

MAINE STATE LEGISLATURE

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AN ACT

(EMERGENCY)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 407

H.P. 348

House of Representatives, February 1, 1983

On Motion of Representative Vose of Eastport referred to the Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Vose of Eastport.

STATE OF MAINE

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

AN ACT Creating the Passamaquoddy
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 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 customers of the Eastport Water Company; and

Whereas, an adequate supply of pure water is essential to the health and well-being of the customers of the Eastport Water Company; and

Whereas, it is desirable that a public water district be formed to be empowered to take over the

1 Eastport Water Company forthwith in order to supply
2 water service to the people of the City of Eastport
3 and to the inhabitants of the Town of Perry and to
4 the Pleasant Point Passamaquoddy Indian Reservation;
5 and

6 Whereas, it is vital that this be done at once
7 for the benefit of the customers of the present water
8 system; and

9 Whereas, in the judgment of the Legislature,
10 these facts create an emergency within the meaning of
11 the Constitution of Maine and require the following
12 legislation as immediately necessary for the preser-
13 vation of the public peace, health and safety; now,
14 therefore,

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

17 Sec. 1. Incorporated; territorial limits; corpo-
18 rate name; purposes. Subject to section 20, the
19 inhabitants and territory within the Passamaquoddy
20 Indian Reservation located at Pleasant Point in the
21 County of Washington shall be and hereby are consti-
22 tuted a nonprofit public municipal corporation under
23 the name of "Passamaquoddy Water District" for the
24 purpose of supplying the inhabitants of that district
25 and of the City of Eastport and the Town of Perry and
26 others including the present customers of Eastport
27 Water Company with pure water for domestic, sanitary,
28 commercial, manufacturing and municipal purposes.

29 Sec. 2. Source of supply. The water district,
30 for the purposes of its incorporation, is authorized
31 to take, collect, store, hold, divert, use, flow,
32 detain and distribute water from any lake, pond,
33 stream or river and from any surface or underground
34 brook, spring or vein of water in the reservation,
35 and from any other source from which the Eastport
36 Water Company is now authorized to take water,
37 including sources outside of the reservation.

38 Sec. 3. Right of eminent domain conferred. The
39 district, for the purposes of its incorporation, is
40 authorized to take and hold, as for public uses, by

1 purchase, gift or by exercise of the right of eminent
2 domain, which right is expressly delegated to the
3 water district for that purpose, any lands or inter-
4 ests therein or water rights necessary for erecting
5 and maintaining dams, for flowage, for power, for
6 pumping its water supply through its mains, for
7 reservoirs and standpipes, for preserving the purity
8 of the water and watershed, for laying and maintain-
9 ing aqueducts, mains and other structures for taking,
10 distributing, discharging and disposing of water and
11 for rights-of-way or roadways to its sources of
12 supply, dams, power stations, reservoirs, standpipes,
13 mains, aqueducts, structures and lands. Nothing con-
14 tained in this Act may be construed as authorizing
15 the water district to take by right of eminent domain
16 any of the property or facilities of any other public
17 utility or district used or acquired for future use
18 by the owner thereof in the performance of a public
19 duty, unless expressly authorized to take that prop-
20 erty or facility by this Act or by subsequent Act of
21 the Legislature, or as provided in section 7, and
22 nothing in this Act may authorize any taking incon-
23 sistent with the Maine Revised Statutes, Title 30,
24 section 6205, subsection 3, or the United States
25 Code, Title 25, Section 1724(1). The right of emi-
26 nent domain conferred by this Act shall be the same
27 as the Eastport Water Company has on the effective
28 date of this Act.

29 Sec. 4. Authorized to lay pipes, public ways and
30 across private lands. The district is authorized to
31 lay in and through the streets, roads, ways and high-
32 ways within the district and any city or town which
33 the Eastport Water Company is serving or authorized
34 to serve and across private lands therein, and to
35 maintain and replace all such pipes, aqueducts, mains
36 and fixtures as may be necessary, and may excavate
37 through any lands when necessary and convenient for
38 its corporate purposes; and whenever the district
39 shall lay any pipes, aqueducts or mains in any
40 street, road, way or highway, it shall cause the same
41 to be done with as little obstruction as practicable
42 to the public travel, and shall at its own expense
43 without unnecessary delay cause the earth and pave-
44 ment removed by it to be replaced in proper condi-
45 tion.

