

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1874

S. P. 722

In Senate, January 24, 1980

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator O'Leary of Oxford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT Creating the Rangeley 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 Rangeley Water Company has not complied with the United States Safe Drinking Water Act, Public Law 93-523, requirements of 1977 as they pertain to water purity and storage because it cannot finance the necessary improvements; and

Whereas, the residents of the Town of Rangeley will not approve the purchase of the Rangeley Water Company at the company's asking price, by the Town of Rangeley; and

Whereas, the Rangeley Water Company is advertising the sale of its assets to private investors, which would necessitate compliance with the United States Safe Drinking Water Act, Public Law 93-523, and create a hardship to the users by resulting in an increase in the users' fees by not less than 183%; and

Whereas, the Town of Rangeley and those sections of Sandy River and Rangeley Plantations now served by the Rangeley Water Company are desirous of clean healthful drinking water at an affordable rate and of continued and uninterrupted water service; and

Whereas, the formation of a water district is urgently needed to assure that vitally needed water is supplied to many inhabitants of the Town of Rangeley and Sandy River and Rangeley Plantations; 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 Town of Rangeley and Sandy River and Rangeley Plantations in the County of Franklin shall be and are constituted a public municipal corporation under the name of "Rangeley 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 Town of Rangeley and from any other source from which the Rangeley Water Company is now authorized to take any water, including sources outside of the Town of Rangeley.

Sec. 3. Right of eminent domain conferred. The district, for the purposes of its incorporation, is authorized to take and hold, as for public uses, by purchase, gift or by exercise of the right of eminent domain, which right is 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, purifying, 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 in this Act 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 in this Act 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 authorized to lay in and through the streets, roads, ways and highways within the district and across private lands in the district, 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 lays 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 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 is liable for all damage that is 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 any other construction necessary to the taking, distributing, purifying, discharging and disposing of water for its users.

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 Franklin 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, 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, 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 is not liable for any acts which would have been justified if the original taking had been lawful. No entry may be made on any private lands, except to make surveys, until the expiration of 10 days from that filing, at which time possession may be had of all lands or interest therein or water rights so taken, but title shall not vest in the district until payment therefor.

If any person or corporation sustains damages by any taking and the water district does not mutually agree upon the sum to be paid therefor, either party, upon petition to the county commissioners of Franklin County, may have those damages assessed by them; and the procedure and all subsequent proceedings and right of appeal 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 5 members, to be appointed by the municipal officers of the Town of Rangeley, within 30 days after the acceptance of this Act by the inhabitants of the district as provided in this Act, but none of the selectmen of the town 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 Rangeley 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 the pleasure of the trustees 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 no more than 2 shall retire each year and the term of office of the first 2 trustees shall end at the end of the municipal year of the Town of Rangeley 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, a successor shall be elected by Australian ballot at the regular yearly municipal elections to serve the full term of 3 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 was elected, he vacates the office of trustee. The trustees 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. 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. A quorum of the board of trustees shall be 3 trustees. All decisions of the board of trustees shall be by a majority of those present and voting.

