

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TENTH LEGISLATURE
4

5 **Legislative Document**

No. 1932

7 H. P. 1959 House of Representatives, February 9, 1982
Filed by the Joint Standing Committee on Public Utilities pursuant
to Joint Rule 18. Approved by the Legislative Council June 4, 1981.
Reported by Representative Davies from the Committee on Public
8 Utilities and ordered printed under Joint Rules No. 18.
EDWIN H. PERT, Clerk

9
10 **STATE OF MAINE**
11

12 IN THE YEAR OF OUR LORD
13 NINETEEN HUNDRED AND EIGHTY-TWO
14

15 **AN ACT to Establish Standard Procedures**
16 **Enabling the Formation of Municipal**
17 **Power Districts.**
18

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

20 **Sec. 1.** 35 MRSA §69 is amended by adding at the end a
21 new paragraph to read:

22 This section does not apply to municipal power dis-
23 tricts organized in accordance with chapter 241, unless by
24 the express terms of chapter 241 the provisions of this
25 section are made applicable to those districts.

26 **Sec. 2.** 35 MRSA c. 241 is enacted to read:

27 CHAPTER 241

28 MUNICIPAL POWER DISTRICTS

1 §2951. Short title

2 This chapter may be cited as the "Municipal Power Dis-
3 trict Enabling Act."

4 §2952. Purpose

5 The purpose of each municipal power district formed
6 under this chapter is to generate, supply or extend the
7 efficient use of electric energy for public purposes and for
8 the health, welfare, comfort and convenience of the inhabi-
9 tants of the district. Any such municipal power district is
10 an electrical company and a public utility within the mean-
11 ing of this Title.

12 §2953. Formation of district

13 A municipal power district may be formed under the fol-
14 lowing provisions.

15 1. By municipal officers. The municipal officers of
16 any municipality may, by majority vote, determine that a
17 municipal power district should be established to provide
18 service to users situated in the municipality under the
19 terms of this chapter. If they make such a determination,
20 they shall call an election under subsection 3.

21 2. By petition. Twenty percent of the legal voters of
22 a municipality may petition the municipal officers to call
23 an election, under subsection 3, for the purpose of forming
24 a municipal power district.

25 3. Election. After a determination by the municipal
26 officers, or upon petition in accordance with subsection 2,
27 the municipal officers shall, at the next regular election
28 or town meeting, or at a special election or town meeting
29 called and held by them, submit the following question to
30 the legal voters in accordance with their charter or Title
31 30, section 2061:

32 "Shall the (name of municipality) Power District be
33 created and incorporated under the Revised Statutes, Title
34 35, chapter 241?"

35 4. Favorable vote. If a majority of the legal votes
36 cast on this question favor incorporation, a municipal power
37 district is created for that municipality under this chapter
38 upon declaration of the vote by the municipal officers, pro-
39 vided that the total number of votes cast for and against

1 the incorporation equals or exceeds 40% of the total votes
2 cast in that municipality for all candidates for Governor at
3 the next previous gubernatorial election. If not, the pro-
4 posed district is not created at that time.

5 §2954. Formation of multimember district

6 Two or more municipalities may form a multimember
7 municipal power district under the following provisions.

8 1. Petition. Upon petition of 20% of the legal voters
9 of each municipality, the municipal officers of those munic-
10 ipalities shall call an election, under subsection 2, for
11 the legal voters of their respective municipalities for the
12 purpose of forming a municipal power district.

13 2. Election. Upon petition of the legal voters of
14 each municipality wishing to form a district, the municipal
15 officers shall, at the next regular election or town meet-
16 ing, or at a special election or town meeting if the peti-
17 tion so requests, submit the following question to the legal
18 voters of their respective municipalities in accordance with
19 their charter or Title 30, section 2061:

20 "Shall the (names of municipalities) Power District be
21 created and incorporated under the Revised Statutes, Title
22 35, chapter 241?"

23 3. Favorable vote. If, in each municipality, a major-
24 ity of the legal votes cast on this question favor incorpora-
25 tion, a municipal power district is created for those
26 municipalities under this chapter upon declaration of the
27 vote by the municipal officers, provided that the total
28 number of votes cast in each municipality for and against
29 the incorporation equals or exceeds 40% of the total votes
30 cast in the municipality for all candidates for Governor at
31 the next previous gubernatorial election.