1 Sec. 5. Authorized to erect and maintain dams,
2 reservoirs, etc. The district is authorized, for the
3 purposes of its incorporation, to erect and maintain
4 all dams, pumping stations, with all necessary appli-
5 ances required therefor, reservoirs, standpipes and
6 structures necessary and convenient for its corporate
7 purposes.

8 Sec. 6. Procedure in exercising rights of emi-
9 nent domain; assessment of damages; appeal proce-
10 dure. The water district shall be liable for all
11 damage that shall be sustained by any person, corpo-
12 ration, or governmental entity in his or its property
13 by the taking of any land or interest therein whatso-
14 ever, for water, or by flowage, or by excavating
15 through any land for the purpose of laying pipes,
16 aqueducts or mains, building dams or constructing
17 reservoirs or standpipes.

18 In exercising any right of eminent domain con-
19 ferred upon it by law, from time to time, in the
20 taking of lands or interests therein, or water
21 rights, the district shall file in the office of the
22 county commissioners of Washington County and record
23 in the registry of deeds in the county plans of the
24 location of all lands or interests therein or water
25 rights, with an appropriate description and the names
26 of the owners thereof, if known. Notice of the
27 filing shall be sent by mail to the owners at the ad-
28 dress appearing on the tax records of the municipal-
29 ity in which the land is located. When for any
30 reason the district fails to acquire the property
31 authorized to be taken, and which is described in
32 that location, or the location recorded is defective
33 or uncertain, it may, at any time, correct and per-
34 fect the location and file a new description thereof,
35 and in that case the district may be liable in dam-
36 ages only for property for which the owner had not
37 previously been paid, to be assessed as of the time
38 of the original taking and the district shall not be
39 liable for any acts which would have been justified
40 if the original taking had been lawful. No entry may
41 be made on any private lands, except to make surveys,
42 until the expiration of 10 days from the filing,
43 whereupon possession may be had of all the lands or
44 interests therein or water rights so taken, but title
45 shall not vest in the district until payment there-
46 for.

1 If any person or corporation sustaining damages
2 by any taking as set out in this section and the
3 water district shall not mutually agree upon the sum
4 to be paid therefor, either party, upon petition to
5 the county commissioners of Washington County, may
6 have the damages assessed by them; and the procedure
7 and all subsequent proceedings and right of appeal
8 thereon shall be had under the same restrictions,
9 conditions and limitations as are or may be by law
10 prescribed in the case of damages by the laying out
11 of town ways.

12 Sec. 7. Procedures in crossing a public util-
13 ity. In case of a crossing of any land, interest in
14 land or water right owned by a company operating any
15 public utility, for any of the purposes contained in
16 this Act, unless written consent is given by such
17 company as to place, manner and conditions of the
18 crossing within 30 days after the consent is
19 requested in writing by the district, the Public
20 Utilities Commission upon petition by the district
21 shall determine the place, manner and conditions of
22 the crossing, and all work on the property of the
23 company shall be done under the supervision and to
24 the satisfaction of the company, or as prescribed by
25 the Public Utilities Commission, but at the expense
26 of the district.

27 Sec. 8. Initial appointed trustees. Following
28 acceptance of this Act, the Pleasant Point
29 Passamaquoddy Reservation Tribal Council, with the
30 advice and consent of the Governor of the Pleasant
31 Point Passamaquoddy Reservation Tribal Council shall
32 appoint a board of trustees comprised of 3 members,
33 each a resident of the district. The sole function
34 of these trustees shall be to set the necessary
35 machinery in motion and assist in the election of the
36 board of trustees, as set forth in section 9.

37 Sec. 9. Board of trustees; election;
38 vacancy. All the affairs of the district shall be
39 managed by a board of trustees comprised of 5 members
40 of which 3 members, each a resident of the district,
41 shall be elected by Australian ballot at a special
42 district meeting, as soon as possible, following the
43 acceptance of this Act. Additionally, 2 trustees,
44 one from the City of Eastport and one from the Town

1 of Perry, shall be appointed by their respective
2 municipal officers.

