

MAINE STATE LEGISLATURE

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(EMERGENCY)
(After Deadline)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1572

H. P. 1407

House of Representatives, April 29, 1981

(Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

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

EDWIN H. PERT, Clerk

Presented by Representative Wentworth of Wells.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT Creating the North Berwick Water District.

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

Whereas, the present water system is inadequate and in need of immediate improvement and repair to protect the quality of the water service and the health and well-being of the customer of the North Berwick Water Company; and

Whereas, an adequate supply of pure water is essential to the health and well-being of the customers of the North Berwick Water Company; and

Whereas, it is desirable that a public water district be formed and empowered to take over the North Berwick Water Company forthwith in order to supply water service to the inhabitants of the Town of North Berwick; and

Whereas, it is vital that this be done at once for the benefit of the customers of the present water system; 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 legislation 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. Incorporated; territorial limits; corporate name; purposes. Subject to section 18, the inhabitants and territory within the Town of North Berwick in the County of York shall be and hereby are constituted a public municipal corporation under the name of "North Berwick Water District" for the purpose of supplying the inhabitants of the district with pure water for domestic, sanitary, commercial, manufacturing and municipal purposes.

Sec. 2. Source of supply. The water district, for the purposes of its incorporation, is authorized to take, collect, store, hold, divert, use, flow, detain and distribute water from any lake, pond, stream or river and from any surface or underground brook, spring or vein of water in the district, and from any other source from which the North Berwick Water Company is now authorized to take water.

Sec. 3. Right of eminent domain conferred. The district, for the purposes of its incorporation, is authorized to take and hold, as for public uses, by purchase, gift or by exercise of the right of eminent domain, which right is hereby expressly delegated to the water district for their purposes, any lands or interests therein or water rights necessary for erecting and maintaining dams, for flowage, for power, for pumping its water supply through its mains, for reservoirs and standpipes, for preserving the purity of the water and watershed, for laying and maintaining aqueducts, mains 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, standpipes, mains, aqueducts, structures and lands. Nothing in this section shall be construed as authorizing the water district to take by right of eminent domain any of the property or facilities of any other public utility or district used or acquired for future use by the owner thereof in the performance of a public duty, unless expressly authorized in this Act or by subsequent Act of the Legislature, or as provided in Section 7.

Sec. 4. Authorized to lay pipes, public ways and across private lands. The district is authorized to lay in and through the streets, roads, ways and highways within the district and across private lands therein, and to maintain and replace all such pipes, aqueducts, mains and fixtures as may be necessary, and may excavate through any lands when necessary and convenient for its corporate purposes; and whenever the district shall lay any pipes, aqueducts or mains in any street, road, way or highway, it shall cause the same to be done with a 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, reservoirs, etc. The district is authorized, for the purposes of its incorporation, to erect and maintain all dams, pumping stations, with all necessary appliances required therefor, reservoirs, standpipes and structures necessary and convenient for its corporate purposes.

Sec. 6. Procedure in exercising rights of eminent domain; assessment of damages; appeal procedure. The water district is liable for all damage that shall be sustained by any person or corporation in his or its property by the taking of any land or interest therein whatsoever, for water, or by flowage, or by excavating through any land for the purpose of laying pipes, aqueducts or mains, building dams or constructing reservoirs or standpipes.

In exercising any right of eminent domain conferred upon it by law, from time to time, in the taking of lands or interests therein, or water rights, the district shall file in the office of the county commissioners of York County and record in the registry of deeds in that county plans of the location of all such lands or interests therein or water rights, with an appropriate description and the names of the owners thereof, if known. Notice of the filing shall be sent by mail to the owners at the address appearing on the tax records of the municipality in which the land is located. 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 shall be liable in damages only for 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 may be made on any private lands, except to make surveys, until the expiration of 10 days from such filing, whereupon possession may be had of all the lands or interests therein or water rights so taken, but title shall not vest in the district until payment therefor.

If any person or corporation sustaining damages by any taking as aforesaid and the water district shall not mutually agree upon the sum to be paid therefor, either party, upon petition to the county commissioners of York County, may have such damages assessed by them; and the procedure and all subsequent proceedings and right of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of town ways.

