

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

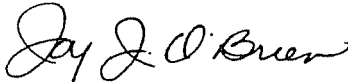
No. 1982

S.P. 757

In Senate, December 18, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Received by the Secretary of the Senate on December 18, 1989. Referred to the Committee on Utilities and 1,600 ordered printed pursuant to Joint Rule 14.


JOY J. O'BRIEN
Secretary of the Senate

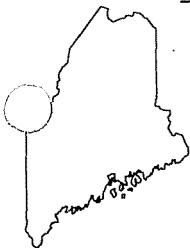
Presented by Senator BOST of Penobscot.

Cosponsored by Representative CLARK of Millinocket, Representative PARADIS of Old Town and Representative MARSH of West Gardiner.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Preserve the Natural Values of Public Water Utility Lands.



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

35-A MRSA c. 68 is enacted to read:

CHAPTER 68

PRESERVATION OF NATURAL VALUES OF

PUBLIC WATER UTILITY LANDS

§6801. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Easement grantee. "Easement grantee" means the State, an agency of the State, a municipality or other governmental body, or a private nonprofit organization qualified to accept conservation easements under Title 33, chapter 7, subchapter VIII-A.

2. Public water utility. "Public water utility" means a consumer-owned water utility as defined by section 6101, subsection 1-A.

3. Water resource land. "Water resource land" means any land or property owned by a water utility for the purposes of providing a source of supply, storing water or protecting sources of supply or water storage, including reservoirs, lakes, ponds, rivers and streams, land surrounding or adjoining reservoirs, lakes, ponds, rivers or streams, wetlands and watershed areas, provided that the land or rights to that land were granted by law, or acquired by a grant or transfer from any governmental body, by the exercise of eminent domain or by other acquisition within an area where the water utility had the authority to exercise eminent domain or provided that the land or property has been made exempt from property taxation.

§6802. Preservation of natural values

This chapter provides for the preservation and conservation of the natural values of land that has been acquired by or granted to water utilities to serve the public interest. The protection provided in this chapter ensures that this land will be preserved consistent with the public purpose for which the land was acquired or granted and that future needs for adequate water supplies may be preserved.

1. Maintenance of values. Except as provided in section 6804, subsection 2, a public water utility shall preserve the

2 natural values of water resource land that the utility owns or
3 controls. Preservation includes, but is not limited to,
4 maintaining the following values:

5 A. Open space;

6 B. Visual and scenic values;

7 C. Existing plant and wildlife habitats; and

8 D. Forest cover, consistent with practices conventionally
9 used to encourage the long-term improvement of conditions
10 favorable to the use of the land as a public resource.

11 The public water utility may limit any activities of the public
12 to protect the quality and quantity of the water supply and to
13 maintain these values.

14 2. Prohibited activities. Except as provided in section
15 6804, subsection 2, a public water utility shall not permit the
16 following activities to take place on water resource land:

17 A. Real estate development or the construction of any
18 structures;

19 B. Recreational use by means other than by foot or by
20 nonmechanically powered watercraft;

21 C. Removal of any overburden, topsoil, mineral, gravel or
22 stone; or

23 D. Disposal of any material or waste from outside the
24 property or land.

25 3. Permitted activities. The public water utility shall
26 permit and encourage public recreational use of the property and
27 use of the property for educational purposes if that use is
28 consistent with the purposes and limitations of this section.

29 4. Conservation easement. A public water utility may
30 satisfy the requirements of this section by granting a
31 conservation easement, containing the same requirements, to a
32 qualified grantee, subject to the approval of the commission
33 under section 6083.

34 **§6803. Transfer of water resource land**

35 1. Approval by commission. A public water utility may not
36 sell, convey, mortgage, grant an easement of or transfer water
37 resource land without securing the approval of the Public
38 Utilities Commission under section 1101, regardless of whether
39 the land is currently necessary or useful in the performance of
40 its water supply duties to the public. If the commission finds

2 that the land is not necessary or useful in the performance of
3 the water utility's duties to its consumers, the commission shall
4 approve the transfer if it finds that the transfer is in
5 accordance with subsection 2.

6 2. Limitations on transferred land. Any water resource
7 land transferred by a public water utility must be made subject
8 in perpetuity to such easements or deed restrictions, to be held
9 by an easement grantee or otherwise made enforceable by law,
10 necessary to ensure that the land continues to be subject to the
11 requirements of section 6802.

12 3. Notice of transfer. The public water utility or the
13 commission shall provide 8 months' prior notice of any proposed
14 transfer of water resource land to the State Planning Office in
15 writing and to the public by the means set forth in Title 5,
16 section 9052, subsection 3 and in the manner described in Title
17 5, section 9052, subsection 4. The commission may reduce the
18 notice period if necessary for good cause shown by the public
19 water utility. Any interested person, governmental agency or
20 qualified easement grantee has the right to intervene and
21 participate in the transfer proceedings.

24 §6804. Commission jurisdiction

25 1. Disputes. Upon application by a public water utility,
26 on the commission's own motion or pursuant to a petition filed by
27 10 or more persons, the commission has jurisdiction to resolve
28 any dispute involving the application of this chapter and the
29 acts or practices of a water utility with respect to this chapter.

30 2. Exception. Upon application by a public water utility
31 and after notice as required by section 6803, subsection 3, the
32 commission may grant an exemption to section 6802 if the
33 commission finds that such an exemption is necessary for the
34 utility to carry out its responsibility to provide an adequate
35 supply of quality water at a reasonable price. The commission
36 shall limit or condition the exception in a manner that minimizes
37 the impact on the land involved. The commission shall also grant
38 an exemption if the commission finds that there are no other
39 means to meet the needs of the water utility which have less
40 impact on the water resource land. In no case may an exemption
41 be granted that permits sale of public water utility land without
42 the prior placement of deed restrictions pursuant to section 6803.
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46 STATEMENT OF FACT

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50 The purpose of this bill is to protect the public interest
51 in valuable natural resource land and property that has been
52 acquired by water utilities to serve public purposes. The bill
requires water utilities to maintain the natural values of land

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acquired for public purposes and to ensure that such values are maintained if the land is deeded to new owners.