

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
SECOND REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1809**

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H. P. 1706

House of Representatives, January 16, 1980

On Motion of Mr. Davies of Orono, referred to the Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk of the House

Presented by Mr. Peterson of Caribou.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

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**AN ACT Extending the Time which the Caribou Utilities District has to Take Over  
the Caribou Water Works Corporation.**

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

Whereas, the Private and Special Law of 1945, chapter 83, provides that the Caribou Utilities District may take the property of the Caribou Water Works Corporation by petition filed before July 1, 1946; and

Whereas, the time for the taking of the local water system has expired; and

Whereas, the present water system is inadequate and in need of immediate improvement and repair to protect the quality of the water service and the health and well-being of the inhabitants of the City of Caribou; and

Whereas, an adequate supply of pure water is essential to the health and well-being of the inhabitants of the City of Caribou; and

Whereas, the purchase of the existing water system by the district will aid in obtaining grants and reduce the cost to the water users in compliance with the United States Code, Title 42, Section 300f et seq.; 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:

**P&SL 1945, c. 83, § 11** is amended to read:

**Sec. 11. Procedure in case trustees fail to agree on terms of purchase.** In case said trustees fail to agree with the Caribou Water Works Corporation its successors or assigns, or the Caribou Sewer Co. its successors or assigns upon the terms of purchase of either of said properties on or before the 1st day of ~~January 1946~~ **July, 1980**, said district through its board of trustees aforesaid is hereby authorized to take the plant, property and franchises of either or both of said companies as for public use by separate petition therefor in the manner hereinafter provided. In the event petitions are filed against both companies, they shall be acted upon separately. Said district through its trustees is hereby authorized after ~~January 1, 1946~~ **July 1, 1980** and before ~~July 1, 1946~~ **December 31, 1980** to file its petition or petitions if proceedings are necessary against any or all of said companies, in the clerk's office of the superior court for the county of Aroostook in term time or in vacation addressed to any justice of said court, who after due notice to the company or companies interested and their mortgagees shall after hearing and within 30 days after the date at which said petition is returnable, appoint 3 disinterested appraisers, one of whom shall be learned in the law and none of whom shall be residents of Aroostook county, for the purpose of fixing a valuation of said plant, property and franchises. In the event petitions are filed against one or both companies the court may in its discretion appoint the same appraisers. At the hearing aforesaid, such justice, upon motion of the petitioner, may order the production and filing in court, for the inspection of the petitioner, of all books and papers pertinent to the issue and necessary for a full understanding of the matter to be heard by said appraisers, the terms and conditions of so producing and filing such books and papers to be determined by the justice in his order therefor and to be enforced from time to time as any justice of said superior court, in term or in vacation, upon motion of either party, may deem reasonable and proper in the premises. At such hearing, such justice upon motion of the petitioner, may fix a time at which the said company shall file in the clerk's office of the superior court for the county of Aroostook for the inspection of the petitioner, the following: 1st, schedule showing the names, residences and character of service of all its customers on the 1st day of ~~January 1946~~ **July, 1980**, with the rate charged therefor; 2nd, copies of all contracts in force on said 1st day of ~~January 1946~~ **July, 1980**; 3rd, an itemized statement of the gross income earned during its last complete fiscal year and up to said 1st day of ~~January, 1946~~ **July, 1980**, and all operating expenses and fixed charges, paid or incurred during such period and property chargeable thereto; 4th, a memorandum of all real estate, water rights, or interest therein, owned or controlled on said 1st day of ~~January, 1946~~ **July, 1980**, with such brief description thereof as will reasonably identify the same; 5th, brief description, specifications and plans of all reservoirs, mains, pipes, service pipes, hydrants, gates, gate-boxes, shut-off

boxes, fixtures and machinery and all physical elements in such water, or sewerage system as the case may be, giving in detail quantities, size, lengths and specifying the streets, roads or ways where situated; 6th, an itemized list of all tools, apparatus, appliances and supplies used or usable in maintaining said water or sewerage system as the case may be on said 1st day of ~~January, 1946~~ **July, 1980**. Such orders may be enforced from time to time by any justice of said superior court, in term time or in vacation, upon motion of either party, as such justice may deem reasonable and proper in the premises. At such hearing the justice then sitting may, upon motion of the petitioner, make all such decrees as he deems reasonable and proper to enable the petitioner, through its servants and employees, to ascertain the true condition of the physical properties of the said water or sewerage companies as the case may be, in the presence of the officers or agents of said companies, the entire expense thereof to be borne by said district.

The said appraisers shall have the power of compelling attendance of witnesses and the production of all books, accounts and papers pertinent to the issue and necessary for a full understanding by them of the matter in question and may administer oaths, and any witness or person in charge of such books, accounts and papers refusing to attend or to produce the same shall be subject to the same penalties and proceedings, so far as applicable, as witnesses summoned to attend the superior court. Depositions may be taken as in civil actions.

The appraisers so appointed shall, after notice and hearing, fix the valuation of said plant, property and franchises at what they are fairly and equitably worth, so that said company shall receive just compensation for all and the same. The 1st day of ~~January, 1946~~ **July, 1980**, shall be the date as of which the valuation aforesaid shall be fixed from which date interest on said award shall run, and all rents and profits accruing thereafter shall belong to said district. The report of said appraisers or a majority of them shall be filed in said clerk's office, in term time or in vacation, as soon as may be after their appointment, and such single justice, or, in case of his inability to act, any justice of said court appointed by the chief justice, may, after notice and hearing, confirm or reject the same or recommit it if justice so requires.

Before a commission is issued to said appraisers either party may ask for instructions to said appraisers, and all questions of law arising upon requests for instructions, or upon any other matters in issue, may be reported to the law court for determination before appraisers proceed to fix the valuation of the property, plant and franchises of said company. Upon the confirmation of said report the court so sitting shall thereupon after hearing, make final decree upon the entire matter, including the application of the purchase money and transfer of 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 shall be final, but any party aggrieved may take exceptions as to any ruling of law so made, the same to be accompanied by so much of the case as may be necessary to a clear understanding of the questions 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 to the parties or their counsel, 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 and entry of said decree and there heard unless otherwise agreed; or the law court for good cause shall order further time for hearing thereon.

Before said plant, property and franchises are transferred in accordance with such final decree and before payment therefor, as hereinbefore provided such justice shall, upon motion of either party, after notice and hearing take account of all receipts and expenditures, properly had or incurred by the company, from and after said 1st day of ~~January 1946~~ **July, 1980**, and all net rents and profits accruing thereafter, and shall order the net balance to be added to or deducted from, the amount to be paid under such final decree, as the case may be. All findings of fact by such justice at such hearing shall be final. On payment or tender by said district of the amount so determined and the performances of all the other terms and conditions so imposed by said court, the entire plant, property and franchises of said company used and usable in supplying water or sewerage facilities as the case may be in the town of Caribou or elsewhere shall become vested in said district. Either party may file and prosecute motions and petitions relating to the premises at any state of the proceedings, and the proceedings shall not be discontinued except upon consent of both parties.

If a vacancy occurs at any time in said board of appraisers from any cause, such sitting justice, or in case of his inability to act, any justice of said court appointed by the chief justice may after notice and hearing, appoint a new appraiser or appraisers and make all such orders for hearing said cause by the appraisers, anew or for any extension of time for making their award, or otherwise, as the circumstances of the case may require. Nothing herein contained shall preclude said district from acquiring said properties from said company at any time by mutual agreement.

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

#### STATEMENT OF FACT

This bill renews and revises the date on which the Caribou Utilities District may purchase or take the property of the Caribou Water Works Corporation.