Sec. 7. Procedures in crossing a public utility. In case of a crossing of any land, interest in land or water right owned by a company operating any public utility, for any of the purposes contained in this section, unless written consent is given by that company as to place, manner and conditions of the crossing within 30 days after that consent is requested in writing by the district, the Public Utilities Commission upon petition by the district shall determine the place, manner and conditions of the crossing, and all work on the property of that company shall be done under the supervision and to the satisfaction of that company, or as prescribed by the Public Utilities Commission, but at the expense of the district.

Sec. 8. Trustees and officers; tenure of office; election to office; organization; vacancies; compensation. All of the affairs of the district shall be managed by a board of 5 trustees, residents therein, who shall be chosen as provided in this section.

As soon as may be after acceptance of this Act, the council of Board of Selectmen of the Town of North Berwick shall appoint 5 trustees to the district to hold office as follows: Two to serve until the first annual election of municipal officers of the Town of North Berwick following acceptance of this Act; 2 to serve until the 2nd election of municipal officers of the town following acceptance; and one to serve until the 3rd annual election of municipal officers of the town following acceptance. At each annual election of municipal officers of the town thereafter, beginning with the first annual election of municipal officers after acceptance of this Act, the same number of trustees as there are trustees whose terms have expired shall be elected by ballot, as provided in this section, to serve until the annual election of municipal officers of the town occurring 3 years thereafter and until their successors are elected and qualified. When any trustee ceases to be a resident of the district, he vacates the office as trustee. All trustees shall be eligible for reelection or reappointment as provided in this section.

The nomination of all candidates for trustee to be elected as provided by this Act shall be by nomination papers signed in the aggregate for each candidate by not less than 25 nor more than 50 qualified voters resident in the district. Each voter signing a nomination paper shall make his signature in person, and each voter may subscribe to as many nominations as there are trustees to be elected in the district and no more. The nomination papers, before being filed, shall be submitted to the town clerk of the Town of North Berwick, who shall certify thereon that number of the signatures which are names of qualified voters resident in the district. One of the signers to each separate paper shall swear to the truth thereon, and the certificate of the oath shall be annexed to or made upon the nomination papers. The nomination papers shall be filed with the town clerk of the Town of North Berwick not less than 14 days, exclusive of Sundays previous to the day of election. With the nomination papers shall be filed the consent in writing of the person or persons nominated. All nomination papers, being filed and being in apparent conformity with the foregoing provisions, shall be deemed to be valid and if not in apparent conformity they may be reasonably amended under oath. In case any candidate who has been duly nominated under the provisions hereof shall die before the day of election, or shall withdraw in writing, or shall remove his place of residence from the district, the vacancy may be supplied in the manner herein provided in this section for the nominations, except that the time limit for filing the nomination papers shall not apply. The name so supplied for the vacancy shall, if the ballots have not been printed, be placed on the ballots instead of the original nomination; or if the ballots have been printed, new ballots containing the new nomination shall, if practical, be furnished, or slips containing the new nomination shall be printed under the direction of the town clerk which shall be pasted upon the ballots and over the name of the candidate whose nomination has been vacated as stated in this section, and thereafter shall become part of the ballots as if originally printed thereon. The ballot in the district shall contain the names of all candidates so nominated in the district alphabetically arranged, printed in one column under the heading "For Trustee of the North Berwick Water District." Above the heading shall be printed "Vote for (the number to be elected to be inserted therein). Make a

cross or a check mark to the right of the name (s) voted for." As many blank spaces shall be left after the names of the candidates as there are trustees to be elected in which the voter may, by writing, insert the name of any person or persons for whom he desires to vote. In preparing his ballot the voter shall make a cross (X) or a check mark (✓) against and to the right of the names on the ballot he desires to vote for not to exceed the number of trustees to be elected in the district. At each annual election for municipal officers of the Town of North Berwick, balloting for trustee of the district shall take place concurrently with balloting for the municipal officers of the town, but separate ballots shall be provided for the balloting for trustee of the district as provided in this section. The result of the election shall be declared by the Board of Selectmen of the Town of North Berwick and due certificate thereon filed with the town clerk and clerk of the district. The district shall reimburse the town for the expense of any district election.

