

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
FIRST SPECIAL SESSION
107TH LEGISLATURE

COMMITTEE AMENDMENT "B" to S.P. 667, L.D. 2119, Bill,
"AN ACT to Clarify Certain Provisions of the Newport Water District
Charter.

Amend said Bill by striking out all of the 2nd paragraph
and inserting in place thereof the following:

'Sec. 10. Authority to purchase; right of eminent domain
to take certain property of Maine Water Company. The Newport
Water District is authorized and empowered to acquire by purchase
or by the exercise of the right of eminent domain which right is
expressly delegated to the district for that purpose, the entire
plant, property, franchises, rights and privileges of the Maine
Water Company located in or serving the Town of Newport, except
its cash assets and accounts receivable, including all lands,
waters, water rights, dams, structures, reservoirs, pipes,
machinery, fixtures, hydrants, tools and all apparatus and
appliances owned by the company in or serving the Town of Newport,
whether the record title thereto is or is not in the Maine Water
Company. The company is authorized to sell, transfer and convey
the franchise and property relating to the Town of Newport to the
water district.'

Further amend said Bill by striking out all of the 4th
paragraph and inserting in place thereof the following:

'If, within 60 days of the date the proposed offer to purchase
is submitted to the Maine Water Company, the district and the Maine
Water Company are unable to reach agreement as to the amount of
just compensation, the district through its trustees, is authorized

and empowered to take and acquire as for public use the entire plant, property, franchises, rights and privileges of the Maine Water Company, wherever located, which serves the Town of Newport, except its cash assets and accounts receivable, but including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by the company, whether the record title thereto is or is not in the Maine Water Company, and to record in the Penobscot County Registry of Deeds a Notice of Condemnation and Taking which shall be in substantially the following form:'

Further amend said Bill in the NOTICE OF CONDEMNATION AND TAKING by striking out all of the blocked 2nd paragraph and inserting in place thereof the following:

'That the Newport Water District, in accordance with the authority delegated to it by the provisions of the private and special laws of 1975, chapter 29, as amended, has determined to and does hereby exercise its right of eminent domain to acquire as for public use the entire plant, property, franchises, rights and privileges of the Maine Water Company located in or serving the Town of Newport, except its cash assets and accounts receivable, including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by the company located in or serving in the Town of Newport, whether the record title thereto is or is not in the Maine Water Company.'

Further amend said Bill in the NOTICE OF CONDEMNATION AND TAKING by striking out all of the blocked last paragraph and inserting in place thereof the following:

'STATE OF MAINE

COUNTY OF PENOBSCOT, SS:

Date:

Personally appeared the above named

_____ of the Newport Water District and

acknowledged the above instrument to be his free act and deed in his capacity and the free act and deed of the Newport Water District.

Before me,

Justice of the Peace
Notary Public'

Further amend said Bill in the 6th paragraph from the end before the Statement of Fact in the 13th line (11th line in L.D.) by inserting after the underlined word "sent" the underlined words 'by the district' and in the last line (same in L.D.) by striking out the underlined words "or address" and inserting in place thereof the underlined words 'of the holder'

Further amend said Bill by inserting before the 4th paragraph from the end before the Statement of Fact the following:

'Within 30 days of the date of the recording of the Notice of Condemnation and Taking, the Maine Water Company shall file in the clerk's office of the Superior Court of the County of Penobscot and serve a copy upon the district, so far as they relate to the water service provided in the Town of Newport, the following: First, a schedule showing the names, residences and water service of all of

its customers with the rate charged therefor; Second, copies of all contracts in force; Third, an itemized statement of the gross income earned during its last complete fiscal year and up to the first day of the month preceding the recording of the Notice of Condemnation and Taking and all operating expenses and fixed charges, paid or incurred during such period and properly chargeable thereto; Fourth, a memorandum of all real estate, water rights or interests therein, owned or controlled by the company, with a brief description thereof, as will reasonably identify the same; Fifth, brief descriptions, specifications and plans of all reservoirs, mains, pipes, service pipes, hydrants, gates, gate boxes, shut-off boxes, fixtures and machinery and all the physical elements in the water system, giving in detail quantities, sizes and lengths and specifying the streets, roads or ways where and situated; Sixth, an itemized list of all tools, apparatus, appliances and supplies used or usable in supplying water.

If the company fails or refuses to file the required information, as aforesaid, within the 30-day period, a Justice of the Superior Court, on complaint by the district, shall order the company to file the information and shall make such decree as he deems reasonable and appropriate to enforce the order.'

Further amend said Bill in the 4th paragraph from the end by inserting at the end before the period the following: 'to the district'

Further amend said Bill by striking out all of the 3rd paragraph from the end before the Statement of Fact and inserting in place thereof the following:

'The court shall appoint 3 referees who shall determine the

amount of just compensation. One of the referees so appointed shall be learned in the law. The referees shall prepare a report which includes findings of fact and conclusions of law. The Order of Reference shall reserve to the parties the right to object to the acceptance of the referees' report on both findings of facts and conclusions of law, except that the court shall adopt the referees' findings of fact, unless clearly erroneous. The court, after hearing, may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.'

Further amend said Bill in the last paragraph before the Statement of Fact in the 3rd and 4th lines from the end (same in L.D.) by striking out the underlined words and punctuation ", at the legal rate, and to pay costs from the time of appeal" and inserting in place thereof the following: 'at the legal rate'

Statement of Fact

The purpose of this amendment is to specify that the power of the Newport Water District to condemn property of the Maine Water Company is limited to property of that company located within or serving the Town of Newport. The Maine Water Company has 6 divisions located outside the Town of Newport which should not be subject to the district's power of condemnation.

Reported by the Committee on Public Utilities.

Reproduced and distributed pursuant to Senate Rule 11-A.

February 24, 1976.

(Filing No. S-412).