

MAINE STATE LEGISLATURE

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(After Deadline)
(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2170

H. P. 2161

House of Representatives, February 28, 1978

The Committee on Public Utilities suggested. Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 25.

EDWIN H. PERT, Clerk

Presented by Mr. Locke of Sebec.

Cosponsor: Mr. Hall of Sangerville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT Concerning the Charter of the Guilford-Sangerville Water District.

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

Whereas, the Guilford-Sangerville Water Company is desirous of selling its assets; and

Whereas, the municipalities of Guilford and Sangerville are desirous of continued and uninterrupted water service; and

Whereas, the formation of the water district is urgently needed to assure that vitally needed water is supplied to many inhabitants of Guilford and Sangerville; 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; purposes. Subject to section 13, the inhabitants and territory within the Towns of Guilford and Sangerville in the County of Piscataquis shall be and hereby are constituted a public municipal corporation under the name of "Guilford-Sangerville Water District" for the purpose of supplying the inhabitants of the district with pure water for domestic, sanitary, manufacturing and municipal purposes.

Sec. 2. Source of supply. The water district, for the purposes of its incorporation, is authorized to take, collect, store, hold, divert, use, flow, detain and distribute water from any lake, pond, stream or river and from any surface or underground brook, spring or vein of water in the Towns of Guilford and Sangerville and from any other source from which the Guilford-Sangerville Water Company is now authorized to take water, including sources outside of the Towns of Guilford and Sangerville.

Sec. 3. Right of eminent domain conferred. The district, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, by purchase, gift or by exercise of the right of eminent domain, which right is hereby expressly delegated to the water district for those purposes, any lands or interests therein or water rights necessary for erecting and maintaining dams, for flowage, for power, for pumping its water supply through its mains, for reservoirs and standpipes, for preserving the purity of the water and watershed, for laying and maintaining aqueducts, mains 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, standpipes, mains, aqueducts, structures and lands. Nothing contained herein shall be construed as authorizing the water 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 thereto herein or by subsequent Act of the Legislature, or as provided in section 7.

Sec. 4. Authorized to lay pipes, public ways and across private lands. The district is hereby authorized to lay in and through the streets, roads, ways and highways within the district and across private lands therein, and to maintain and replace all such pipes, aqueducts, mains and fixtures as may be necessary, and may excavate through any lands when necessary and convenient for its corporate purposes; and whenever the district shall lay any pipes, aqueducts or mains 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. 5. Authorized to erect and maintain dams, reservoirs, etc. The district is hereby authorized, for the purposes of its incorporation, to erect and maintain all dams, pumping stations, with all necessary appliances required therefor, reservoirs, standpipes and structures necessary and convenient for its corporate purposes.

Sec. 6. Procedure in exercising rights of eminent domain; assessment of damages; appeal procedure. The water district shall be liable for all damage that shall be sustained by any person or corporation in his or its property by the taking of any land or interest therein whatsoever, for water, or by flowage, or by excavating through any land for the purpose of laying pipes, aqueducts or mains, building dams or constructing reservoirs or standpipes.

In exercising any right of eminent domain conferred upon it by law, from time to time, in the taking of lands or interests therein, or water rights, the district shall file in the office of the county commissioners of Piscataquis County and record in the registry of deeds in that county plans of the location of all such lands or interests therein or water rights, with an appropriate description and the names of the owners thereof, if known. Notice of the filing shall be sent by mail to the owners at the address appearing on the tax records of the municipality in which the land is located. When for any reason the district fails to acquire the property authorized to be taken, and which is described in that location, or the location recorded is defective or uncertain, it may, at any time, correct and perfect that location and file a new description thereof, and in such case the district shall be 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 that filing, whereupon possession may be had of all lands or interests therein or water rights so taken, but title shall not vest in the district until payment therefor.

If any person or corporation sustaining damages by any taking as aforesaid and the water district shall not mutually agree upon the sum to be paid therefor, either party, upon petition to the county commissioners of Piscataquis County, may have those damages assessed by them; and 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 town ways.

Sec. 7. Procedures in crossing of railroads or utility rights-of-way. In case of any crossing of a railroad or the right-of-way occupied by the transmission or distribution lines of an electric company or telephone company, unless consent is given by the company owning or operating that railroad or transmission line, as to

place, manner and conditions of the crossing, within 30 days after that consent is requested by the district, the Public Utilities Commission shall, upon petition setting forth a description of the premises and the reasons for the crossing, after notice given as the commission may prescribe, determine the place, manner and conditions of that crossing; and all work within the limits of that railroad location or right-of-way shall be done under the supervision and to the satisfaction of the railroad company, telephone company or electric company, as the case may be, but at the expense of the district, unless otherwise ordered by the Public Utilities Commission, which shall award to the railroad, telephone company or electric company any damage suffered by it occasioned by the crossing.