As soon as convenient after their appointment, the first board of trustees shall hold a meeting at some convenient place in the district, to be called by any member thereof in writing, designating the time and place and delivered in hand to the other 4 members not less than 2 full days before the meeting; provided that they may meet by agreement without notice. At this original meeting, the trustees shall organize by electing from their own members a chairman, the treasurer and a clerk, and adopting a corporate seal. The trustees may adopt and establish bylaws, consistent with the laws of the State, necessary for their own convenience and the proper management of the affairs of the district, and perform any other acts within the powers delegated to them by law.

Within one week after each annual election, the trustees shall meet for the purpose of electing a president, treasurer and clerk to serve for the ensuing year and until their successors are elected and qualified. The trustees, from time to time, may choose and employ, and fix the compensation of any other necessary officers and agents who shall serve at their pleasure. The treasurer shall furnish bond in the sum and with the sureties as the trustees shall approve, the cost thereof to be paid by the district.

Members of the board of trustees shall not be eligible to any office under the board, except that of president, treasurer and clerk. The trustees, as such, shall receive as compensation for their services an amount to be determined by them not to exceed \$300 each per year; but the treasurer may be allowed such compensation as the trustees shall determine.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member who shall serve as clerk or clerk pro tem. They shall make and publish an annual report, including a report of the treasurer, and the report may be included in, published as part of, the town report.

Vacancies in the office of trustee from whatever cause shall be filled by appointment by the remaining trustees until the next annual election. If at any annual election there shall exist a vacancy in an unexpired term, the voters of the

district shall cast their ballots as prescribed in this section, voting for as many candidates as their are offices to be filled.

Sec. 9. Authorized to borrow money to issue bonds and notes. For accomplishing the purposes of this Act, the water district, through its trustees, is authorized to borrow money temporarily and to issue therefor the negotiable notes of the district, and for the purpose of refunding the indebtedness so created, for paying any necessary expenses and liabilities incurred under the provisions of this Act, including the expenses incurred in the creation of a district, in securing sources of supply, taking water and land, paying damages, taking rights-of-way or other interests in real estate, by purchase or otherwise, laying pipes, aqueducts and mains, constructing, installing, maintaining and operating reservoirs, standpipes, dams, pumping stations and whatever equipment may be necessary or incidental to the construction and installation of that system of water works and making renewals of or extensions, additions and improvements. The district by vote of its board of trustees, without district vote except as provided, is also authorized to issue, from time to time, books, notes or other evidences of indebtedness of the district in the amount or amounts, not exceeding the sum of \$1,500,000 outstanding at any one time, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine; provided that in the case of a vote by the trustees to authorize bonds or notes to pay for the acquisition of property, for the cost of a water system or part thereof, for renewal or additions or for other improvements in the nature of capital costs, the estimated cost of which, singly or in the aggregate included in any one financing is \$30,000 or more, or for renewing or refunding existing indebtedness, notice of the proposed debt and of the general purpose or purposes for which it was authorized shall be given by the clerk by publication at least once in a newspaper having a general circulation in the Town of North Berwick. No debt may be incurred under the vote of the trustees until the expiration of 7 full days following the date on which the notice was first published. Prior to the expiration of the period, the trustees may call a special district meeting for the purpose of permitting the voters of the district to express approval or disapproval of the amount of debt so authorized, and the trustees shall call a special district meeting if, within 7 days following the publication of the notice, there shall have been filed with the clerk of the district a petition or petitions signed by not less than 50 qualified voters of the district requesting that a special meeting be called. If at the district meeting a majority of voters present and voting thereon express disapproval of the amount of debt authorized by the trustees, the debt shall not be incurred and the vote of the trustees authorizing the same shall be void and of no effect. The bonds, notes and evidences or indebtedness may be issued to mature serially in annual installments of not less than 1% of the face amount of the issue and beginning not later than 2 years from the date thereof, or may be issued with equal annual payments, applied first to interest and the balance to principal, or made to run for such periods as the trustees may determine, but no issue may run for a longer period than 40 years from the date of original issue. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling them prior to

maturity and, if callable, may be made callable at par or at such premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "North Berwick Water District," shall be signed by the treasurer and countersigned by the president of the board of trustees of the district and, if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile of the signature of the treasurer. All bonds, notes and evidences of indebtedness so issued by the district shall be legal obligations of the district, which is declared to be a quasi-municipal corporation within the meaning of the Revised Statutes, Title 30, Section 5053, as amended, and all provisions of this section shall be applicable thereto. The district may, from time to time, issue its bonds, notes and other evidences of indebtedness for the purpose of paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by the district shall be legal investments for saving banks in the State and shall be tax exempt.

