

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND SPECIAL SESSION

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1800

H. P. 1294

House of Representatives, January 9, 1968

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Burnham of Naples.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-EIGHT

AN ACT Creating the Harrison - North Bridgton Area Water District.

Emergency preamble. Whereas, there is an urgent need of fire protection by the addition of hydrants to the present water system; and

Whereas, funds and grants-in-aid are now available, which may not be available, if a water district is not formed at once; and

Whereas, it is necessary to take immediate steps to add said hydrants and to expand said existing water system to protect the health and welfare of the inhabitants of said water district; 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. Territorial limits; corporate name and purpose. The inhabitants of and the territory within that part of the Town of Harrison in the County of Cumberland and that part of the Town of Bridgton, more commonly referred to as North Bridgton, in the County of Cumberland, as is hereafter described: Beginning at a point on the shore of Long Lake in the Town of Bridgton, which point is due east of Maine State Highway Commission Station 165 + 00 on the Bridgton Road (State Road No. 117) which station is also 750 feet south, more or less, of the junction of the Bridgton Road and Main Street in the Town of Bridgton, thence in a westerly direction to said Maine State Highway Commis-

sion station 165 + 00 on the Bridgton Road; thence in a northerly direction to a point on the Chadbourne Hill Road which point is 2,000 feet, more or less, westerly of the intersection of the Chadbourne Hill Road and Main Street in Bridgton; thence in a northerly direction to a point on the Waterford Road (State Road No. 36) where the town line separating Bridgton and Harrison first crosses the Waterford Road (State Road No. 36); thence in an easterly direction to a **point** on the Norway Road (State Road No. 117) which point is 3,600 feet, more or less, northerly of the junction of the Norway Road and the Dawes Hill Road; thence in a southerly direction to a **point** on the Deertrees Road which point is 1,800 feet, more or less, northerly of the junction of the Deertrees Road and the Dawes Hill Road; thence in a southerly direction to a **point** on the Dawes Hill Road which point is 1,200 feet, more or less, northerly of the junction of Dawes Hill Road and Deertrees Road; thence in a southerly and westerly direction to a **point** on the Edes Falls Road, which point is 600 feet, more or less, southerly of the junction of Edes Falls Road and School Street; thence in a westerly and southerly direction to a **point** on Front Street, also known as the Naples Road (State Road No. 35) which point is 2,600 feet, more or less, southerly of the junction of Front Street and School Street; thence westerly 400 feet, more or less, to a **point** on the shore of Long Lake; thence following the shore of Long Lake in a northerly, westerly, and southerly direction to the point of beginning; shall be and are constituted a body politic and corporate under the name of the "Harrison - North Bridgton Area Water District," for the purpose of supplying the said District and the inhabitants of said District with pure water for domestic, commercial, sanitary, industrial, agricultural and municipal purposes.

The authority granted under this charter to serve that part of the Town of Bridgton described herein shall supersede the authority granted the Bridgton Water District to serve said area.

Sec. 2. Powers of Harrison - North Bridgton Area Water District. Said Harrison - North Bridgton Area Water District is authorized for the purposes of its incorporation to take, collect, store, flow, use, divert, distribute and convey to said district or any part thereof water from any lake, pond, stream or river, or from any surface or underground brooks, springs or veins of water, natural or artificial, within the area of the district or within the area of the Towns of Harrison or Bridgton, and it is also authorized to locate, construct and maintain, aqueducts, pipes, conduits, dams, wells, reservoirs, standpipes, hydrants, pumping stations and other necessary structures and equipment therefor, and do anything necessary to furnish water for public purposes and for the public health, comfort and convenience of the inhabitants and others of the district, or to contract to do any and all of the foregoing things.

All incidental powers, rights and privileges necessary to the accomplishment of the main objectives herein set forth are granted to said district hereby created.