3 The terms of the members of the board shall be as
4 follows: One elected member and one appointed member
5 shall serve for one year from date of the first elec-
6 tion following acceptance of this Act; 2 members, one
7 elected and one appointed shall serve for 2 years
8 from the date of the first election following the ac-
9 ceptance; the 3rd elected member shall serve for 3
10 years from the date of the first election following
11 the acceptance. Following the expiration of each of
12 the terms of the first elected and appointed trustees
13 of the district, their successors shall be elected or
14 appointed for 3-year terms. All trustees shall serve
15 until their successors are elected, appointed and
16 qualified. Trustees shall be eligible for reelection
17 and reappointment.

18 When any trustee ceases to be a resident in the
19 district or in the municipality he represents, he
20 vacates the office of trustee. Vacancies in the
21 office of elected trustees shall be filled by special
22 district election, except that a vacancy occurring
23 within 6 months of the expiration of an elected
24 trustee's term of office may be filled by appointment
25 of a successor residing in the district to serve the
26 unexpired portion of the term in which the vacancy
27 occurred. Vacancies in elected trustees shall be
28 filled by the same procedure as specified in section
29 8. Appointments in the office of appointed trustee
30 where a vacancy occurs shall be made by the respec-
31 tive municipal officers.

32 Within one week after the original election and
33 appointments and thereafter within one week after
34 each annual election, the trustees shall meet for the
35 purpose of electing a chairman, treasurer and clerk
36 from among them to serve for the ensuing year, and
37 until their successors are elected and qualified.
38 The trustees, from time to time, may choose and
39 employ and fix the compensation of any other neces-
40 sary officers and agents who shall serve at their
41 pleasure. The treasurer shall furnish bond in the
42 sum and which surety is approved by the trustees.
43 The cost of the bond shall be paid by the district.
44 At its original meeting the trustees shall, in addi-

1 tion to the foregoing, adopt a corporate seal, elect
2 a treasurer who may or may not be a trustee. The
3 trustees may adopt and establish bylaws consistent
4 with the laws of this State necessary for their own
5 convenience and the proper management of the affairs
6 of the district and perform any other acts within the
7 powers delegated to them by law.

8 The trustees shall be sworn to the faithful per-
9 formance of their duties, which shall include the
10 duties of any member who serves as clerk or as clerk
11 pro tem. The trustees shall make and publish an
12 annual report, including therein a report of the
13 treasurer. The trustees, including the initial
14 appointed trustees, shall have the same powers and
15 perform the same duties as otherwise exercised and
16 performed by the selectmen or towns for the calling
17 and holding of district elections and district meet-
18 ings, and for the correction and preparation of lists
19 of persons qualified to vote in the district. All
20 meetings of the district shall be presided over by
21 the chairman of the board of trustees who shall have
22 the same authority as moderators of town meetings.
23 District meetings shall be conducted in the same man-
24 ner as town meetings.

25 Members of the board of trustees shall be eligi-
26 ble for any office under the board. All of the
27 trustees shall receive compensation as recommended by
28 them and approved by a majority of the Pleasant Point
29 Passamaquoddy Tribal Council. Certification of the
30 compensation shall be recorded with the office of the
31 Secretary of State and recorded in the bylaws of the
32 district. The respective compensation for duties as
33 trustees shall be on the basis of such specified
34 amount as may be specified in the bylaws, for each
35 meeting actually attended, and reimbursement for
36 travel and expenses, with the total not to exceed
37 such specific amount as may be specified in the
38 bylaws.

39 Sec. 10. Annual meeting of the district. After
40 the acceptance of this Act, and the organization of
41 the board of trustees as provided in this Act, the
42 annual meeting of the district for the election of
43 trustees shall be held on the first Monday of each
44 April, at such hour and place as may be designated by

1 resolution of the board of trustees as provided in
2 the bylaws. Notice thereof shall be as provided in
3 the Maine Revised Statutes Annotated for town meet-
4 ings.