32 §2955. Existing districts

33 Any quasi-municipal district organized under the Pri-
34 vate and Special Laws which is an electrical company within
35 the meaning of section 15 may reorganize in accordance with
36 this chapter. In addition to the methods of sections 2953
37 and 2954, the trustees may, by majority vote, petition the
38 municipal officers for an election, and those officers shall
39 hold an election in accordance with those sections.

40 §2956. Organization

1 A municipal power district shall be organized under the
2 following provisions.

3 1. Trustees. Upon formation of a district under
4 section 2953, all the affairs of the district shall be man-
5 aged by a board of 3 trustees who must be residents of the
6 district. They shall hold office as provided in subsection
7 2 and until their respective successors are elected and
8 qualified. When any trustee ceases to be a resident of the
9 district, his office as trustee becomes vacant. Trustees
10 are subject to Title 30, section 2251, concerning conflict
11 of interest.

12 2. Election. Within 60 days after the formation of a
13 district, the municipal officers shall appoint the initial
14 board of trustees, one member for a term of one year, one
15 member for a term of 2 years and one member for a term of 3
16 years. Thereafter, each year as the term of a trustee
17 expires, the legal voters of the district, at an annual
18 election, shall elect a successor to serve for a full term
19 of 3 years. The annual election shall be held within the
20 district concurrently with the election of the municipal
21 officers. The trustees shall conspicuously post notice of
22 the election in 2 public places within the district, not
23 less than 7 days before the election. Any vacancy in the
24 board shall be filled by the municipal officers for the
25 unexpired term.

26 3. Meetings. As soon as convenient after each annual
27 election, the trustees shall hold a meeting at the offices
28 of the district, elect a chairman and clerk and adopt a cor-
29 porate seal. They may choose a treasurer and all other
30 officers and agents for the proper management of the affairs
31 of the district. Other meetings of the trustees may be
32 called by the chairman or by any 2 of the trustees.
33 Trustees shall determine their own compensation. The
34 trustees shall, in the bylaws, determine the number consti-
35 tuting a quorum, but in no event less than half of the total
36 number of trustees.

37 §2957. Organization of multimember district

38 A municipal power district formed under section 2954
39 shall be organized under the following provisions.

40 1. Trustees. Upon formation of a district under
41 section 2954, all the affairs of the district shall be man-
42 aged by a board of trustees comprised of 2 trustees from
43 each municipality. Trustees shall be residents of their

1 respective municipalities. They shall hold office as pro-
2 vided in subsection 2 and until their respective successors
3 are elected and qualified. When any trustee ceases to be a
4 resident of his municipality, his office as trustee becomes
5 vacant. Trustees are subject to Title 30, section 2251.

6 2. Election. Within 60 days after the formation of a
7 district, the municipal officers of each municipality shall
8 appoint 2 members to the initial board of trustees. The
9 initial members shall agree, or determine by lot, the term
10 of each so that, as nearly as possible, an equal number will
11 serve for one year, an equal number for 2 years and an equal
12 number for 3 years. Thereafter, each year as the term of a
13 trustee expires, the legal voters of that trustee's municip-
14 ality, at an annual election, shall select a successor to
15 serve for a full term of 3 years. The annual election shall
16 be held concurrently with the election of municipal offi-
17 cers. The trustees shall conspicuously post notice of the
18 election in 2 public places within each municipality of the
19 district, not less than 7 days before the election. Any
20 vacancy in the board shall be filled by the municipal offi-
21 cers for the unexpired term.

22 3. Meetings. As soon as convenient after each annual
23 election, the trustees shall hold a meeting at the offices
24 of the district, elect a chairman and clerk and adopt a cor-
25 porate seal. They may choose a treasurer and all other
26 officers and agents for the proper management of the affairs
27 of the district. Other meetings of the trustees may be
28 called by the chairman or by any 3 of the trustees, after
29 prior notice to the public. Trustees shall determine their
30 own compensation, not to exceed \$10 per meeting per trustee.
31 A majority of trustees shall constitute a quorum. The
32 trustees shall conduct public hearings whenever they propose
33 matters affecting rates, bylaws, service, an annual budget
34 or their own compensation.