Sec. 3. Authorized to lay mains, pipes, conduits, etc., through public ways and across private lands. The district is authorized to lay in and through the streets, roads, ways and highways of the Towns of Harrison or Bridgton, and across private lands therein, and to maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures and appurtenances as may be necessary and convenient for its corporate purposes, and whenever said district shall lay

any pipes, mains, conduits, aqueducts and fixtures or appurtenances in any street, road, way or highway, it shall cause the same to be done with as 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. 4. Rights of eminent domain. The said district, for the purposes of its incorporation, is authorized to take and hold, as for public uses, real estate and personal estate, and any interest therein, necessary or convenient for such purposes, by purchase, lease or otherwise and is expressly authorized to exercise the right of eminent domain, as hereinafter provided, to acquire for such purposes any land or interest therein or water rights necessary for erecting and maintaining dams, plants and works, for flowage, for power, for pumping, for supplying water through its mains, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining aqueducts 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, mains, aqueducts, structures and lands.

The said district is authorized, for the purposes of its incorporation, to erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes. Nothing herein contained shall be construed as authorizing said district to take by right of eminent domain any of the property or facilities of any other public service corporation used, or acquired for future use, by the owner thereof in the performance of a public duty, unless expressly authorized thereto herein or by subsequent Act of the Legislature.

Sec. 5. Procedure in exercising rights of eminent domain; assessment of damages; appeal procedure. In exercising any rights of eminent domain that are conferred upon said district, the district shall file for record in the registry of deeds in Cumberland County plans of the location of lands or interest therein to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so 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 is 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 act which would have been justified if the original taking had been lawful. No entry shall 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 such lands or interest therein so taken, but title thereto shall not vest in said district until paid for.

If any person sustaining damages by any taking as aforesaid shall not agree with the trustees of said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Cumberland County, may have said damages assessed by them. The procedure and all subsequent proceedings and the rights of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be prescribed in the case of damages by laying out of highways.

Sec. 6. Procedure if public utility must be crossed. In case of crossing of any public utility, unless consent is given by the company owning and operating such public utility as to place, manner and conditions of the crossing within 30 days after such consent is requested by such district, the Public Utilities Commission upon petition by the district shall determine the place, manner and conditions of such crossing, and all work on the property of such public utility shall be done under the supervision and to the satisfaction of such public utility, or as prescribed by the Public Utilities Commission, but at the expense of the district.

Sec. 7. Trustees; how elected; meetings; officers. All the affairs of said district shall be managed by a board of trustees composed of 5 members, all of whom shall be residents of the district and elected or appointed as hereinafter provided.

First board. The first 5 trustees shall be appointed as herein provided, namely, 3 shall be bona fide residents of the Town of Harrison and live within the area of the town included in the district and 2 of whom shall be bona fide residents of the Town of Bridgton and live within the area of the town included in the district. Thereafter, the only eligibility for the office of trustee shall be residence within the district and eligibility to vote, and all subsequent trustees shall be elected as herein provided at an annual election to be held on the first Monday of March in each year.

As soon as may be after the acceptance of this Act as hereinafter provided, the selectmen of the Town of Harrison shall appoint 3 trustees of said district to hold office as follows: One to serve until March, 1969; one to serve until March, 1970 and one to serve until March, 1971. And likewise, the selectmen of the Town of Bridgton shall appoint 2 trustees of said district to hold office as follows: One to serve until March, 1970 and the other to serve until March, 1971.

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 such notice. They shall then organize by electing from their own number a president and a clerk and, not necessarily from their own number, a treasurer. They shall adopt a corporate seal and may adopt bylaws and perform any other acts within the powers delegated to them by law.

Election of trustees. The trustees to be so elected shall be chosen by a plurality vote of the legal voters within said district. All nominations of candidates to be voted for shall be made by nomination papers signed in the aggregate for each candidate by not less than 25 qualified voters within said district. Each voter signing the nomination paper shall make his signature in person and add to it his place of residence, and each voter may subscribe to as many nominations as there are trustees to be elected and no more. Such nomination papers shall, before being filed, be submitted to the registrar of voters of the district, who shall forthwith certify thereon what number of the signatures are names of

qualified voters in said district; one of the signers to each such separate paper shall swear to the truth thereof and the certificate of such oath shall be annexed to or made under the nomination papers. Such nomination papers shall be filed with said clerk of the district at least 7 days, exclusive of Sundays, previous to the day of such election. With such nomination papers shall also 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 seasonably 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, the vacancy may be supplied in the manner herein provided for such nominations. 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 practicable, be furnished, or slips containing the new nomination shall be printed under the direction of the district clerk, which may be pasted in proper place upon the ballots, and thereafter shall become part of said ballots as if originally printed thereon.