5 Sec. 11. Authorized to borrow money to issue
6 bonds and notes. The district, through its trustees
7 and without vote of its inhabitants, unless required
8 by this Act, is authorized to issue from time to time
9 bonds or notes of the district to pay for the costs
10 of capital outlay incurred by the district in connec-
11 tion with accomplishing any of the purposes set forth
12 in this Act; for paying any necessary expenses and
13 liabilities incurred under this Act, including the
14 expenses incurred in the creation of the district, in
15 securing sources of supply, taking water, water
16 rights and land, paying damages, taking rights-of-way
17 or other interests in real estate, by purchase or
18 otherwise, laying pipes, aqueducts and mains, con-
19 structing, installing, maintaining and operating
20 reservoirs, standpipes, dams, pumping stations and
21 whatever equipment may be necessary or incidental to
22 the construction and installation of the water sys-
23 tem, and making renewals of or extensions, additions
24 and improvements to the same, the establishment of a
25 reasonable reserve for future payments of debt ser-
26 vice, and for interest on bonds or notes during the
27 period of construction of items of capital outlay to
28 be paid from the proceeds of the bonds or notes and
29 for a period not exceeding one year thereafter. For
30 the purpose of the preceding sentence, a reasonable
31 reserve for future payment of debt service shall mean
32 a reserve, the amount of which shall not in the case
33 of an issue of serial bonds or notes exceed the larg-
34 est amount of principal and interest payable in any
35 year, except the last in which that issue of bonds or
36 notes is outstanding and in the case of any other
37 issue of bonds or notes exceed the lesser of the
38 largest amount of any mandatory sinking fund payment
39 payable on account of the particular issue of bonds
40 or notes in any year, except the last in which that
41 issue of bonds or notes is outstanding, or 5% of the
42 original principal amount of that issue plus in each
43 case the largest amount of interest payable on that
44 issue of bonds or notes in any year.

1 The bonds or notes shall be issued in such amount
2 or amounts as the district, acting through its
3 trustees and without vote of its inhabitants, unless
4 required by this Act, may determine. The bonds or
5 notes may be issued to mature serially, in annual
6 installments of principal, no one of which may exceed
7 by more than 25% any earlier installment and the
8 first of which shall be payable not later than 3
9 years from the date of the bonds or notes and the
10 last of which shall be payable not later than 40
11 years from the date. The bonds or notes may also be
12 issued for a term of years not exceeding 40 years or
13 in a combination to mature serially and for a term of
14 years not exceeding 40 years, all as the trustees
15 shall determine. The bonds may be callable with or
16 without premium and shall contain the terms and con-
17 ditions, be sold in that manner, at public or private
18 sale, with or without provisions for prepayment in
19 advance of maturity, at par, at a discount or at a
20 premium, all as the trustees shall determine. The
21 trustees may determine the selling price and rate or
22 rates of interest to be paid on bonds or notes and,
23 if specifically authorized by the trustees, the rate
24 of interest may vary.

25 If the trustees vote to issue bonds or notes, the
26 trustees may authorize the issuance, in the name of
27 the district, of temporary notes for a period not to
28 exceed 5 years in anticipation of the money to be
29 received from the sale of these bonds or notes, but
30 in no event later than one year after the estimated
31 date of completion of construction of items of capi-
32 tal outlay to be paid from the proceeds of such
33 temporary notes as determined by the trustees. The
34 time within which the temporary notes shall be pay-
35 able need not be included in determining the period
36 for which bonds or notes may be issued.

37 The district, through its trustees and without
38 vote of the inhabitants, may also issue from time to
39 time notes in anticipation of revenues to be col-
40 lected or received in any year or in anticipation of
41 federal or state grants or other aid. Notes in
42 anticipation of revenue shall mature no later than
43 one year from their respective dates, provided that
44 the notes issued for less than one year may be
45 renewed from time to time by the issue of other

1 notes, and provided that the period from the date of
2 an original note to the maturity of any note issued
3 to renew or pay the same shall not exceed one year.
4 Notes in anticipation of federal or state grants or
5 other aid and any renewals thereof shall mature no
6 later than 6 months following the expected date of
7 receipt of the grants or aid and shall not be issued
8 unless the trustees shall first determine that the
9 grants or aid remain payable to the district.

10 The district may refund from time to time in one
11 or in separate series its bonds, notes or other evi-
12 dences of indebtedness, provided, that pending the
13 payment of the refunded bonds or notes, the proceeds
14 of the refunding bonds or notes shall be held in
15 trust and invested only in securities issued or
16 guaranteed by the United States of America which
17 mature not later than the maturity or redemption date
18 of the bonds or notes to be refunded. All bonds
19 shall have inscribed upon their face "Passamaquoddy
20 Water District" and "Water Bond" and shall be exe-
21 cuted as the trustees shall determine.