Sec. 10. Special meetings; qualifications of voters of district. Special meetings of the district may be called by the board of trustees at any time, and notice of special meetings, stating the place and time and the business to be transacted, shall be signed by the president or clerk of the board of trustees and shall be conspicuously posted in at least 2 public places within the district, not less than 7 days inclusive of Sundays, before the meeting. Twenty-five persons qualified to vote in the meetings shall constitute a quorum. All meetings of the district shall be presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings. After the referendum for acceptance of this charter, the trustees shall have the same powers and perform the same duties as otherwise are exercised and performed by the selectmen of towns in correcting and preparing lists of the persons qualified to vote in the district, and for that purpose they shall be in session at the office of the district between the hours of 10 a.m. and 12 p.m. of the secular day next before the date of every meeting and 2 hours next before the opening of the meeting. Notice thereof shall be given in the call for the meeting. All persons resident in the district and qualified to vote for Governor under the laws of this State shall be entitled to vote in any meeting of the district, including the meeting for acceptance of this chapter.

Sec. 11. Governmental grants and loans. The district is authorized and empowered to enter into agreements with federal, state and local governments or any agency thereof, or any corporation, commission or board authorized by federal, state or local governments to grant or loan money to or otherwise assist in the financing of projects for accomplishing any of the purposes of this Act, and to accept grants and borrow money from any such government, agency, corporation, commission or board as may be necessary or desirable for the purposes of this Act.

In addition to the authority granted in section 9, the district may borrow by the issuance of temporary notes in anticipation of the receipt of the proceeds of any

such grant, provided that the notes shall not be issued for longer than one year but may be renewed by the issuance of other notes until receipt of the grant in anticipation of which the notes are issued, and provided that payments on account of the grant when received shall be held in a separate account and used only to pay those notes to the extent then outstanding.

Sec. 12. Contracts for supply of water. The district, through its trustees, is authorized to contract with persons, firms, associations, districts, authorities and corporations, including the Town of North Berwick, for the purpose of supplying water as contemplated by this Act, and the town is authorized to contract with it, for the supply of water for municipal purposes.

Sec. 13. Authority to purchase; right of eminent domain to take property of North Berwick Water Company. The district is authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain, which right is expressly delegated to the district for the purpose, the entire plant, property, franchises, rights and privileges of the North Berwick Water Company located in or serving the Town of North Berwick, except its case assets and accounts receivable, including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by the company, whether the record title thereto is or is not in the North Berwick Water Company. The company is authorized to sell, transfer and convey its franchises and property to the water district.

Sec. 14. Procedures for purchase or exercise of right of eminent domain. Before exercising any right of eminent domain conferred under this Act with respect to the property of the North Berwick Water Company, the district shall make a reasonable effort to acquire the property by purchase. The district shall cause the property to be appraised for the purpose of determining the amount that would constitute just compensation for the taking of the property. The district, its agents, employees or designees, may, upon 30 days' written notice to the North Berwick Water Company, enter upon the real property of the North Berwick Water Company, make surveys, examinations, photographs, tests and samplings of the real or personal property of the North Berwick Water Company for the purpose of appraising the real or personal property. Such entry as stated in this section shall take place during daylight hours. The entry and activities authorized by this section shall not constitute a trespass, but the district shall be liable for physical injury to, and for substantial interference with possession or use of, property of the North Berwick Water Company caused by its entry and activities upon the property, which damages may be recovered by complaint in a civil action. The district shall establish the amount which it believes to be just compensation for the property and shall submit to the North Berwick Water Company a proposed offer to purchase the property for the amount established. The amount of the offer shall not be less than the district's approved appraisal of the fair market value of the property. Compliance by the district with the foregoing shall be determined to be, and shall constitute, a reasonable effort by the district to acquire the property by purchase.