Form of ballot. The ballot shall be substantially as follows: It shall contain the names of all candidates so nominated printed in one column under the heading, "For Trustees of Harrison - North Bridgton Area Water District." Above such heading shall be printed "Vote for Two," or such number as may be appropriate, "Trustees." Make a cross (X) or a check mark (V), to the right of each name voted for. As many blank spaces shall be left after the name of the candidates as there are trustees to be elected, in which the voter may by writing insert the name or names of any person or persons for whom he desires to vote. In casting his ballot the voter shall mark a cross (X), or a check mark (V), against and to the right of such names on such ballot as he desires to vote for, not to exceed the number of trustees so to be elected. If the voter shall desire to vote for any person or persons whose name or names are not on the printed ballot, he may fill in such name or names in the blank spaces left therefor by writing the name therein. Where the voter so adds by writing in such new name or names, his vote for such new name or names shall be counted therefor although he may fail to mark a cross (X), or a check mark (V), against the same. The result of such election shall be declared by said trustees and due certificates thereof filed with the district clerk. All trustees shall serve until their successors are elected and qualified.

Meeting of trustees. Each year after the election of a trustee, or trustees, said trustees shall forthwith hold a meeting to elect officers as hereinafter provided. They shall organize by the election of a president and clerk, adopt a corporate seal, and, when necessary, may choose a treasurer and all other needful officers and agents for the proper conduct and management of the affairs of said district. They may also ordain and establish such bylaws as are necessary for their own convenience and the proper management of the affairs of the district. Whenever the term of office of a trustee expires, his successor shall be elected by a plurality vote by the inhabitants of said district, and upon nomination made as herein provided for the election of trustees; and for the purpose of such election a special election shall be called and held on the first Monday of March in each year, the

same to be called by the trustees of said district in the same manner as town meetings are called and for this purpose, the trustees are vested with the powers of selectmen of towns. The trustees so elected shall serve the full term of 3 years; and in case any vacancy arises in the membership of the board of trustees, it shall be filled in like manner for the unexpired term by special election to be called by the trustees of the district. When any trustee ceases to be a resident of the district, he shall vacate such office of trustee and the vacancy shall be filled as aforesaid. All trustees shall be eligible to reelection, but no person holding the office of selectman or road commissioner in the Towns of Harrison or Bridgton shall be eligible to nomination or election as trustee. Said trustees may procure an office and incur such expenses as may be necessary. Each member shall receive full compensation for his services in whatever capacity an allowance of \$200 per year and no more.

The trustees shall appoint a registrar of voters for said district, who may also be the registrar of voters for the Town of Harrison, and fix his salary. It shall be the registrar's duty to make and keep a complete list of all the eligible voters of said district, and the list prepared by him as provided by the laws of the State of Maine, shall govern the eligibility of any voter. In determining the eligible voters of the district, the registrar of voters shall exclude from his lists and from all checklists the legal voters who are resident outside the territorial limits of said water district as defined in this Act, and all warrants issued for elections by the trustees shall be varied accordingly to show that only the voters resident within the territorial limits of said water district are entitled to vote thereunder.

Sec. 8. Annual report. The trustees shall make and publish an annual report, including a report of the treasurer, and such report may be included in, and published as part of, the annual town reports of the respective Towns of Harrison and Bridgton.

Sec. 9. District and towns authorized to make and assume contracts. Said district, through its trustees, is authorized to contract with persons and corporations, including the Towns of Harrison and Bridgton, and said Towns of Harrison and Bridgton are authorized to contract with it, for the supply of water for municipal purposes.

Sec. 10. Authorized to acquire property and franchises of Harrison Water Company. The said district, through its trustees, is authorized to acquire by purchase, all of the entire plant, properties, franchises, rights and privileges owned by Harrison Water Company located within the Towns of Harrison and Bridgton, including all lands, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in said district. Said water district is further authorized and empowered to acquire by the exercise of the right of eminent domain, which right is hereby expressly delegated to said district for said purpose, the entire plant, properties, franchises, rights and privileges, except cash assets and accounts receivable, owned by Harrison Water Company, situate in the Towns of Harrison and Bridgton, including all lands, waters, water rights, dam structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in the area of the district, and if and when so acquired, the said district, in addition to the powers conferred by

this Act, shall have and enjoy and be entitled to exercise all the rights, privileges and franchises of said Harrison Water Company.