22 At the discretion of the trustees, any issue of
23 bonds or notes may be secured by and between the dis-
24 trict and a corporate trustee, which may be any bank
25 or trust company authorized to exercise corporate
26 trust powers.

27 The resolution authorizing the issuance of the
28 bonds or notes of the trust agreement may pledge or
29 assign, in whole or in part, the revenues and other
30 moneys held or to be received by the district and any
31 accounts and contract or other rights to receive the
32 same, whether then existing or thereafter coming into
33 existence and whether then held or thereafter ac-
34 quired by the district, and the proceeds thereof, and
35 may also convey or mortgage the water system or any
36 other related water properties of the district. The
37 resolution may also contain such provisions for pro-
38 tecting and enforcing the rights and remedies of the
39 bond or note holders as may be reasonable and proper
40 and not in violation of law, including, but not
41 limited to, covenants setting forth the duties of the
42 district and the board of trustees in relation to the
43 acquisition, construction, reconstruction, improve-
44 ment, repair, maintenance, operation and insurance of

1 its water system or any of its other properties, the
2 fixing and revising of rates, fees and charges, the
3 application of the proceeds of bonds, the custody,
4 safeguarding and application of revenues, defining
5 defaults and providing for remedies in the event
6 thereof which may include the acceleration of maturi-
7 ties, the establishment of reserves and the making
8 and amending of contracts. The resolution or trust
9 agreement may set forth the rights and remedies of
10 the bond or note holders and of the trustee, if any,
11 and may restrict the individual right of action by
12 bond or note holders as is customary in trust agree-
13 ments or trust indentures securing bonds or deben-
14 tures of corporations. In addition, the resolution
15 or trust agreement may contain such other provisions
16 as the board of trustees may deem reasonable and
17 proper for the security of the bond or note holders.
18 All expenses incurred in carrying out the resolution
19 or trust agreement may be treated as a part of the
20 cost of operation of the district. The pledge by any
21 resolution or trust agreement shall be valid and
22 binding and shall be deemed continuously perfected
23 for the purposes of the United States Uniform Commer-
24 cial Code from the time when the pledge is made. All
25 revenues, moneys, rights and proceeds so pledged and
26 thereafter received by the district shall be subject
27 to the lien of the pledge without any physical deliv-
28 ery or segregation thereof or further action under
29 the United States Uniform Commercial Code or other-
30 wise, and the lien of the pledge shall be valid and
31 binding as against all parties having claims of any
32 kind in tort, contract or otherwise against the dis-
33 trict irrespective of whether those parties have
34 notice thereof.

35 The resolution authorizing the issuance of bonds
36 or notes under this Act, or any trust agreement
37 securing those bonds, may provide that all or a suf-
38 ficient amount of revenues, after providing for the
39 payment of the costs of repair, maintenance and oper-
40 ation and reserves therefor as may be provided in the
41 resolution or trust agreement, shall be set aside at
42 such regular intervals as may be provided in the
43 resolution or trust agreement and deposited in the
44 credit of a fund for the payment of the interest on
45 and the principal of bonds or notes issued under this
46 Act as the same shall become due, and the redemption

1 price or purchase price of bonds or notes retired by
2 call or purchase. The use and disposition of moneys
3 to the credit of the fund shall be subject to such
4 regulations as may be provided in the resolution
5 authorizing the issuance of the bonds or notes or in
6 the trust agreement securing the bonds or notes and,
7 except as may otherwise be provided in the resolution
8 or trust agreement, the fund shall be a fund for the
9 benefit of all bonds or notes without distinction or
10 priority of one over another.

11 In the event that the trustees vote to authorize
12 bonds or notes, other than temporary notes in antici-
13 pation of bonds or notes, in anticipation of revenue
14 or in anticipation of federal or state grants or
15 other aid, the estimated amount of which, singly or
16 in the aggregate included in any one financing, is
17 \$150,000 or more adjusted, relative to 1981 as the
18 base year according to the annual Consumer Price
19 Index, as defined in the Maine Revised Statutes,
20 Title 5, section 1001, subsection 6-A, the trustees
21 shall provide notice to the ratepayers of the dis-
22 trict of the proposed bond or note issue and the pur-
23 poses for which the debt is being issued. The notice
24 shall be published at least once in a newspaper hav-
25 ing general circulation in the district, the City of
26 Eastport and Town of Perry. The trustees shall also
27 give notice to each ratepayer by mail.