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 district by votes of its board of trustees, without district vote except as provided in this Act, is also authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in the amount or amounts, not exceeding the sum of \$1,500,000 outstanding at any one time, bearing interest at such rate or rates, and having such terms and provisions as the trustees determine; provided that in the case of a vote by the trustees to authorize bonds or notes to pay for the acquisition of property, for the cost of a water system or part thereof, for renewal or additions or for other improvements in the nature of capital costs, or for renewing or refunding existing indebtedness, notice of the proposed debt and of the general purpose or purposes for which it was authorized shall be given by the clerk by publication at least once in a newspaper having a general circulation in the Town of Rangeley. No debt may be incurred under the vote of the trustees until the expiration of 7 full days following the date on which the notice was first published. Prior to the expiration of the period, the trustees may call a special district meeting for the purpose of permitting the voters of the district to express approval or disapproval of the amount of debt so authorized, and the trustees shall call a special district meeting if, within 7 days following the publication of the notice, there is filed with the clerk of the district a petition or petitions signed by not less than 50 qualified voters of the district requesting that a special meeting be called. If, at the district meeting, a majority of voters present and voting thereon express disapproval of the amount of debt authorized by the trustees, the debt may not be incurred and the vote of the trustees authorizing the same shall be void and of no effect. The bonds, notes and evidences of indebtedness may be issued to mature serially in annual installments of not less than 1% of the face amount of the issue and beginning not later than 2 years from the date thereof, or may be issued with equal annual payments, applied first to interest and the balance to principal, or made to run for such periods as the trustees may determine, but no issue shall run for a longer period than 40 years from the date of original issue. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same prior to maturity and, if callable, may be made callable at par or at such premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "Rangeley Water District," shall be signed by the treasurer and counter signed by the chairman of the board of trustees of the district and, if coupon bonds are

issued, the interest coupons attached thereto shall bear the facsimile of the signature of the treasurer. All bonds, notes and evidences of indebtedness so issued by the district shall be legal obligations of the district, which is declared to be a quasi-municipal corporation within the meaning of the Revised Statutes, Title 30, section 5053, and as amended, and all provisions of this section shall be applicable thereto.

The district may, from time to time, issue its bonds, notes and other evidences of indebtedness for the purpose of paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by the district shall be legal investments for savings banks in the State and shall be tax exempt. The district is authorized and empowered to enter into agreements with the State or Federal Government, or any agency of either or any corporation, commission or board authorized by the State or Federal Government to grant or loan money to or otherwise assist in the financing of projects, such as the district is authorized to carry out, and to accept grants and borrow money from any government agency, corporation, commission or board as may be necessary or desirable to enforce this Act. All notes and bonds with the maturity of more than one year in connection with the water system must first be approved by the Public Utilities Commission.

Sec. 10. Sinking fund provided for. In case any of the bonds or notes are made to run for a period of years, a sinking fund shall be established by the trustees of the district for the purpose of redeeming the bonds or notes when they become due and a sum equal to not less than 1% of the aggregate principal of the outstanding bonds or notes issued on account of or in behalf of the district shall be turned into the sinking fund each year to provide for the final extinguishment of the district funded debt.

The money set aside for the sinking fund shall be devoted to the retirement of the notes and bonds, and shall be used for no other purposes, and shall be invested in such securities as savings banks are allowed to hold.

Whenever any bonds of the district become due or can be purchased by the trustees on favorable terms, the trustees may, if sufficient funds have accumulated in the sinking fund, redeem or purchase the bonds and cancel them. In no case may bonds so canceled or redeemed be reissued.

In case the amount in the sinking fund is not sufficient to pay the total amount of the bonds falling due at any one time, the trustees may issue new bonds sufficient to redeem as many of the bonds as cannot be redeemed from the sinking fund.

In the event that the district, with the approval of bond counsel or a bonding organization, establishes a payment schedule that does not require the use of a sinking fund, the provisions of this section shall not apply.

Sec. 11. Authority to purchase property of Rangeley Water Company. The Rangeley Water District may acquire by purchase the entire plant, property,

franchises, rights and privileges of the Rangeley Water Company located in or serving the Town of Rangeley and Sandy River, Dallas and Rangeley Plantations, except its cash assets, mortgages, liens and encumbrances and accounts receivable and payable, including all land, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by that company, whether the record title thereto is or is not in the Rangeley Water Company. The company is authorized to sell, transfer and convey its franchises and property to the water district, subject to Public Utilities Commission approval.