Sec. 8. Board of trustees; appointment; compensation. All the affairs of the district shall be managed by a board of trustees composed of 6 members, 3 to be appointed by the municipal officers of the Town of Guilford and 3 to be appointed by the municipal officers of the Town of Sangerville, within 30 days after the acceptance of this Act by the inhabitants of the district as hereinafter provided, but none of the selectment of either of the towns shall be appointed to the board of trustees. As soon as convenient after the members of the board have been appointed, the trustees shall hold a meeting in the Town of Guilford and organize by the election of a president and clerk, from their own membership, adopt a corporate seal and choose a treasurer and when necessary, all other needful officers and agents, who with the treasurer shall serve at their pleasure and whose compensation shall be fixed by the trustees. Whenever a vacancy occurs in the office of president, clerk or treasurer, it shall be promptly filled by the board of trustees. At the first meeting they may determine by agreement, or failing to agree, they shall determine by lot, the term of office of each trustee so that one shall retire each year and the term of office of the first trustee shall end at the end of the municipal year of the Town of Guilford following the acceptance of this Act, and thereafter, the term of office of a trustee shall expire with the end of each municipal year. Whenever the term of office of a trustee expires, the body which appointed that trustee shall appoint a successor to serve the full term of 6 years, and in case any other vacancy arises from any cause, it shall be filled in like manner for the unexpired term. When any trustee ceases to be a resident of the town from which he received his appointment, he vacates the office of trustee. 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. The trustees may procure an office and incur such expense as may be necessary. The treasurer shall furnish bond in such sum and with such sureties as they may approve. Members of the board shall not be eligible to any office under the board, except that of president and clerk. The trustees, as such, shall receive as compensation for their services an amount to be determined by them not to exceed \$500 each per year; 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.

Sec. 9. Temporary loans negotiated; issue of bonds. For accomplishing the purposes of this Act, the water district, through its trustees, is authorized to borrow money temporarily and to issue therefor the negotiable notes of the district, and for the purpose of refunding the indebtedness so created, for paying any necessary expenses and liabilities incurred under the provisions of this Act, including the expenses incurred in the creation of a district, in securing sources of supply, taking water and land, paying damages, taking rights-of-way or other interests in real estate, by purchase or otherwise, laying pipes, aqueducts and mains, constructing, installing, maintaining and operating reservoirs, standpipes, dams, pumping stations and whatever equipment may be necessary or incidental to the construction and installation of that system of water works and making renewals of or extensions, additions and improvements to the same, the water district, through its trustees, may, from time to time, issue bonds of the district to the amount or amounts necessary in the judgment of the trustees therefor. These notes and bonds shall be legal obligations of the water district, which is hereby declared to be a quasi-municipal corporation within the meaning of the Revised Statutes, Title 30, section 5053, and all the provisions of that section shall be applicable thereto. The notes and bonds shall be legal investments for savings banks.

Sec. 10. Property tax exempt. The property of the district shall be exempt from all taxation in the Towns of Guilford and Sangerville and in any other towns where any part of its plant may be located.

Sec. 11. Water rates. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of the district the rates established by the board of trustees for the water used by them; and the rates for water so supplied shall be uniform within the territory supplied by the district whenever the installation and maintenance of mains and the cost of service is substantially uniform, but nothing in this Act shall preclude the district from establishing higher rates than the regular rates in sections where for any reason the cost of construction and maintenance or the cost of service exceeds the average, but these higher rates shall be uniform throughout the sections where they apply. The 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;

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

3. **Sinking fund.** To provide such amounts as may be required for the extinguishment of bonded debt or other long-term debt including principal and interest thereon and including contributions to a sinking fund for the extinguishment of that debt; and

4. **Surplus transfer.** If any surplus remains at the end of the year, it may be transferred to the sinking fund.

Sec. 12. Incidental rights and privileges. All incidental rights, powers and privileges necessary to the accomplishment of the main object herein set forth are granted to the municipal corporation hereby created.

Sec. 13. Acceptance subject to referendum. Unless accepted and approved by a majority vote of the legal voters within the proposed water district voting at an election called and held for the purpose by the municipal officers of the Towns of Guilford and Sangerville, on the 2nd Tuesday of June, 1978, this Act shall forthwith become inoperative. The registrars of voters in Guilford and Sangerville shall be in session the 3 secular days next preceding that election for the purpose of revising the voting lists. The subject matter of this Act shall be reduced to the following question: "Shall 'An Act Concerning the Charter of the Guilford-Sangerville Water District,' passed by the 108th 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. The result shall be declared by the municipal officers of each town and due certificates thereof filed by the town clerks with the Secretary of State. In view of the emergency cited in the preamble, this Act shall take effect for all the purposes thereof immediately upon its acceptance by a majority of the legal voters in both Guilford and Sangerville voting at that election; provided that the total number of votes cast for and against the acceptance of this Act in each of the towns equals or exceeds 20% of the total vote for all candidates for Governor in those towns at the next previous gubernatorial election; but failure of approval by the necessary percentages of voters at any such election in either or both of those towns shall not prevent a subsequent election or elections to be held for that purpose within the time limitation of section 15.

Sec. 14. 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, Title 35, and all acts amendatory thereof or additional thereto.

Sec. 15. Certain sections inoperative on failure to acquire Guilford-Sangerville Water Company plant. If the water district fails to purchase the plant, property, franchises, rights and privileges owned by the Guilford-Sangerville Water

Company and used or usable in supplying water to the Towns of Guilford and Sangerville or fails to file a petition before November 1, 1979, to exercise its right of eminent domain as provided in this Act, for the acquisition of the plant, property, franchises, rights and privileges owned by the Guilford-Sangerville Water Company and used or usable in supplying water to the Towns of Guilford and Sangerville, then this Act shall be inoperative, null and void.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This bill concerns the charter of the Guilford-Sangerville Water District.