

MAINE STATE LEGISLATURE

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UTILITIES AND ENERGY

Reported by: Senator Carey

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STATE OF MAINE
SENATE
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 238, L.D. 807, Bill, "An Act to Adopt a New Charter for the Winthrop Water District"

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the Charter of the Winthrop Utilities District'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. P&SL 1923, c. 98, §1, as amended by P&SL 1975, c. 44, §1, is repealed and the following enacted in its place:

Sec. 1. Territorial limits; name; purposes. The inhabitants and territory within the Town of Winthrop in Kennebec County constitute a quasi-municipal corporation under the name of "Winthrop Utilities District," referred to in this Act as the "district," for the purpose of supplying the inhabitants of the district with potable water and sewage treatment and sewage disposal services for domestic, sanitary, commercial, agricultural and municipal purposes.

Sec. 2. P&SL 1923, c. 98, §2, as repealed and replaced by P&SL 1955, c. 182, §2, is repealed and the following enacted in its place:

Sec. 2. Powers of district. For the purposes of its incorporation, the district may take, collect, store, flow, use, divert, distribute and convey to the district or any part of the

2 district, including, without limitation, Narrows Pond, so-called,
3 in Winthrop, and from Maranacook Lake in the Town of Winthrop and
4 the Town of Readfield water from any natural or artificial source
5 approved by the Department of Human Services within the area of
6 the Town of Winthrop and the Town of Readfield and from any other
7 source from which the district may take water. It may also
8 locate, construct and maintain aqueducts, pipes, conduits, dams,
9 wells, reservoirs, standpipes, hydrants, pumping stations and
10 other necessary structures and equipment and do anything
11 necessary to furnish water and sewage treatment and collection
12 facilities for public purposes and for the public health, comfort
13 and convenience or may contract to do any and all of these things.

14 All incidental powers, rights and privileges necessary to
15 accomplish the main objectives set forth in this Act are granted
16 to the district.

17 **Sec. 3. P&SL 1923, c. 398, §3,** as repealed and replaced by P&SL
18 1955, c. 182, §3, is repealed and the following enacted in its
19 place:

20 **Sec. 3. Rights of eminent domain.** For the purposes of its
21 incorporation, the district may take and hold for public uses
22 real estate and personal estate and any interest in real estate
23 and personal estate necessary or convenient for those purposes by
24 purchase, lease or otherwise and may exercise the right of
25 eminent domain as provided in this Act to acquire for those
26 purposes any land or interest in land or water rights necessary
27 for erecting and maintaining dams, plants and works for flowage,
28 power, pumping, supplying water through its mains; for
29 reservoirs, preserving the purity of the water and watershed; for
30 laying and maintaining aqueducts and other structures; for
31 taking, distributing, discharging and disposing of water; or
32 taking, handling, treating, collecting and disposing of sewage;
33 and for rights-of-way or roadways to its sources of supply, dams,
34 power stations, reservoirs, mains, aqueducts, structures and
35 lands.

36 This section may not be construed as authorizing the
37 district to take by right of eminent domain any of the property
38 or facilities of any other public utility used or acquired for
39 future use by the owner of that property or those facilities in
40 the performance of a public duty unless expressly authorized to
41 do so by this section or by subsequent act of the Legislature.

42 For the purposes outlined in this section, the district may
43 do any and all things necessary in providing a water supply and a
44 system of sewage treatment and collection and drainage for public
45 purposes and for the public health, comfort and convenience.

2 **Sec. 4. P&SL 1923, c. 98, §4** is repealed and the following
enacted in its place:

4
6 **Sec. 4. Authorized to lay mains, pipes, conduits and other water**
conveyances through public ways and across private lands. The district
8 may lay in and through the streets, roads, ways, highways and
bridges in the Town of Winthrop and across private lands in the
10 Town of Winthrop and maintain, repair and replace pipes, mains,
conduits, aqueducts and fixtures and appurtenances necessary and
12 convenient for its corporate purposes and whenever the district
lays any pipes, mains, conduits, aqueducts and fixtures or
14 appurtenances in any street, road, way or highway, the district
shall do so with as little obstruction as practicable to the
16 public travel and at its own expense, without unnecessary delay,
shall replace in proper condition the earth and pavement removed
by the district.

