

# MAINE STATE LEGISLATURE

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New Draft of S. P. 471, L. D. 1327  
FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 1638**

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S. P. 629

In Senate, May 20, 1981

Reported by Senator Trotzky of Penobscot from the Committee on Public Utilities and Printed under Joint Rules No. 2.

MAY M. ROSS, Secretary of Senate

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STATE OF MAINE

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

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**AN ACT to Increase Local Control of Water Districts.**

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

Sec. 1. 35 MRSA c. 262 is enacted to read:

**CHAPTER 262**

**WATER DISTRICTS**

**§ 3221. Short title; purpose**

This chapter shall be known and may be cited as the "Maine Water District Act." The purpose of this chapter is to provide minimum guidelines to the water districts chartered under private and special laws of the Legislature. These guidelines will provide more public participation and more accountability for water districts, and encourage the maximum degree of local control consistent with protection of health and economic welfare of the citizens.

**§ 3222. Definition; formation of districts**

1. **Water district.** "Water district" means any district, including any multipurpose district, created by the private and special laws of the State to perform the functions of a water company, as defined by section 15, subsection 25.

2. **Formation.** The formation of water districts under the private and special laws to provide public drinking water supplies is encouraged. The question of the

formation of the proposed district shall be submitted to the voters residing within it for approval by majority vote.

§ 3223. Trustees

1. Authorization. All of the affairs of a water district shall be managed by an elected board of trustees which shall consist of not less than 3 trustees, but no municipality nor unorganized territory within any water district may have less than one trustee. Trustees shall serve for a term specified in the charter, but not longer than 3 years.

2. Nomination and election. Nominations and elections shall be conducted in accordance with the laws relating to municipal elections, except in the unorganized townships, nominations and elections shall be conducted by the county commissioners.

3. Organization of the board of trustees. Within one week after each annual election, the trustees shall meet for the purpose of electing a chairman, treasurer and clerk from among them to serve for the ensuing year and until their successors are elected and qualified. The trustees, from time-to-time, may choose and employ, and fix the compensation of, any other necessary officers and agents who shall serve at their pleasure. The treasurer shall furnish bond in the sum and with sureties as approved by the trustees. The cost thereof shall be paid by the district.

At this original meeting, the trustees shall organize by electing from their own members a chairman and a clerk, and adopting a corporate seal and electing a treasurer who may or may not be a trustee. The trustees may adopt and establish bylaws, consistent with the laws of this State and necessary for their own convenience and the proper management of the affairs of the district, and perform any other acts within the powers delegated to them by law.

The trustees shall be sworn to the faithful performance of their duties, which shall include the duties of any member who serves as clerk or clerk pro tem. They shall make and publish an annual report, including a report of the treasurer.

4. Trustees' compensation. The trustees shall receive compensation as recommended by them and approved by the municipal officers or the legislative body of the municipality, including compensation for any duties they perform as officers, as well as for their duties as trustees. For districts serving more than one municipality, any change in the compensation received by the trustees for any duties they perform within the district shall be recommended by them and approved by majority vote of the municipal officers in a majority of the municipalities which constitute the district. Certification thereof shall be recorded with the Secretary of State and recorded in the bylaws. Their compensation for duties as trustees shall be on the basis of such specified amount as may be specified in the bylaws, for each meeting actually attended and reimbursement for travel and expenses, with the total not to exceed such specific amount as may be specified in the bylaws. Compensation schedules in effect on January 1, 1982, shall continue in effect until changed.

5. **Trustees retirement.** Trustees who have not been members of the Maine State Retirement System prior to January 1, 1982, as a result of their selection as trustees, and who are not full-time employees, shall not be eligible to join the retirement system as a result of their selection as trustees.

§ 3224. **Issuance of bonds and notes**

In the event that the trustees vote to authorize bonds or notes, the estimated cost of which, singly or in the aggregate included in any one financing, is \$150,000 or more adjusted, relative to 1981 as the base year according to the annual Consumer Price Index, as published by the appropriate federal agency, the trustees shall provide notice to the general public of the proposed bond or note issue and the purposes for which the debt is being issued. The notice shall be published at least once in a newspaper having general circulation in the district. The trustees shall give notice to each ratepayer by mail.

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 and mailed. Prior to the expiration of the period, the trustees shall call a special district meeting for the purpose of permitting the collection of testimony from the public concerning the amount of debt so authorized.

Except for indebtedness to fund projects specifically mandated by the State Government and Federal Government, for debts in excess of the amount specified in this section, if requested by petition of not less than 50 voters of the district or 5% of the voters, whichever is greater, filed with the clerk of the district on or before the date of the meeting, the meeting shall express approval or disapproval of the amount of debt so authorized. If a majority of voters present and voting expresses disapproval of the amount of debt authorized by the trustees, the debt shall not be incurred and the vote of the trustees authorizing it shall be void and of no effect.

§ 3225. **Liens**

No water district may include in its charter any provision providing a lien against the property for nonpayment of assessments or rates. The district may seek judgment, including such a lien in court, in the same manner as any other creditor.

§ 3226. **Conformity with private and special laws**

The provisions of this chapter shall govern all water districts formed on or after January 1, 1982. For any water districts formed before that date, any provision in the governing private and special law, that is, the charter, which is not in compliance with this chapter may remain in force, except that section 3223, subsections 4 and 5, shall apply to January 1, 1982, and any contrary portion of the water district charter shall be considered repealed on that date.

**Sec. 2. Legislative amendment of charter.** Each year, on or before April 15th, the legislative committee having jurisdiction over public utilities shall

report out legislation entitled "AN ACT to Amend the Charters of Various Water Districts Organized under the Private and Special Laws." Amendments to water district charters shall generally be included in that Act. Prior to acting upon any proposed water district charter amendment the joint standing committee shall obtain written comments from the municipalities that lie in whole or in part within the district.

**Sec. 3. Effective date.** The provisions of this Act shall take effect January 1, 1982.

#### STATEMENT OF FACT

This new draft requires trustees' salaries to be approved locally and prohibits trustees from joining the Maine State Retirement System as a result of their selection as trustees. Certain standard requirements are imposed for trustees and issuance of bonds and notes for new districts, but nonconforming existing districts are grandfathered. Liens in the district charter are prohibited where they do not already exist, because they are unnecessary. The debt limit section is dropped because the Public Utilities Commission reviews debt issuance. The conflict of interest and rate hearing provisions of the original bill are dropped because they are covered by general statute and by the water district deregulation bill.