

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(EMERGENCY)

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 587

S. P. 202

In Senate, February 5, 1971

Referred to Committee on Legal Affairs. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Chick of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Creating the Cobbossee Watershed District.

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

Whereas, there exist serious problems in the Cobbossee watershed involving the height and purity of the waters thereof; and

Whereas, the following legislation is vitally necessary at once to control the level of such water and to improve the quality and purity of the same for the public health and welfare of the residents of said area and the people of the State; 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; name; purposes. The territory and inhabitants therein for the Towns and Cities of Mount Vernon, Readfield, Winthrop, Wayne, Monmouth, Manchester, Litchfield, West Gardiner, Gardiner and Richmond are created a body corporate and politic under the name of "Cobbossee Watershed District" for the purpose of protecting, improving and conserving the lakes, ponds and other major waterways within the territory of said district which comprise the Cobbossee watershed, so called, being Torsey Pond, Lake Maranacook, Lake Annabessacook, Lake Cobbosseecontee, Pleasant Pond, Berry Pond, Dexter Pond, Buker Pond, Cochnewagon Pond,

Hutchinson Pond, Jamies Pond, Jimmy Pond, Kezar Pond, Loon Pond, Narrows Ponds, Sand Pond, Purgatory (Woodbury) Pond, Shed Pond, Wilson Pond and Cobbosseecontee Stream down to 100 feet below the New Mills dam, so called, all for the public health and welfare and for the benefit of said residents and of the property on, adjacent to or near said watershed, in the manner, with the rights, duties and immunities hereinafter in this Act set forth.

Sec. 2. Authority to contract and maintain. Within said territory said district is hereby authorized to acquire, construct, reconstruct, operate and repair dams and facilities in connection therewith; to control the level of the water and to collect, hold and discharge the same; to improve the quality and purity of the water by treatment or otherwise; and in general, do any and all things incidental to accomplish the purposes of this Act.

Sec. 3. Trustees; appointment to office; tenure of office; vacancies; first meeting of organization of board; annual report. All of the affairs of said district shall be managed by a board of at least 14 but not exceeding 17 trustees, residents therein, who shall be chosen as hereinafter provided.

As soon as may be after the acceptance of this Act, as hereinafter provided, the municipal officers of said 10 municipalities and the trustees of the Augusta Water District, Winthrop Water District, Hallowell Water District and the Gardiner Water District shall each appoint a trustee to hold office as follows: Those appointed by Readfield, Winthrop, Monmouth, Wayne and Manchester shall be appointed for a 3-year term, those appointed by Litchfield, West Gardiner, Richmond, Mt. Vernon and Gardiner shall be appointed for a 2-year term and those appointed by said water districts shall be appointed for a one-year term. At the expiration of the original terms, all subsequent appointments shall be for a 3-year term. Each trustee appointed by a water district shall serve without vote until such time as a majority of the other trustees have determined that his water district is contributing a fair share of the costs of this district from which time he may vote until a determination is made otherwise. Any city, town or district bearing more than 15% of the annual costs of this district may be entitled to an additional trustee. At each annual meeting of said district, the trustees shall choose a chairman, a clerk and a treasurer to serve until the next annual meeting of said district and until their successors are elected and qualified. Whenever any trustee ceases to be a resident of said district, he vacates the office of trustee. Vacancies in the office of trustee shall be filled for the unexpired term by appointment by the municipal officers or trustees whom he represents.

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 10 members, not less than 2 full days before the meeting; provided, however, that they may meet by agreement without such notice. They shall then organize by electing from their own number a chairman and a clerk. They shall choose a treasurer, adopt a corporate seal and bylaws and perform any other acts within the powers delegated to them by law. They may choose and fix the compensation of any other necessary officers

and agents who shall serve at their pleasure. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost thereof to be paid by the district. Members of the board of trustees shall be eligible to any office under the board. The trustees, as such, shall receive \$50 per year compensation; 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.

Sec. 4. Right of eminent domain conferred. Said Cobbossee Watershed District is hereby expressly granted the right of eminent domain, and for the purposes of this Act is authorized to take and hold, either by exercising its right of eminent domain, or by purchase, gift, lease or otherwise, as for public uses any land, easements, dams, water rights or interests therein, and rights necessary for accomplishing its aforesaid purposes.

Sec. 5. Procedure under eminent domain. In exercising from time to time the right of eminent domain, said district, by its board of trustees, shall file in the office of the county commissioners of Kennebec or Sagadahoc County depending upon in which county the property is located and cause to be recorded in the registry of deeds in said county plans of the location of all lands or interests therein or rights in said county 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 and 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 acts 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 said lands or interests therein or property or rights to be taken, but title thereto shall not vest in said district until payment therefor.

Sec. 6. Assessment of damage by county commissioners; procedure on appeals. If any person sustaining damages by any taking as aforesaid shall not agree with said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Kennebec or Sagadahoc County, depending upon in which county the property is located, may have said damages assessed by them; 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 highways.