18
20 **Sec. 5. P&SL 1923, c. 98, §5,** as repealed and replaced by P&SL
22 1955, c. 182, §4, is repealed and the following enacted in its
place:

24 **Sec. 5. Authorized to erect dams and reservoirs; to cross navigable**
waters; to supply water to utilities. For the purposes of its
26 incorporation, the district may erect and maintain all dams,
reservoirs and structures necessary and convenient for its
28 corporate purposes. The district may lay, construct and maintain
its pipes and fixtures in, over and under navigable waters and
30 build and maintain structures for the pipes and fixtures, subject
to the laws of the United States. The district may supply water
32 to any public utility now supplying water in Kennebec County,
subject to the consent of the Public Utilities Commission.

34 **Sec. 6. P&SL 1923, c. 98, §§6, 7 and 8** are repealed and the
following enacted in their place:

36
38 **Sec. 6. Procedure in exercising of eminent domain.** In exercising,
from time to time, any right of eminent domain in the taking of
40 land, interests in the land or water rights, the district shall
file in the office of the county commissioners of Kennebec County
42 and record in the Kennebec County Registry of Deeds plans of the
location of all property to be taken, with an appropriate
44 description of the property and the names of the owners, if
known. Notice of the filing must be sent by mail to the owners
46 at the address appearing on the tax records of the municipality
in which the land is located. When for any reason the district
48 fails to acquire the property it is authorized to take and which
is described in that location, or if the location recorded is
50 defective or uncertain, it may, at any time, correct and perfect
that location and file a new description, and in that case the
district is liable for damages only for property for

1 which the owner had not previously been paid, to be assessed as
2 of the time of the original taking, and the district is not
3 liable for any acts that would have been justified if the
4 original taking had been lawful. Entry may not be made on any
5 private lands, except to make surveys, until the expiration of 10
6 days from the filing in the office of the county commissioners,
7 at which time possession may be had of all lands, interests in
8 the lands or water rights, but title does not vest in the
9 district until payment has been made.

10 **Sec. 7. Adjustment of damages; procedure as in laying out of**
11 **highways.** If any person sustaining damages by any taking
12 pursuant to the right of eminent domain does not agree with the
13 district upon the sum to be paid for the taking, either party,
14 upon petition to the county commissioners of Kennebec County, may
15 have the damages assessed by the commissioners. The procedure
16 and all subsequent proceedings and right of appeal are under the
17 same restrictions, conditions and limitations as are prescribed
18 by law for damages caused by the laying out of highways.

19 **Sec. 8. Procedure if public utility must be crossed.** If the
20 district must cross the property of any other public utility, it
21 shall request permission from the company owning and operating
22 the public utility as to place, manner and conditions of the
23 crossing. If consent to the crossing has not been given within
24 30 days, the Public Utilities Commission, upon petition by the
25 district, shall determine the place, manner and conditions of the
26 crossing, and all work on the property of the public utility must
27 be done under the supervision and to the satisfaction of the
28 public utility or as prescribed by the Public Utilities
29 Commission, but at the expense of the district.

30 **Sec. 7. P&SL 1923, c. 98, §9,** as amended by P&SL 1975, c. 44,
31 §2, is repealed and the following enacted in its place:

32 **Sec. 9. Trustees; how elected; first board; meeting; officers.** All of
33 the affairs of the district must be managed by a board of
34 trustees composed of 3 members, all of whom must be residents of
35 the district. They are appointed by the municipal officers of
36 the Town of Winthrop. As soon as convenient after the members of
37 the board have been chosen, the trustees shall hold a meeting and
38 organize by the election of a president, secretary, treasurer and
39 all other officers and agents needed for the proper conduct and
40 management of the affairs of the district. Trustees in office on
41 the effective date of this Act may continue in office for the
42 remainder of their terms. When the term of office of a trustee
43 expires, that trustee's successor is appointed by the municipal
44 officers of the Town of Winthrop to serve for the full term of 3
45 years and when any other vacancy arises that vacancy must be
46 filled.

2 filled in the same manner for the unexpired term. All trustees
3 are eligible for reappointment, but a municipal officer of the
4 Town of Winthrop may not at any time be eligible to serve as a
5 trustee. The term of office of each trustee begins April 1st of
6 each year.