Sec. 12. Procedure in case trustees and Rangeley Water Company fail to agree on terms of purchase. In case the trustees fail to agree with the Rangeley Water Company upon terms of purchase, then the district, through its trustees, may take the properties, interest and franchises of the Rangeley Water Company as set forth in section 11, in the manner provided in this Act, wherein the Rangeley Water Company and its mortgagees, if any, or those having an interest in any realty which is of record, shall be the parties defendant. The district, through its trustees, may file a petition in the clerk's office of the Superior Court for the County of Franklin, addressed to any justice thereof who, after notice to the defendant, shall, after hearing and within 60 days after the filing of the petition, appoint 3 disinterested appraisers for the purpose of fixing the valuations of the plant, property and franchises of the Rangeley Water Company described in section 11. The court may order under proper terms the production for inspection by the trustees or the appraisers of all books and papers pertaining to the issue, on petition by the petitioner, unless the same are voluntarily produced. The appraisers shall, after due notice and hearing, fix the valuation, as of the date of filing the petition, of the plants, properties and franchises at what they were fairly and equitably worth so that the company shall receive just compensation for the same. The report of the appraisers or of a majority of them, together with the report of a stenographer certified by the appraisers as correct, shall be filed in the 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 the 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 the decree as in equity cases. All findings of fact by the 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. These exceptions shall be claimed on the docket within 10 days after the final decree is signed, entered, filed and notice thereof has been given by the clerk to the parties and the exceptions so claimed shall be made up, allowed and filed within that 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 these exceptions and there heard, unless otherwise agreed, or the Law Court for good cause shall order further time for

hearing thereon. On payment or tender by the district of the amount determined by the final decree and the performance of all other terms and conditions imposed by the court, the plant, properties and franchises of Rangeley Water Company, as described in section 11, shall become vested in this district.

Sec. 13. Property tax exempt. The property of the district shall be exempt from all taxation in the Town of Rangeley and in any other towns where any part of its plant may be located.

Sec. 14. Water rates. 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:

A. Current expenses. To pay the current expenses for operating and maintaining the water system;

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

C. Sinking fund. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by the district, which sum shall be used to pay serial bonds or notes when due or be turned into a sinking fund and there kept to provide for the extinguishment of the indebtedness. Money set aside for the sinking fund shall be devoted to the retirement of the obligations of the water district and invested in such securities as savings banks in this State are allowed to hold; and

D. Surplus. If any surplus remains at the end of the year, it may be turned into the sinking fund or used for such other purposes of the district as the trustees may determine.

The water rates, tolls, charges and rents shall be subject to the approval of the Public Utilities Commission, unless the district qualifies to be exempt from rate review by the commission according to the Revised Statutes, Title 35, sections 69 and 72.

Sec. 15. District and town authorized to make contracts. The district through its trustees is authorized to contract with persons and corporations, including the Town of Rangeley, and the Town of Rangeley is authorized to contract with it for the supply of water for municipal purposes.

Sec. 16. Incidental rights and privileges. All incidental rights, powers and privileges necessary to the accomplishment of the main object set forth in this Act are granted to the municipal corporation created by this Act.

Sec. 17. Existing statutes not affected; rights conferred subject to provisions of law. Nothing in this Act 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 mentioned in this Act 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. 18. Certain sections inoperative on failure to acquire Rangeley Water Company plant. If the water district fails to acquire the plant, property, franchises, rights and privileges owned by the Rangeley Water Company and used or usable in supplying water to the Town of Rangeley and those sections of Sandy River and Rangeley Plantations now served by the Rangeley Water Company, then this Act shall be inoperative.

Acceptance subject to referendum. This Act shall not take effect 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 Town of Rangeley, on the 2nd Tuesday of June, 1980. The registrars of voters in Rangeley, Sandy River and Rangeley Plantation 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 to Create the Rangeley Water District 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 with the proposed water district voting at that election; provided that the total number of votes cast for and against the acceptance of this Act in the Town of Rangeley equals or exceeds 20% of the total vote for all candidates for Governor in that town at the last gubernatorial election and the total number of votes cast in each plantation equals or exceeds 20% of the total number of legal voters within those sections of the proposed water district which lie within the plantations, 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 12.

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

STATEMENT OF FACT

The purpose of this bill is to create the Rangeley Water District.