If any person sustaining damages by any taking as aforesaid shall prefer, he may have said damages determined as follows instead of having the county

commissioners act thereon. He shall notify the District in writing within 15 days of being informed by the District of the aforesaid filing in the registry of deeds of his desire to have said damages determined as hereinafter set forth. The district shall then file a petition in the clerk's office of the Superior Court for the county where the property is located addressed to any justice thereof who, after notice to said defendant aforesaid, shall, after hearing and within 60 days after the filing of said petition appoint 3 disinterested appraisers for the purpose of fixing the damages. 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 damages as of the date of filing said petition. 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 exceptions 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 exceptions shall be claimed on the docket within 10 days after such final decree is signed, entered and filed and notice thereof has been given by the clerk to the parties and said exceptions 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 exceptions and there heard, unless otherwise agreed, or the law court for good cause shall order further time for hearing thereon.

Sec. 7. Limitations on crossing a public utility. In case of crossing of any public utility, unless consent is given by the company owning or operating such public utility as to place, manner and conditions of the crossing within 30 days after such consent is requested by said district, the Public Utilities Commission 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, but at the expense of the district. Provided, however, nothin 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 or district used or acquired for future use by the owner thereof in the performance of a public duty unless expressly authorized herein or by subsequent Act of the Legislature.

Sec. 8. Contracts authorized. Said district is authorized to contract with persons and corporations, including municipal and quasi-municipal corpora-

tions, and they in turn are authorized to contract with the district for controlling the level of the water, for collecting, holding and discharging the same, for improving the quality and purity of the water, and for other purposes connected with and related thereto. Said district is authorized to accept grants or loans from any municipality, state or federal agency and any such municipality is authorized to make such grants or loans.

Sec. 9. Excavation or repair work, closing of ways. Whenever said district shall enter, dig up or excavate any public way the work shall be expeditiously done with the least possible interruption, and on completion of the work, the district shall restore said way or land to the condition it was in prior to such work, or to a condition equally as good.

Whenever the character of the work is such as to endanger travel on any public way, the municipal officers controlling said way may order a temporary closing of such way, and of any intersecting way, upon request of said district, and the way shall remain closed to public travel until said municipal officers deem it is restored to a condition safe for traffic.

Sec. 10. Property tax exempt. The property, rights and franchises of said district shall be forever exempt from taxation.

Sec. 11. Budget meeting. When a district budget meeting is called to approve the operating budget, reserve fund for a capital outlay purpose or capital outlay appropriations, the trustees shall call such meetings as follows:

1. **Warrant.** Each district meeting shall be called by a warrant. The warrant shall be signed by a majority of the trustees.

2. **Form.** The warrant for calling the district meeting shall be as follows:

A. It shall specify the time and place of the meeting.

B. It shall set forth the proposed budget and may include other items of business.

C. It shall be directed to any resident of the District by name ordering him to notify all voters within such district to assemble at the time and place appointed.

D. An attested copy of the warrant shall be posted by the person to whom it is directed in some conspicuous public place in each of the municipalities within the District at least 7 days before the meeting.

E. The person who gives notice of the meeting shall make his return on the warrant, stating the manner of notice in each municipality and the time when it was given.

3. **Applicable provisions.** The following provisions apply to the district meeting:

A. Each person whose name appears on the district voting list may attend and vote at a district budget meeting. Twenty-five shall constitute a quorum.

B. The chairman of the trustees shall open the meeting by call for the election of a moderator, receiving and counting votes for moderator, and swearing in the moderator.

C. As soon as he has been elected and sworn, the moderator shall preside at the meeting.

D. The clerk of the district shall record accurately all the votes of the district meeting.

4. **District voting lists.** The trustees shall appoint a resident of said district to make and keep a voting list of all residents in the district eligible to vote. This person shall be known as the registration clerk. The registration clerk shall compile his voting list from the voting list of all the municipalities lying within the District. At least 14 days before any budget meeting, the registration clerk shall bring his voting list up to date by comparing his list with those voting lists found in the municipalities within the District and by making such additions and deletions as he finds necessary. No additions or deletions shall be made in the 14-day period prior to said meeting.

