

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

**Legislative Document**

**No. 1100**

H. P. 929

House of Representatives, March 3, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Baker of Portland.

Cosponsor: Representative Boisvert of Lewiston, Representative Murphy of Kennebunk and Senator Dutremble of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT to Establish a Municipal Power District Enabling Act.**

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

35 MRSA c. 241 is enacted to read:

**CHAPTER 241**

**MUNICIPAL POWER DISTRICTS**

**§ 2951. Short title**

This chapter shall be known and may be cited as the "Municipal Power District Enabling Act."

**§ 2952. Purpose**

The purpose of each municipal power district formed under this chapter is to generate and supply, and promote and extend the efficient use of, electric energy for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district.

**§ 2953. Formation of district**

A municipal power district may be formed under the following provisions.

1. **By municipal officers.** The municipal officers of any municipality may, by majority vote, determine that a municipal power district should be established to provide service to the municipality under the terms of this chapter. If they make such a determination, they shall call an election, under subsection 3.

2. **By petition.** Twenty percent of the legal voters of a municipality may petition the municipal officers to call an election, under subsection 3, for the purpose of forming a municipal power district.

3. **Election.** After a determination by them, or upon petition of legal voters, the municipal officers shall, at the next regular election or town meeting, or at a special election or town meeting called and held by them, submit the following question to the legal voters in accordance with their charter or Title 30, section 2061:

“Shall the (name of municipality) Power District be created and incorporated under the Maine Revised Statutes, Title 35, chapter 241?”

4. **Favorable vote.** If a majority of the legal votes cast on this question favor incorporation, a municipal power district is created for that municipality under this chapter upon declaration of the vote by the municipal officers, provided the total number of votes cast for and against the incorporation equals or exceeds 40% of the total votes cast in that municipality for all candidates for Governor at the next previous gubernatorial election.

#### § 2954. Formation of multi-member district

Two or more municipalities may form a multi-member municipal power district under the following provisions.

1. **Petition.** Upon petition of 20% of the legal voters of each municipality, the municipal officers of those municipalities shall call an election, under subsection 2, for the legal voters of their respective municipalities for the purpose of forming a municipal power district.

2. **Election.** Upon petition of legal voters of each municipality wishing to form a district, the municipal officers shall at the next regular election or town meeting, or at a special election or town meeting if the petition so requests, submit the following question to the legal voters of their respective municipalities in accordance with their charter or Title 30, section 2061:

“Shall the (names of municipalities) Power District be created and incorporated under the Maine Revised Statutes, Title 35, chapter 241?”

3. **Favorable vote.** If, in each municipality, a majority of the legal votes cast on this question favor incorporation, a municipal power district is created for those municipalities under this chapter upon declaration of the vote by the municipal officers, provided the total number of votes cast in each municipality for and against the incorporation equals or exceeds 40% of the total votes cast in the municipality for all candidates for Governor at the next previous gubernatorial election.

**§ 2955. Organization**

A municipal power district shall be organized under the following provisions.

1. **Trustees.** Upon formation of a district under section 2953, all the affairs of the district shall be managed by a board of 3 trustees who must be residents of the district. They shall hold office as provided in subsection 2 and until their respective successors are elected and qualified. When any trustee ceases to be a resident of the district, his office as trustee becomes vacant. Trustees are subject to Title 30, section 2251, concerning conflict of interest.

2. **Election.** Within 60 days after the formation of a district, the municipal officers shall appoint the initial board of trustees, one member for a term of one year, one member for a term of 2 years and one member for a term of 3 years. Thereafter, each year as the term of a trustee expires, the legal voters of the district, at an annual election, shall elect a successor to serve for a full term of 3 years. The annual election shall be held within the district in the month of March, at such date, hour and place as may be designated by the trustees. The trustees shall conspicuously post notice of the election in 2 public places within the district, not less than 7 days before the election. Any vacancy in the board shall be filled by the municipal officers for the unexpired term.

3. **Meetings.** As soon as convenient after each annual election, the trustees shall hold a meeting at the offices of the district, elect a chairman and clerk and adopt a corporate seal. They may choose a treasurer and all other officers and agents for the proper management of the affairs of the district. Other meetings of the trustees may be called by the chairman or by any 2 of the trustees. Trustees shall determine their own compensation. The trustees shall, in the bylaws, determine the number constituting a quorum, but in no event less than half of the total number of trustees.

**§ 2956. Organization of multi-member district**

A municipal power district formed under section 2954 shall be organized under the following provisions.

1. **Trustees.** Upon formation of a district under section 2954, all the affairs of the district shall be managed by a board of trustees comprised of 2 trustees from each municipality. Trustees shall be residents of their respective municipalities. They shall hold office as provided in subsection 2 and until their respective successors are elected and qualified. When any trustee ceases to be a resident of his municipality, his office as trustee becomes vacant. Trustees are subject to Title 30, section 2251.