28 No debt may be incurred under the vote of the
29 trustees until the expiration of 7 full days follow-
30 ing the date on which the notice was first published
31 and mailed. Prior to the expiration of the period,
32 the trustees shall call a special district meeting
33 for the purpose of permitting the collection of
34 testimony from the public concerning the amount of
35 debt so authorized.

36 Except for indebtedness to fund projects specifi-
37 cally mandated by the State Government and Federal
38 Government, for debts in excess of the amount speci-
39 fied in this section, if requested by petition of not
40 less than 50 voters of the district or 5% of the
41 voters, whichever is greater; or of not less than 50
42 ratepayers of the district or 5% of the ratepayers,
43 whichever is greater, filed with the clerk of the
44 district on or before the date of the meeting, the

1 meeting shall express approval or disapproval of the
2 amount of debt so authorized. If a majority of
3 voters present and voting expresses disapproval of
4 the amount of debt authorized by the trustees, the
5 debt shall not be incurred and the vote of the
6 trustees authorizing it shall be void and of no
7 effect. Nothing contained in this Act may prevent
8 the resubmission of the same or similar proposal
9 after the disapproval, but that resubmission shall
10 follow the same procedures and be subject to the same
11 rights as provided in this section.

12 All bonds, notes and evidences of indebtedness so
13 issued by the district shall be legal obligations of
14 the district, and shall be payable solely from the
15 revenues and other funds or property of the district.
16 The Maine Revised Statutes, Title 30, section 5053,
17 shall not be applicable to the district. Excepting
18 property of the district itself, neither the personal
19 property of the residents, nor the real estate within
20 the district, nor the property or assets of the
21 Passamaquoddy Indian Tribe, may be taken to pay any
22 debt due from the body corporate.

23 All bonds, notes and evidences of indebtedness
24 issued by the district pursuant to this Act shall be
25 legal investments for savings banks in this State
26 and, together with the interest thereon, shall be ex-
27 empt from all Maine taxes.

28 Sec. 12. Governmental grants and loans. The
29 district is authorized to enter into agreements with
30 federal, state and local governments or any agency
31 thereof, or any corporation, commission or board
32 authorized by federal, state or local governments to
33 grant or loan money to or otherwise assist in the
34 financing of projects for accomplishing any of the
35 purposes of this Act, and to accept grants and borrow
36 money from any such government, agency, corporation,
37 commission or board as may be necessary or desirable
38 for the purposes of this Act.

39 Sec. 13. Contracts for supply of water. The
40 district, through its trustees, is authorized to con-
41 tract with persons, firms, associations, districts,
42 authorities and corporations, including the City of
43 Eastport and Town of Perry, for the purpose of sup-

1 plying water as contemplated by this Act, and that
2 city and town are authorized to contract with it, for
3 the supply of water for municipal purposes.

4 Sec. 14. Authority to purchase the property of
5 Eastport Water Company. The Passamaquoddy Water Dis-
6 trict may acquire by purchase the entire plant, prop-
7 erty, franchises, rights and privileges of the
8 Eastport Water Company located in or serving the City
9 of Eastport, Town of Perry and Pleasant Point Reser-
10 vation, including all lands, waters, water rights,
11 dams, structures, reservoirs, pipes, machinery, fix-
12 tures, hydrants, tools and all apparatus and appli-
13 ances owned by the company, whether the record title
14 thereto is or is not in the Eastport Water Company,
15 and provided that any purchase is accomplished in ac-
16 cordance with the United States Code, Title 25,
17 Section 1724(g). The company is authorized to sell,
18 transfer and convey its franchises and property to
19 the water district.

20 Sec. 15. Property not tax exempt. The property
21 of the district shall not be exempt from all taxation
22 in the City of Eastport and the Town of Perry or in
23 any other city or town where any part of its plant
24 may be located.

