

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 619

H. P. 471

House of Representatives, February 1, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr Gahagan of Caribou.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

**AN ACT Providing for Interbasin Transfer of Water by the Aroostook-
Prestile Sanitary District.**

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

Sec. 1. Purpose. In order for the Aroostook-Prestile Sanitary District to alleviate pollution in the Aroostook River and the Prestile Stream, to efficiently operate its facilities and to promote the maximum health, comfort and well-being of its residents, it is necessary for the district to engage in the bilateral transfer of water between the Aroostook River and the Prestile Stream.

Sec. 2. Authorization. The Aroostook-Prestile Sanitary District, subject to section 3, is authorized as a part of its total system of waste water treatment to undertake and engage in the bilateral transfer of water between the Aroostook River and the Prestile Stream.

Sec. 3. Approval. Before the Aroostook-Prestile Sanitary District shall undertake or engage in the transfer of water authorized in section 2, it shall make application to the Department of Environmental Protection. The application shall set forth the amounts of water to be transferred, the method of transfer and such other information as the department shall require. Upon receipt of the application, the department shall cause a public hearing to be held thereon in one of the municipalities within the district. Notice of the hearing, stating in general terms the purpose of the meeting, the date of the meeting and its location shall be published for 2 successive weeks prior to the hearing in a weekly newspaper having circulation within the district. A transcript shall be made of the public hearing. After the public hearing, on the evidence received thereat, considering the benefit to the district, potential

harm to other riparian owners and general effects on the environment, the department shall allow the district to transfer water in such amounts, manner and at such times as it shall determine to be in the public interest. The department shall make such orders as it deems proper consistent with its findings. The district may at any time make application to the department for modification, extension or rescision of any order of the department.

Sec. 4. Appeals. The district or any other person aggrieved by any order or decision of the department in regard to any matter upon which there was a hearing before the department may, within 30 days after the filing of such order or decision, appeal therefrom to the Superior Court by filing a notice of appeal stating the points of appeal. Notice of the appeal shall be ordered by the court and the appeal shall be heard without jury in the manner and with the rights provided by law and other civil actions so heard. The proceedings on appeal shall not be de novo. The court shall receive into evidence true copies of the transcript of the hearing, the exhibits thereto and the decision of the department. The court's review shall be limited to questions of law and to whether the department acted regularly and within the scope of its authority and the department's decision shall be final so long as supported by the weight of the evidence.

Sec. 5. Causes of action. No riparian or littoral landowner shall be deemed an aggrieved party or have a cause of action at law or in equity against the district or the State of Maine as a result of any diversion and interbasin transfer of water resulting either in an increased flow of water, treated or untreated, to a receiving stream or a decreased flow either in a stream from which a diversion has been made unless such landowner can show actual damage to his property interest resulting from the diversion and interbasin transfer of water. Such landowners shall have a cause of action against the district for money damages only.

STATEMENT OF FACT

An application has been filed with the Department of Environmental Protection for the establishment of a sanitary district pursuant to the Revised Statutes, Title 38, section 1062. This new sanitary district, named the Aroostook-Prestile Sanitary District, will be comprised of the Cities of Presque Isle and Caribou and the Town of Easton. The district will provide for the interception and treatment of domestic and industrial waste for each of the 3 communities, and thus alleviate the gross pollution of the Aroostook River and the Prestile Stream. In order to accomplish this objective it is necessary to transfer water between the Aroostook River and the Prestile Stream. There is presently no statutory authority allowing such interbasin transfer of water. The purpose of this statute is to enable the Aroostook-Prestile Sanitary District to engage in the necessary interbasin transfer of water with the approval of the Department of Environmental Protection.