7 The trustees of the district receive compensation as
8 recommended by the trustees and approved by a majority of the
9 municipal officers of the Town of Winthrop, including
10 compensation for any duties they perform as officers as well as
11 their duties as trustees. The trustees may maintain an office
12 and incur any necessary expenses. When a trustee ceases to be a
13 resident of the district, the trustee vacates the board of
14 trustees.

15 All decisions of the board of trustees must be by a majority
16 of those present and voting. A quorum of the board of trustees
17 is 2 trustees.

18 The treasurer shall furnish bond in such sum and with such
19 sureties as the trustees may approve. The trustees shall publish
20 an annual report that includes a report of the treasurer.

21 Trustees may also establish such bylaws as are necessary for
22 their own convenience in the proper management of the district.

23 **Sec. 8. P&SL 1923, c. 98, §§10, 11 and 12 are repealed.**

24 **Sec. 9. P&SL 1923, c. 98, §12-A is enacted to read:**

25 **Sec. 12-A. District and Winthrop authorized to make and assume**
26 **contracts. The district, through its trustees, may contract with**
27 **persons and corporations, including the Town of Winthrop, and the**
28 **Town of Winthrop may contract with the district for the supply of**
29 **water for municipal purposes for the use of sewerage and drainage**
30 **facilities.**

31 **Sec. 10. P&SL 1923, c. 98, §13, as amended by P&SL 1985, c. 47,**
32 **is repealed and the following enacted in its place:**

33 **Sec. 13. Authorized to receive government aid; borrow money; issue**
34 **bonds and notes. For accomplishing the purposes of this Act and**
35 **for such other expenses as may be necessary for the carrying out**
36 **of these purposes, the district, through its trustees, without**
37 **vote of the inhabitants, may receive state and federal aid**
38 **grants, borrow money temporarily and issue for the money its**
39 **negotiable notes for the purpose of renewing and refunding that**
40 **indebtedness, for paying any necessary expenses and liabilities**
41 **incurred under this Act, including organizational and other**
42 **necessary expenses and liabilities, and in acquiring properties,**
43 **paying damages, laying pipes, mains, aqueducts and**

2 conduits, constructing, maintaining and operating a water or
3 sewage plant or system and making renewals, additions, extensions
4 and improvements to the water or sewage plant or system and to
5 cover interest payments during the period of construction. The
6 district, through its trustees, without the vote of its
7 inhabitants, may also issue, from time to time, in accordance
8 with the Maine Revised Statutes, Title 35-A, chapter 63, bonds,
9 notes or other evidences of indebtedness of the district in such
10 amount or amounts bearing interest at such rate or rates, selling
11 at par or at a discount or a premium and having such other terms
12 and provisions as the trustees determine, except that loans
13 running for one year or less do not require the Public Utilities
14 Commission's approval.

15 The bonds, notes and evidences of indebtedness may be issued
16 to mature serially or made to run for such periods as the
17 trustees determine. Bonds, notes or evidences of indebtedness
18 may be issued with or without provisions for calling the bonds,
19 notes or evidences of indebtedness prior to maturity and, if
20 callable, may be made callable at par or at such premium as the
21 trustees determine. All bonds, notes or other evidences of
22 indebtedness must have inscribed upon their face the words
23 "Winthrop Utilities District," and be signed by the treasurer and
24 countersigned by the president of the board of trustees of the
25 district. If coupon bonds are issued, the interest coupon
26 attached to the coupon bonds must bear the facsimile signature of
27 the treasurer.

28 All bonds, notes and evidences of indebtedness issued by the
29 district are legal obligations of the district within the meaning
30 of the Maine Revised Statutes, Title 30-A, section 5701.

31 The district may refund and reissue, from time to time, in
32 one or in separate series, its bonds, notes and other evidences
33 of indebtedness, and each authorized issue constitutes a separate
34 loan. All bonds, notes and evidences of indebtedness issued by
35 the district are legal investments for savings banks in the State
36 and are free from taxation.

37 **Sec. 11. P&SL 1923, c. 98, §14** is amended to read:

38 **Sec. 14. Property exempt from taxation.** The property of said
39 the district shall-be is exempt from all taxation in the town
40 Town of Winthrop and in any other towns where any part of its
41 plant may be located.