If, within 60 days of the date of the proposed offer to purchase is submitted to the North Berwick Water Company, the district and the North Berwick Water Company are unable to reach agreement as to the amount of just compensation, the district through its trustees, is authorized and empowered to take and acquire as for public use the entire plant, property, franchises, rights and privileges of the North Berwick Water Company located in or serving the Town of North Berwick, except its cash assests and accounts receivable, but including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by the company, whether the record title thereto is or is not in the North Berwick Water Company and to record in the York County Registry of Deeds a notice of condemnation and taking which shall be in substantially the following form:

“NOTICE OF CONDEMNATION AND TAKING

The North Berwick Water District does hereby give notice to all whom it may concern:

That the North Berwick Water District, in accordance with the authority delegated to it by the provisions of this Act, has determined to and does hereby exercise its right of eminent domain to acquire as for public use the entire plant, property, franchises, rights and privileges of the North Berwick Water Company located in or serving the Town of North Berwick, except its cash assets and accounts receivable, but including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by the company, whether the record title thereto is or is not in the North Berwick Water Company.

This Notice of Condemnation and Taking shall be recorded in the Registry of Deeds of York County, and a copy shall be sent to the North Berwick Water Company by registered or certified mail or by personal service as required for service of a summons of a complaint in the Superior Court. A copy shall be sent to any mortgagees, holders of any tax liens or any other encumbrances of record by certified or registered mail.

NORTH BERWICK WATER DISTRICT

By _____
Its
Duly Authorized

STATE OF MAINE

COUNTY OF YORK

Date:

Personally appeared the above named

of the North Berwick Water District, and acknowledged the above instrument to be his free act and deed in his capacity and the free act and deed of the North Berwick Water District.

Before me,

Justice of the Peace
Notary Public''

Upon the recording of the Notice of Condemnation and Taking, a certified check in the amount determined by the district to be just compensation and a copy of the Notice of Condemnation and Taking shall be served upon the North Berwick Water Company. Service of the Notice of Condemnation and Taking, together with the check, shall be made by registered or certified mail or by personal service as required for service of a summons on a complaint in the Superior Court. Acceptance and cashing of the check shall not constitute a waiver of the right of the North Berwick Water Company to appeal the district's determination of just compensation. In the event there is a mortgage, tax lien or other encumbrance of record covering any of the property, a copy of the Notice of Condemnation and Taking shall be sent by the district by registered or certified mail to the holder of record of the mortgage, tax lien or other encumbrance addressed to the office or place of abode of the holder, if known; otherwise to the office or place of abode of the holder as set forth in the record.

The date of the recording of the Notice of Condemnation and Taking shall be the date of taking and the recording of the Notice of Condemnation and Taking shall vest title to the property therein described in the district.

Within 60 days of the date of the recording of the Notice of Condemnation and Taking, the North Berwick Water Company shall file in the clerk's office of the Superior Court of the County of York and serve a copy upon the district, so far as they relate to the water service provided in the Town of North Berwick, the following:

A schedule showing the names, residences and water service of all of its customers with the rates charged therefor; copies of all contracts in force; an itemized statement of the gross income earned during its last complete fiscal year and up to the first day of the month preceding the recording of the Notice of Condemnation and Taking and all operating expenses and fixed charges, paid or incurred during that period and properly chargeable thereto; a memorandum of all real estate, water rights, or interests therein, owned or controlled by the company, with a brief description thereof as will reasonably identify the same; brief descriptions, specifications and plans of all reservoirs, mains, pipes, service pipes, hydrants, gates, gate boxes, shut-off boxes, fixtures and machinery and all the physical elements in the water system, giving in detail quantities, sizes and lengths, and specifying the streets, roads or ways where situated; and an itemized list of all tools, apparatus, appliances and supplies used or usable in supplying water.

If the company fails or refuses to file the required information, as stated in this section, within the 60-day period, a Justice of the Superior Court, on complaint by

the district, shall order the company to file such information and shall make such decree as he deems reasonable, just and appropriate to enforce the order.

In event that the North Berwick Water Company deems itself aggrieved by the district's determination of just compensation and tender thereof, as stated in this section, it may appeal to the Superior Court for York County within 60 days after the date of the receipt of the Notice of Condemnation and Taking and the tendered compensation. This appeal shall be taken by filing a complaint setting forth substantially the facts upon which the appeal is based. The North Berwick Water Company shall serve notice of the appeal upon the district by sending, by registered or certified mail within the time limit stated in this section, a true copy of the complaint to the district.

The court shall appoint 3 referees who shall determine the amount of just compensation. One of the referees so appointed shall be learned in the law. The referees shall prepare a report which shall include findings of fact and conclusions of law. The order of reference shall reserve to the parties the right to object to the acceptance of the referees' report on both findings of facts and conclusions of law, except that the court shall adopt the referees' findings of fact, unless clearly erroneous. The court, after hearing, may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it to the referees with instructions.