Sec. 11. Procedure in case trustees fail to agree on terms of purchase of property and franchise of Harrison Water Company. In case the said trustees fail to agree with the Harrison Water Company upon terms of purchase, then said water district, through the trustees aforesaid, is authorized to take said properties, interest and franchises of said Harrison Water Company as set forth in section 10, in the manner hereinafter provided wherein the Harrison Water Company and its mortgagees, if any, or those having any interest in any realty which is of record, shall be the parties defendant. Said water district, through its trustees, is authorized to file a petition in the clerk's office of the Superior Court for the County of Cumberland, addressed to any justice thereof who, after notice to said defendants aforesaid, shall, after hearing and within 60 days after the filing of said petition, appoint 3 disinterested appraisers at least one of whom shall be learned in the law and none of whom shall have residence in Cumberland County, for the purpose of fixing the valuations of the plant, property and franchises of said Harrison Water Company described in section 10. The petition shall also be filed in the registry of deeds in the County of Cumberland and the filing of said petition of taking shall immediately vest in the Harrison - North Bridgton Area Water District all interests of said Harrison Water Company insofar as the interests of said Harrison Water Company pertain to the water system, including all lands, water, water rights, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water, except cash assets and accounts receivable. The court may order under proper terms the production for inspection by the trustees or the said appraisers of all books and papers pertaining to the issue on petition for same by the petitioner unless same are voluntarily produced. The said appraisers shall have the power to administer oaths. The appraisers so appointed shall, after due notice and hearing, fix the valuation as of the date of filing said petition of said plants, properties and franchises at what they were fairly and equitably worth so that said water company shall receive just compensation for same. The report of said appraisers or of a majority of them, together with the report of a stenographer certified by said appraisers as correct, shall be filed in said clerk's office within 6 months after their appointment and any Justice of the Superior Court may, after notice and hearing, confirm or reject the same or recommit it if justice so requires. Upon the confirmation of said report, the court so sitting shall thereupon make final decree upon the entire matter, including the application of the purchase money and transfer of the property, jurisdiction over which is hereby conferred, and with the power to enforce said decree as in equity cases. All findings of fact by said court and the appraisers shall be final, but any party aggrieved may take an appeal as to any matters of law, the same to be accompanied by so much of the case as may be necessary to a clear understanding of the question raised thereby. Such appeal shall be claimed on the docket within 30 days after such final decree is signed, entered and filed and notice thereof has been given by the clerk to the parties and said appeal so claimed shall be made up, allowed and filed within said time unless further time is granted by the court or by agreement of the parties. They shall be entered at the next term of the law court to be held after the filing of such appeal and there heard, unless otherwise agreed, or the law court for good cause shall order further time for

hearing thereon. On payment or tender by said district of the amount determined by the final decree together with interest thereon at the legal rate from the date of the recording of the taking in the registry of deeds, and the performance of all other terms and conditions imposed by said court, the liability of said Harrison - North Bridgton Area Water District to the Harrison Water Company shall cease.

Sec. 12. Authorized to receive governmental aid, to borrow money, to issue bonds and notes. For accomplishing the purposes of this Act, and for such other expenses as may be necessary for the carrying out of said purposes, said district, through its trustees, without vote of the inhabitants, is authorized to receive both state and federal aid grants; to borrow money temporarily and to issue therefor its negotiable notes; and for the purpose of renewing and refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under this Act, including organizational and other necessary expenses and liabilities, whether incurred by the district or the Towns of Harrison and Bridgton, the district being authorized to reimburse said Towns of Harrison and Bridgton for any such expense incurred by them and in acquiring properties, paying damages, laying pipes, mains, aqueducts and conduits, constructing, maintaining and operating a water plant or system and making renewals, additions, extensions and improvements to the same and to cover interest payments during the period of construction. Said district, through its trustees, without the vote of its inhabitants, is also authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in one series, or in such amount or amounts, bearing interest at such rate or rates, selling at par, or at a discount or at premium and having such other terms and provisions as the trustees shall determine.

Said bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the trustees may determine. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same 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 "Harrison - North Bridgton Area Water District," shall be signed by the treasurer and countersigned by the chairman of the board of trustees of the district, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer.