35 §2958. Powers of district

36 A district may:

37 1. Sue. Sue or be sued in its capacity as a district;

38 2. Electric energy. Generate, manufacture, purchase,
39 acquire, accumulate, transmit, distribute, sell, supply and
40 dispose of electric energy to individuals and corporations
41 within the district;

1 3. Assist users. Assist persons who are or will be
2 users of electric energy supplied by the district in making
3 repairs and energy saving improvements to improve energy
4 efficiency in buildings;

5 4. Acquire plants and equipment. Construct, purchase,
6 lease, equip, maintain and operate electric transmission and
7 distribution lines or systems, electric generating plants,
8 lands, buildings, structures, dams, equipment and any other
9 real or personal property, tangible or intangible which are
10 deemed necessary, convenient or appropriate to accomplish
11 the purposes of this chapter;

12 5. Contract. Contract and be contracted with;

13 6. Gain access. Gain access, through its officers or
14 agents, to all premises served by its transmission lines,
15 poles and wires at all reasonable hours to ascertain the
16 amount of electric power purchased;

17 7. Borrow money. Issue bonds and notes, including
18 revenue obligation securities as otherwise authorized by
19 this chapter, to such amounts as the Public Utilities Com-
20 mission may authorize for the purpose of raising the amount
21 required to accomplish the purposes of this chapter. The
22 bonds and notes may be of the date and denomination and
23 payable at such times and places and bear such rate of
24 interest as the district may authorize in accordance with
25 the procedures of section 2959. The district may borrow
26 money temporarily, for periods of less than one year, with-
27 out vote of the inhabitants, except as provided in this
28 chapter, in amounts which in the judgment of the trustees
29 are necessary to accomplish the purposes of this chapter;

30 8. Bylaws. Make and enforce bylaws, rules for the
31 conduct of the district affairs and business and for use of
32 its services and facilities; and

33 9. Other consistent acts. Do and perform any other
34 acts and things which may be necessary, convenient or appro-
35 priate to accomplish the purposes of this chapter.

36 §2959. Issuance of Bonds and Notes

37 1. Notice. In the event that the trustees vote to
38 authorize bonds or notes for a period exceeding one year or
39 for acquisition of any plant or equipment, they shall pro-
40 vide notice to the general public of the proposed bond or
41 note issue and the purposes for which the debt is being

1 issued. The notice shall be published at least once in a
2 newspaper having general circulation in the district. The
3 trustees shall give notice to each ratepayer by mail. No
4 such debt may be incurred under the vote of the trustees
5 until the expiration of 7 full days following the date on
6 which the notice was first published and mailed.

7 2. District approval. The procedure for district
8 approval of the issuance of bonds and notes shall be as fol-
9 lows.

10 A. For bonds or notes which singly or in the aggregate
11 included in any one financing amount to \$150,000 or
12 more, subject to adjustment relative to 1981 as the
13 base year according to the Annual Consumer Price Index,
14 as published by the appropriate federal agency, the
15 trustees shall call a special district meeting for the
16 purpose of permitting members of the public to express
17 their views concerning the proposed amount of debt.
18 That meeting shall also express approval or disapproval
19 of the proposed amount of debt. If a majority of
20 voters present and voting expresses disapproval of the
21 amount of debt proposed by the trustees, the debt shall
22 not be incurred and the vote of the trustees authoriz-
23 ing it shall be of no effect.

24 B. The procedure of paragraph A shall also be followed
25 for debts in amounts smaller than the amount specified
26 in paragraph A, if requested by petition of not less
27 than 50 qualified voters of the district, filed with
28 the clerk of the district before the expiration of 7
29 full days after publication of the public notice re-
30 quired under subsection 1.

31 §2960. Revenue obligation securities

32 A district created under this chapter shall be deemed a
33 municipality for purposes of Title 10, chapter 110, subchap-
34 ter IV, with respect to a qualifying electric generating
35 system, electric distribution system, or both. The board of
36 trustees are deemed to be municipal officers for purposes of
37 that subchapter.

