggregate principal amount of outstanding Cumberland Water District Bonds of 1958, dated January 1, 1958 and due January 1, 1978.

Sec. 3. Approval of Public Utilities Commission. The sale and transfer by the Cumberland Water District to the Portland Water District of its plant, properties, assets, franchises, rights and privileges, and the acquisition thereof by the Portland Water District and the assumption by the Portland Water District of all of the outstanding debts, obligations and liabilities of the Cumberland Water District pursuant to the provisions of sections 1 and 2 hereof shall be subject to such approval of the Public Utilities Commission of the State of Maine as may be required by applicable provisions of the Revised Statutes of 1964, Title 35, part 1.

Sec. 4. Contracts of Cumberland Water District assumed by Portland Water District. All contracts between Cumberland Water District and any person firm or corporation, including, but not limited to, the Town of Cumberland and the North Yarmouth Water District, relating to supplying water, which are in effect on the date of the transfer by Cumberland Water District to Portland Water District of its plant, properties, assets, franchises, rights and privileges shall be assumed and carried out by Portland Water District.

Sec. 5. Authority of Portland Water District to serve Town of Cumberland. Upon the acquisition by Portland Water District of the plant, properties, assets, franchises, rights and privileges of the Cumberland Water District, Portland Water District shall be authorized to furnish water from sources of its determination to the inhabitants of the Town of Cumberland and to said Town of Cumberland and to the North Yarmouth Water District and in the areas in the Town of North Yarmouth now served by the Cumberland Water District for domestic, commercial, industrial and municipal purposes, and shall have and possess, in addition, all of the rights, privileges, powers and franchises theretofore possessed and enjoyed by Cumberland Water District. The existing rates of the Portland Water District and Cumberland Water District in the respective areas of the Town of Cumberland now served by them shall continue and prevail until a new rate schedule is established in accordance with law.

Sec. 6. Act void unless property of Cumberland Water District is acquired. If the plant, properties, assets, franchises, rights and privileges owned by the Cumberland Water District shall not have been acquired by the Portland Water District pursuant to the provisions hereof prior to January 1, 1966, then this Act shall become null and void on said date.

Sec. 7. Dissolution and termination of Cumberland Water District; pledge of revenues. If and when all debts, obligations and other liabilities of Cumberland Water District have been paid in full and discharged, or the holders or owners of all such debts, obligations and other liabilities which have not been paid in full and discharged have assented to the assumption thereof by Portland Water District and to the novation and substitution of Portland Water District as obligor in respect thereto in place of Cumberland Water District, the Clerk of Cumberland Water District shall file a certificate to that effect with the Secretary of State and the corporate existence of Cumberland Water District shall thereupon cease and terminate. Until the corporate existence of Cumberland Water District shall have ceased and terminated pursuant to the foregoing provisions of this section, the gross revenues derived by the Portland Water District from the sale of water within the Town of Cumberland, other than from the sale of water in that part of said town now served by it, shall be applied first to the payment of expenses fairly allocable to the operation of the water system in said town (other than in the part of said town heretofore served by Portland Water District) and second to payment of debts, obligations and other liabilities of Cumberland Water District assumed by Portland Water District pursuant hereto.

Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the Cumberland Water District at a special election or elections called and held for the purpose. Each

such election shall be called by the trustees of the Cumberland Water District to be held at such place and on such date and time as they may determine, but the first such meeting shall be held not later than the first day of October, 1965. Each such special election shall be called, advertised and conducted according to applicable provisions of sections 7 and 8 of chapter 157 of the Private and Special Laws of 1957, as amended, and the law relating to municipal elections. Prior to each such meeting, the trustees of the Cumberland Water District shall be in session as provided in section 8 of said chapter 157 of the Private and Special Laws of 1957, as amended, for the purpose of correcting and preparing lists of persons qualified to vote thereat. The clerk of the district shall reduce the subject matter of this Act to the following question: "Shall the Act Relating to the Cumberland Water District and the Portland Water District, passed by the 102nd Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same.

This Act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at such election; but only if the total number of votes cast for and against the acceptance of this Act in said special election equals or exceeds 10% of the total number of legal voters of said district as set forth in the check list of the voters of said district provided for herein and used at said election; but failure of approval because the total number of votes cast for and against acceptance is less than 10% as aforesaid shall not prevent subsequent elections.

The results of such elections shall be declared by the Trustees of the Cumberland Water District and due certificates thereof filed by the clerk of the said district with the Secretary of State.