All such 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 of 1964, Title 30, section 5053 and all provisions of said section shall be applicable thereto.

The district may refund and reissue, from time to time, in one or in separate series, its bonds, notes, and other evidences of indebtedness, and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by said district shall be legal investments for savings banks in the State of Maine.

Sec. 13. Property tax exempt. The property, both real and personal, rights and franchises of said district, shall be forever exempt from taxation in the Towns of Harrison and Bridgton.

Sec. 14. Rates; application of revenue; sinking fund. All individuals, firms and corporations, whether private or public, shall pay to the treasurer of said district the rates established by said board of trustees for the services used by them, and said water rates shall be uniform within the territory supplied by the district, and the water rates shall be subject to the approval of the Public Utilities Commission.

Said water rates shall be so established as to provide revenue for the following purposes :

1. **Current expenses.** To pay the current expenses for operating and maintaining the water system and to provide for such extensions and renewals as may become necessary.

2. **Payment of the interest.** To provide for payment of the interest on the indebtedness created or assumed by the district.

3. **Sinking fund.** To provide 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 said 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, as fiduciary or trustees in the State of Maine are now or hereafter allowed to hold. The trustees may, in their discretion and in lieu of the establishment of a sinking fund, issue the bonds of the district so that not less than 1% of the amount of the bonds so issued shall mature and be retired each year.

4. **Remaining surplus.** If any surplus remains at the end of the year, it may be turned into the sinking fund.

Sec. 15. Existing statutes not affected; rights conferred subject to provisions of law. Nothing herein contained 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 herein mentioned shall be exercised and performed in accordance with all the applicable provisions of the Revised Statutes of 1964, Title 35, and all Acts amendatory thereof and additional thereto, to the extent that said Title 35 and said amendments thereto affect the operations of the district.

Sec. 16. Act void unless property and franchise of Harrison Water Company is acquired. If said district, pursuant to the provisions hereof, shall fail to purchase or file its petition to take by eminent domain, before July 1, 1968, the plant, properties, franchises, rights and privileges owned by Harrison Water Company and used or usable in supplying water to a part of the Town of Harrison and to that part of the Town of Bridgton known as North Bridgton, then this Act shall be inoperative, null and void.

Emergency clause; effective date; referendum; certificate to Secretary of State. 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 district at a special election to be called and held for the purpose by the municipal officers of the Town of Harrison, which meeting shall be called and held within 30 days of the effective date of this Act. Said special election

shall be called, advertised and conducted according to the laws relating to municipal elections to the extent applicable hereto. In addition to the posting of the necessary warrant in the Town of Harrison, the municipal officers shall cause a copy of the warrant calling said special meeting, duly attested, to be posted in accordance with law in a conspicuous public place in that part of the Town of Bridgton included within the area of the district. The registrar of voters of the Town of Bridgton shall immediately and not later than 2 weeks after the effective date of this Act prepare a list of the eligible voters of the Town of Bridgton who live within the area of the district, and forward said list, so prepared, to the registrar of voters of Harrison. The registrar of voters of Harrison shall likewise prepare a list of the eligible voters of the Town of Harrison who live within the area of the district and shall combine therewith the list forwarded from the registrar of voters of Bridgton. This list shall become the legal list to be used at said special election. Persons claiming to be eligible voters in this special election whose names do not appear on the list so prepared shall present their claims to be listed as eligible voters to the registrar of voters of the Town of Harrison who shall be in session on the day preceding said special election to hear and determine such claims. After the list is complete, the registrar of voters of Harrison shall compute the total number of eligible voters on said list and certify the list and the total to the municipal officers of Harrison so that it will be available on the date of said special election.

The Town Clerk of Harrison shall prepare the required ballots. He shall reduce the subject matter of this Act to the following question: "Shall the Act Creating the Harrison - North Bridgton Area Water District, passed by the 103rd Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words "Yes" and "No" their opinion of the same.

The result of the vote in said District shall be declared by the municipal officers of the Town of Harrison and due certificate thereof filed by the town clerk of Harrison with the Secretary of State and if said result so filed shows that a majority of the vote is for approval of this Act, it shall take complete effect; provided, that the total number of votes cast for or against the acceptance of this Act equals or exceeds 20% of the total eligible voters which had been previously determined by the certificate and list filed by the registrar of voters of Harrison.