38 §2961. Eminent domain

39 A district may exercise the right of eminent domain to
40 take and hold any land, real estate, easements or interest
41 therein necessary for carrying out the purposes of this
42 chapter. A district may not condemn any generating, trans-

1 mitting or distribution facility of any existing electric
2 utility system, except easements for rights-of-way for the
3 construction of transmission lines. Title to property ac-
4 quired shall be taken in the name of the district, and such
5 proceedings shall be instituted and conducted in accordance
6 with and subject to chapter 263. The acquisition of any
7 such property by a district by condemnation or the exercise
8 of eminent domain is declared to be for a public use of that
9 property.

10 §2962. Rates

11 All individuals, firms and corporations, whether pri-
12 vate, public or municipal, shall pay to the district the
13 rates established by the trustees for the electricity used
14 by them and the rates shall not be unjustly discriminatory
15 within the district. The rates shall be established in ac-
16 cordance with this chapter and shall provide for the follow-
17 ing purposes only:

18 1. Payment of current expenses of operation and
19 maintenance. To pay the current expenses for operating and
20 maintaining the electric system, including the cost of fuel
21 and to provide for normal renewals and replacements;

22 2. Payment of interest indebtedness. To provide for
23 the payment of the interest on the indebtedness created or
24 assumed by the utility;

25 3. Extinguishment of term indebtedness. To provide
26 each year a sum equal to not less than 2% nor more than 10%
27 of the term indebtedness represented by the issuance of
28 bonds created or assumed by the utility, which sum shall be
29 turned into a sinking fund and there kept to provide for the
30 extinguishment of term indebtedness. The money set aside in
31 this sinking fund shall be devoted to the retirement of the
32 term obligations of the utility and may be invested in such
33 securities as savings banks in the State are allowed to
34 hold; and

35 4. Principal payments on serial indebtedness. To pro-
36 vide for annual principal payments on serial indebtedness
37 created or assumed by the utility.

38 §2963. Rate setting

39 Notwithstanding section 69, municipal power districts
40 which are electric companies within the definition of
41 section 15, shall be subject to the suspension, investiga-

1 tion, hearing and rate substitution provisions of section 69
2 under the conditions specified in this section.

3 Municipal power districts which elect to set rates
4 under this section shall not file with the commission or
5 increase any rate, toll or charge without first holding a
6 public hearing at which any person, firm or corporation
7 which pays those rates, tolls or charges to the district may
8 appear and may question the officials present regarding such
9 proposed increase. The municipal power district as de-
10 scribed in this section shall, at least 14 days prior to the
11 hearing, publish a notice of the proposed rate increase and
12 the hearing including the date, time, place and purpose of
13 the hearing at least twice in a newspaper of general circu-
14 lation in the area encompassed by the district. In addi-
15 tion, each municipal power district shall mail notice of the
16 proposed rate increase and the date, time and place of the
17 hearing to each of its ratepayers. At the commencement of
18 each hearing held pursuant to this section, the district
19 shall inform those present that the rate increase may be
20 investigated by the Public Utilities Commission in accord-
21 ance with this section.

22 If, on or before the effective date of the rate change,
23 15% of the customers of the municipal power district or
24 1,000 customers, whichever is less, file with the treasurer
25 of the district and with the Public Utilities Commission
26 petitions demanding a review of the rate changes by the
27 Public Utilities Commission, the rate change may be sus-
28 pending, investigated, reviewed and changed in accordance
29 with section 69.

30 Nothing in this section may prohibit a municipal power
31 district from petitioning the Public Utilities Commission
32 for review pursuant to section 69 in the first instance.

33 Upon review of a rate filing made pursuant to this
34 section, the Public Utilities Commission may order the
35 municipal power district to correct any mathematical or
36 clerical errors.

37 §2964. Quasi-municipal body

38 A municipal power district formed in accordance with
39 this chapter is a quasi-municipal corporation within the
40 meaning of the laws of this State, including, but not re-
41 stricted to, Title 36, section 651.

42 §2965. Existing service areas