If the North Berwick Water Company has cashed the check tendered to it by the district and the final judgment is less than the amount of the tendered check, then the court shall order the North Berwick Water Company to pay to the district the excess of the compensation tendered by the district, including interest on the excess at the legal rate from the date of tender, and to pay costs from the time of appeal. Execution shall issue on that judgment.

If the final judgment, exclusive of interest, is not less than the compensation tendered by the district, exclusive of any interest allowed, then the court shall order the district to pay to the North Berwick Water Company the amount by which the final judgment is in excess of the compensation tendered and paid by the district, and for interest on the excess from the date of taking, at the legal rate, and to pay costs from time of appeal. No interest may be allowed to the North Berwick Water Company on any amount paid or tendered to it by the district. Execution shall issue on the judgment.

If a condemnation proceeding is instituted in accordance with this section, the proceeding shall not be discontinued except upon the written consent of both parties.

Sec. 15. Property tax exempt. The property of the district shall be exempt from all taxation in the Town of North Berwick and in any other city or town where any part of its plant may be located.

Sec. 16. Water rates. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of the district the rates

established by the board for the water used by them; and the rates for water so supplied shall be uniform within the territory supplied by the district whenever the installation and maintenance of mains and the cost of service is substantially uniform, but nothing in this Act shall preclude the district from establishing higher rates than the regular rates in sections where for any reason the cost of construction and maintenance or the cost of service exceeds the average, but such higher rates shall be uniform throughout the sections where they apply. The rates shall be so established as to provide revenue for the following purposes:

1. To pay the current expenses for operating and maintaining the water system.
2. To provide for the payment of the interest on the indebtedness created or assumed by the district.
3. To provided each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created or assumed by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of such 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; and
4. If any surplus remains at the end of the year, it may be transferred to the sinking fund.

Sec. 17. Incidental rights and privileges. All incidental rights, powers and privileges necessary to the accomplishment of the main object set forth in this Act, are granted to the public municipal corporation hereby created.

Sec. 18. Acceptance subject to referendum. Unless accepted and approved by a majority vote of the legal voters within the proposed water district voting at an election called and held for the purpose by the municipal officers of the Town of North Berwick, this Act shall become inoperative. The subject matter of this Act shall be reduced to the following question:

“Shall the North Berwick Water District be created?”

The voters shall indicate by a cross or check mark placed against the words “Yes” or “No” their opinion of the same. The result shall be declared by the municipal officers and due certificate thereof filed by the Town Clerk of North Berwick with the Secretary of State. This Act shall take effect for all the purposes thereof immediately upon its acceptance by a majority of the legal voters in the proposed district voting at the election; provided that the total number of votes cast for and against the acceptance of this Act equals or exceeds 20% of the total vote for all candidates for Governor at the next previous gubernatorial election; but failure of approval by the necessary percentages of voters at any such elections shall not prevent a subsequent election or elections to be held for that purpose within the time limitation of section 21.

Sec. 19. Existing statutes not affected; rights conferred subject to provisions of law. Nothing in this section is intended to repeal, or shall be construed as repealing, the whole or any part of any existing statute and all the rights and duties mentioned in this section, shall be exercised and performed in accordance with all the applicable provisions of the Revised Statutes, Title 35, and all acts amendatory thereof or additional thereto.

Sec. 20. Costs and expenses of taking directed by court. All costs and expenses incurred by the district in the acquisition or in the taking of the property of the North Berwick Water Company arising under this Act shall be paid and borne as directed by the court in the final decree provided in section 14.

Sec. 21. Act inoperative, void on failure to acquire North Berwick Water Company. If the water district shall fail to purchase the plant, property, franchises, rights and privileges owned by the North Berwick Water Company and used or usable in supplying water to the Town of North Berwick or shall fail to file a petition before December 31, 1981; to exercise its right of eminent domain as in this Act provided, for the acquisition of the plant, property, franchises, rights and privileges owned by the North Berwick Water Company and used or usable in supplying water to the Town of North Berwick, except its cash assets and accounts receivable, then this Act shall on December 31, 1981 be inoperative, and void.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is to create the North Berwick Water District.