2. **Election.** Within 60 days after the formation of a district, the municipal officers of each municipality shall appoint 2 members to the initial board of trustees. The initial members shall agree, or determine by lot, the term of each so that, as nearly as possible, an equal number will serve for one year, an equal number for 2 years and an equal number for 3 years. Thereafter, each year as the term of a trustee expires, the legal voters of that trustee's municipality, at an

annual election, shall select a successor to serve for a full term of 3 years. The annual election shall be held in the month of March, at such date, hour and place as may be designated by the trustees. The trustees shall conspicuously post notice of the election in 2 public places within each municipality of the district, not less than 7 days before the election. Any vacancy in the board shall be filled by the municipal officers for the unexpired term.

3. Meetings. As soon as convenient after each annual election, the trustees shall hold a meeting at the offices of the district, elect a chairman and clerk and adopt a corporate seal. They may choose a treasurer and all other officers and agents for the proper management of the affairs of the district. Other meetings of the trustees may be called by the chairman or by any 3 of the trustees, after prior notice to the public. Trustees shall determine their own compensation, not to exceed \$10 per meeting per trustee. A majority of trustees shall constitute a quorum. The trustees shall conduct public hearings whenever they propose matters affecting rates, bylaws, an annual budget or their own compensation.

§ 2957. Powers of district

A district may:

1. Sue. Sue or be sued in its capacity as a district;
2. Electric energy. Generate, manufacture, purchase, acquire, accumulate, transmit, distribute, sell, supply and dispose of electric energy to individuals and corporations within the district, provided that the electric energy may not be generated by the use of nuclear power;
3. Assist users. Assist persons who are or will be users of electric energy supplied by the district in making repairs and energy saving improvements to improve energy efficiency in buildings;
4. Acquire plants and equipment. Construct, purchase, lease, equip, maintain and operate electric transmission and distribution lines or systems, electric generating plants, lands, buildings, structures, dams, equipment and any other real or personal property, tangible or intangible which are deemed necessary, convenient or appropriate to accomplish the purposes of this chapter;
5. Contract. Contract and be contracted with;
6. Gain access. Gain access, through its officers or agents, to all premises served by its transmission lines, poles and wires at all reasonable hours to ascertain the amount of electric power purchased;
7. Borrow money. Issue bonds and notes, including revenue obligation securities as otherwise authorized by this chapter, to such amounts as the Public Utilities Commission may authorize for the purpose of raising the amount required to accomplish the purposes of this chapter. The bonds and notes may be of the date and denomination and payable at such times and places and bear such rate of interest as the inhabitants of the district may determine, or authorize the trustees to determine, at the annual election of the district. The district may

borrow money temporarily without vote of the inhabitants in amounts which in the judgment of the trustees are necessary to accomplish the purposes of this chapter;

8. Bylaws. Make and enforce bylaws, rules and regulations for the conduct of the district affairs and business and for use of its services and facilities; and

9. Other consistent acts. Do and perform any other acts and things which may be necessary, convenient or appropriate to accomplish the purposes of this chapter.

#### § 2958. Revenue obligation securities

A district created under this chapter shall be deemed a municipality for purposes of Title 30, chapter 242, with respect to a qualifying electric generating system, electric distribution system or both. The board of trustees shall be deemed municipal officers for purposes of that chapter.

#### § 2959. Eminent domain

A district may exercise the right of eminent domain to take and hold any land, real estate, easements or interest therein necessary for carrying out the purposes of this chapter. A district may not condemn any generating, transmitting or distribution facility of any publicly, cooperatively or privately owned electric utility system, except easements for rights-of-way for the construction of transmission lines. Title to property acquired shall be taken in the name of the district, and such proceedings shall be instituted and conducted in accordance with and subject to chapter 263. The acquisition of any such property by a district by condemnation or the exercise of eminent domain is declared to be for a public use of such property.

#### § 2960. Rates

All individuals, firms and corporations, whether private, public or municipal, shall pay to the district the rates established by the trustees for the electricity used by them and the rates shall be uniform within the district. The rates are subject to approval of the Public Utilities Commission in accordance with chapter 3 and shall be established to provide for the following purposes:

1. Expenses. To pay the current expenses of the district, and interest of all indebtedness;

2. Sinking fund. To provide each year a sum of not less than 1% nor more than 5% of the entire indebtedness of the district, which shall be set aside as a sinking fund to provide for the final extinguishment of the funded debt. The money set aside shall be devoted to the retirement of the long-term and short-term obligations of the district or invested in such securities as savings banks are allowed to hold;

3. Energy Resource and Development Fund. To provide for an Energy Resource and Development Fund which may be used to make low income loans to

persons, supplied with power by the district, to encourage them to make improvements or repairs to, or install devices in, buildings to conserve energy; and

4. Surplus. To provide and accumulate surplus funds to carry out the general purposes of the district, as may be necessary in the discretion of the trustees.

§ 2961. Property tax exempt

The real and personal property, rights and franchises of a municipal power district are exempt from taxation.

STATEMENT OF FACT

The bill creates an enabling act allowing any municipality, or group of municipalities, by vote of the inhabitants, to establish an electric power district for the municipality or municipalities.

The district would be run by a board of trustees, elected by the inhabitants. It would be authorized to issue bonds, including revenue obligation bonds under the Municipal Revenue Obligation Securities Act, Title 30, chapter 242. Rates could be used to establish an Energy Resource and Development Fund to foster energy conservaton and efficiency within the district. Rates would be subject to approval by the Public Utilities Commission.