42 **Sec. 12. P&SL 1923, c. 98, §15,** as amended by PL 1975, c. 461,
43 §5, is repealed and the following enacted in its place:

44 **Sec. 15. Rates; application of revenue; sinking fund.** The

2 rates established pursuant to this section must be sufficient to
3 provide revenue for the purposes of this Act and for all other
4 purposes of the district, without the need for any financial
5 assistance from the Town of Winthrop, other than the normal
6 payment of water charges for services rendered and the loan or
7 loans for initial funds as set forth in section 13. Individuals,
8 firms and corporations, whether private, public or municipal,
9 shall pay to the treasurer or other designated officer of the
10 district the rates established by the board of trustees for the
11 water used by them. The water rates must be established in
12 accordance with the Maine Revised Statutes, Title 35-A, chapter
13 61, to provide for the purposes set forth therein. The sewer
14 rates and assessments must be established and collected in
15 accordance with Title 38, section 1202.

16 **Sec. 13. P&SL 1923, c. 98, §15-A,** as enacted by P&SL 1965, c.
17 126, is repealed.

18 **Sec. 14. P&SL 1923, c. 98, §16,** as amended by P&SL 1983, c. 12,
19 is repealed.

20 **Sec. 15. P&SL 1923, c. 98, §§16-A, 16-B and 16-C** are enacted to
21 read:

22 **Sec. 16-A. Inspection of sewers.** The officers or agents of the
23 district have free access to all premises served by its sewers,
24 at all reasonable hours, for inspection of plumbing and sewage
25 fixtures, to ascertain the quality and quantity of sewage
26 discharged and the manner of discharge and to enforce applicable
27 provisions of this Act.

28 **Sec. 16-B. Connection of private sewers.** Every building in the
29 district intended for human habitation or occupancy or with
30 facilities for discharge or disposal of wastewater or commercial
31 or industrial waste that is accessible to a sewer or drain of the
32 district must have a sanitary sewer or drainage system connected
33 in the most direct manner possible with the sewer or drain of the
34 district by the owner or person against whom taxes on the
35 premises are assessed within 90 days after receiving request from
36 the district or within such further time as the trustees of the
37 district may grant and, if feasible, with a separate connection
38 for each building. Existing buildings that are already served by
39 a private sewer or drainage system are not required to be
40 connected with any sewer or drain of the district as long as the
41 private sewer or drainage system functions in a satisfactory and
42 sanitary manner and does not violate any applicable law or
43 ordinance or any applicable requirement of the state plumbing
44 code as determined by the municipal plumbing inspector, the
45 plumbing inspector's alternate or, in the event that both are
46

trustees or employees of the district, the Department of Human Services, Division of Health Engineering. A building is considered accessible to a sewer or drain of the district for the purposes of this section if the building or any private sewer or drain directly or indirectly connected to the building or carrying wastewater or commercial or industrial waste from the building at any point is or comes within 125 feet of a sewer or drain of the district except that nothing in this section requires the owner of any building to acquire any real property or easement for the sole purpose of making the connection.

Sec. 16-C. Injury to property of district. Any person who places, discharges or leaves any offensive or injurious matter or material on or in the conduits, catch basins or receptacles of the district or who knowingly injures any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet, engine, pump or other property held, owned or used by the district is liable to pay twice the amount of the damages to the district, to be recovered in any proper action.

Sec. 16. Existing laws not affected; rights conferred subject to provisions of law. Except as expressly provided in this Act, nothing contained in this Act is intended to repeal or may be construed as repealing the whole or any part of any existing law, and all the rights and duties mentioned in this Act must be exercised and performed in accordance with all the applicable provisions of the Maine Revised Statutes, Title 35-A to the extent it affects the operations of the district. Nothing in this Act is intended to affect the existing contracts, bonds, notes or other obligations of the Winthrop Water District that by virtue of this Act is renamed the Winthrop Utilities District.

Sec. 17. Severability clause. If any section or part of a section of this Act is held invalid by a court of competent jurisdiction, the holding does not affect the remainder of this Act. Remaining portions of this Act stand, notwithstanding the unconstitutionality or invalidity of any section, sentence, clause or phrase.'

SUMMARY

This amendment replaces the bill. The amendment repeals and replaces most of the charter of the Winthrop Utilities District. The purpose of the changes is to update the charter language, to remove obsolete references and to preserve the district's tax-exempt status.