25 Sec. 16. Water rates. All individuals, firms
26 and corporations, whether private, public or municip-
27 al, shall pay to the treasurer of the district the
28 rates established by the board of trustees for the
29 water used by them; and the rates for water so sup-
30 plied shall be uniform within the territory supplied
31 by the district whenever the installation and mainte-
32 nance of mains and the cost of service is substan-
33 tially uniform, but nothing in this Act may preclude
34 the district from establishing higher rates than the
35 regular rates in sections where for any reason the
36 cost of construction and maintenance of the costs of
37 service exceeds the average, but these higher rates
38 shall be uniform throughout the sections where they
39 apply. The rates shall be so established as to pro-
40 vide revenue for the following purposes:

41 1. To pay the current expenses for operating and
42 maintaining the water system;

1 2. To provide for the payment of the interest on
2 the indebtedness created or assumed by the district
3 and, to any extent not otherwise provided for, for
4 the payment of the principal of the indebtedness;

5 3. To provide each year a sum equal to not less
6 than 1% nor more than 5% of the original principal
7 amount of each issue of bonds, notes or other
8 indebtedness created or assumed by the district as
9 long as any part of the original principal amount
10 remains outstanding, which sum shall be turned into a
11 sinking fund and there kept to provide for the extin-
12 guishment of the indebtedness. The money set aside
13 for the sinking fund shall be devoted to the retire-
14 ment of the obligations of the district or invested
15 in such securities as savings banks are allowed to
16 hold. In lieu of the establishment of a sinking fund
17 for the payment of indebtedness, the district may
18 provide for the issuance of serial bonds or notes as
19 authorized by section 11; and

20 4. If any surplus remains at the end of the
21 year, it may be transferred to the sinking fund.

22 Sec. 17. Incidental rights and privileges. All
23 incidental rights, powers and privileges necessary to
24 the accomplishment of the main object set forth in
25 this Act are granted to the public municipal corpora-
26 tion created in this Act.

27 Sec. 18. Existing statutes not affected; rights
28 conferred subject to provisions of law. Nothing con-
29 tained in this Act is intended to repeal, or may be
30 construed as repealing, the whole or any part of any
31 existing statute and all the rights and duties men-
32 tioned in this Act shall be exercised and performed
33 in accordance with all the applicable provisions of
34 the Maine Revised Statutes, Title 35, and all acts
35 amendatory thereof or additional thereto which con-
36 fers the jurisdiction of the Public Utilities Commis-
37 sion over the district.

38 Sec. 19. Act inoperative, void on failure to ac-
39 quire Eastport Water Company. If the water district
40 shall fail to purchase the plant, property, fran-
41 chises, rights and privileges owned by the Eastport
42 Water Company and used or usable in supplying water

1 to the City of Eastport, Town of Perry and Pleasant
2 Point Indian Reservation before November 1, 1984,
3 then this Act shall on November 1, 1984 be inoperative
4 and void.

5 Sec. 20. Referendum; effective date. Unless ac-
6 cepted by a majority vote of the legal voters within
7 the proposed water district voting at an election
8 called and held for the purpose by the Tribal Council
9 of the Passamaquoddy Pleasant Point Reservation, this
10 Act shall become inoperative. That special election
11 shall be called, advertised and conducted according
12 to the law relating to municipal elections, provided
13 that a new list of voters need not be prepared and
14 posted, and for the purpose of registration, the
15 board of voter registration shall be in session on
16 the secular day next preceding the special election.
17 The Tribal Clerk shall prepare the required ballots,
18 on which he shall reduce the subject matter of this
19 Act to the following question:

20 "Shall the Passamaquoddy Water District be cre-
21 ated?"

22 The voters shall indicate by a cross or check
23 mark placed against the words "Yes" or "No" their
24 opinion of the same. The result shall be declared by
25 the Tribal Council and due certificates thereof filed
26 by the Tribal Clerk with the Secretary of State.

27 This Act shall take effect for all purposes
28 immediately upon its acceptance by a majority of the
29 legal voters voting in the election, provided that
30 the total number of votes cast for and against the
31 acceptance of this Act equals or exceeds 20% of the
32 total vote for candidates for Governor cast in the
33 district at the next previous gubernatorial election,
34 but failure of approval by the necessary percentage
35 of voters at any election shall not prevent subse-
36 quent elections to be held for the purpose of voting
37 on the acceptance or rejection of this Act, within
38 the time limitation of section 19.

39 **Emergency clause.** In view of the emergency cited
40 in the preamble, this Act shall take effect when
41 approved, so far as necessary to empower the calling
42 and holding of the election described in section 20.

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STATEMENT OF FACT

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The intent of this bill is reflected in the emergency preamble.

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