Sec. 12. Power to borrow money. To procure funds for authorized purposes of the district, the trustees of said district are authorized to borrow funds to pay current operating expenses of the district but said loans must be repaid within one year. To procure funds for capital outlay purposes, the trustees of the district are authorized to issue bonds and notes of the district, not to exceed in the aggregate, at any one time outstanding, the limit of indebtedness of 3% of the total of the last preceding state valuation of all the participating municipalities. The issuing of bonds or notes for capital outlay purposes shall first be approved by a majority of those qualified voters of the district voting at a meeting called by the trustees under the procedure set forth in section 11 hereof. Each bond or note shall have inscribed upon its face the official name of the District and shall be dated at such time or times, shall be in such denomination, shall bear such rate of interest, payable semi-annually, be in such form subject to this section, and be sold in such manner, at public or private sale, as the trustees shall determine, provided that in no event shall bonds be sold for less than par. Each issue of said bonds shall mature in substantially equal annual installments, so that the first installment shall be payable not later than 2 years after the date of issue and the last installment not later than 25 years from the date thereof. When an issue of capital outlay bonds or notes has been properly authorized, the trustees prior to the issuance of said bonds or notes may borrow in anticipation of their sale by issuing temporary notes and renewal notes, the total face amount of which does not exceed at any one time outstanding the authorized amount of the capital outlay bonds or notes. If the proceeds of an issue of bonds are used in whole or in part to fund temporary notes of the district or renewals thereof, the period during which such issue of bonds shall be outstanding, plus the period of the loan represented by such temporary notes or renewals thereof, shall not exceed 25 years. All notes or bonds issued by said trustees on behalf of the district shall be signed by the treasurer and countersigned by the chairman of said board of trustees and if coupons be issued, each coupon shall be attested by a facsimile signature of the treasurer printed

thereon. Said notes and bonds, and loans to pay current operating expenses shall be legal obligations of said district, which is declared to be a quasi-municipal corporation within the meaning of Title 30, Section 5053 and all the provisions of said section shall be applicable thereto.

Sec. 13. Financing. The trustees of the district shall annually, before February 1st of each year, determine the sum required each year to meet the bonds falling due and what further sum is necessary to meet the interest on said bonds or other obligations and all other expenses necessary for the operation of the district, including temporary loans. Before March 1st of each year, the trustees shall hold a district budget meeting. At this meeting the budget shall be thoroughly explained and the voters of the district shall be given an opportunity to be heard. A budget must be approved by the voters of the district at the district budget meeting. At the district budget meeting, only those items dealing with the expenses necessary to operate the district, appropriations for a reserve fund and capital outlay appropriation shall be subject to change by the voters. If a budget for the operation of the district is not approved prior to April 1st in any given year, the budget as submitted by the trustees for operational expenses, reserve fund and capital outlay purposes shall be automatically considered the budget approved for operational expenses in the ensuing year, and the other amounts submitted for payment of bonds falling due and interest thereon, including temporary loans for capital purposes shall be added together and the total amount assessed as follows: The trustees shall thereupon issue their warrants, in substantially the same form as the warrant of the Treasurer of State for taxes, to each participating municipality requiring them to pay their proportionate part of the budget of the district based upon the valuation of the area of the municipality benefiting by the program and the consequent expenses of the district. The valuation of the area of the municipality so benefited shall be the fair value of land and buildings located within 600 feet of the shore of the lakes, ponds and waterways set forth in section 1 hereof within said municipality. Each municipality shall pay its proportionate part of the budget based upon its aforesaid valuation. In the year in which the assessment is so levied, the treasurer of each municipality shall pay the amount of the assessment so levied in 3 equal installments to the treasurer of the District. The first installment shall be paid on or before May 1st, the 2nd installment shall be paid on or before September 1st and the 3rd installment on or before December 31st.

The trustees of the District shall initially and from time to time determine the aforesaid valuation of each municipality and any person aggrieved may appeal within 30 days of the issue of the District's warrant to the Superior Court for review thereof.

Any water district benefiting from the services of this district shall have the right to contribute funds to this district as a utility operating expense.

Sec. 14. Incidental powers and rights. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this Act, as hereinbefore set forth, are granted to said district; including the right of the trustees to determine when and where facilities are most needed, and the power to pass rules and regulations.

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.

Effective date; referendum, certificate to Secretary of State. This Act shall take effect upon enactment only for the purpose of permitting its submission to the legal voters of the Towns of Mount Vernon, Winthrop, Wayne, Readfield, Monmouth, Manchester, Litchfield, West Gardiner and Richmond at meetings called and held for the purpose and to the City Council of Gardiner. Such meetings shall be called, advertised and conducted according to the law relating to municipal elections; provided that the registrars of voters shall not be required to prepare, nor the clerks to post, a new list of voters, and for the purpose of registration of voters said registrars of voters shall be in session on the secular day next preceding said meeting.

The municipal clerks shall reduce the subject matter of this Act to the following question: "Shall the Act Creating the Cobbossee Watershed District, passed by the 105th Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same. In the case of Gardiner its City Council shall indicate its opinion of the same.

This Act shall take effect for all the purposes hereof immediately upon acceptance by a majority of the municipalities voting at said meetings; but only if the total number of votes cast for and against the acceptance of this Act at any meeting of that majority of the municipalities, other than the City Council meeting, equaled or exceeded 15% of the total vote for all candidates for Governor cast in said town at the next preceding gubernatorial election, but failure of approval at such meetings shall not prevent a subsequent meeting or meetings to be held for said purpose on or before April 1, 1972. The result of the votes shall be declared by the municipal officers of the town or city and due certificate thereof shall be filed by the clerk with the Secretary of State.

STATEMENT OF FACT

This Bill is for the purpose of providing for the control of the level of the water and the quality and purity of the water of the Cobbossee watershed and to establish a public quasi-municipal district to carry out said functions.