

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 (After Deadline)

3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 1208

9 H.P. 929

House of Representatives, March 15, 1983

10 Approved for introduction by a majority of the Legislative Council
11 pursuant to Joint Rule 27.

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

EDWIN H. PERT, Clerk

Presented by Representative Wentworth of Wells.

14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-THREE
18

19 AN ACT to Reincorporate and Amend the
20 Charter of the North Berwick Water District.
21

22 Emergency preamble. Whereas, Acts of the Legis-
23 lature do not become effective until 90 days after
24 adjournment unless enacted as emergencies; and

25 Whereas, Private and Special Law 1981, chapter
26 54, provided for the creation of the North Berwick
27 Water District to take over properties of the North
28 Berwick Water Company and to supply water to the
29 inhabitants of the Town of North Berwick; and

30 Whereas, the North Berwick Water District was
31 duly formed in accordance with the provisions of Pri-
32 vate and Special Law 1981, chapter 54 and entered
33 into a contract with the North Berwick Water Company

1 for the acquisition of the properties of the North
2 Berwick Water Company for a price of \$320,000, and
3 that contract was approved by order of the Public
4 Utilities Commission; and

5 Whereas, in order to finance the acquisition of
6 those properties and the making of the necessary
7 improvements to the system, the Trustees of the North
8 Berwick Water District voted to authorize the borrow-
9 ing of \$400,000 by an issue of notes, and to refund
10 the notes by the sale, at their maturity, of a like
11 principal amount of bonds, and to borrow, in addi-
12 tion, not in excess of \$368,000 by the issue and sale
13 of bonds to make additional improvements to the sys-
14 tem; and

15 Whereas, in accordance with the provisions of
16 section 9 of the charter, the trustees elected to
17 call a special meeting of the voters of the North
18 Berwick Water District to be held on July 29, 1982,
19 to approve or disapprove the action by the trustees
20 authorizing those borrowings; and

21 Whereas, at the special meeting, at which only 74
22 voters of the North Berwick Water District were
23 present, the voters disapproved of the action of the
24 trustees authorizing those borrowings; and

25 Whereas, the trustees subsequently submitted
26 nonbinding referendum questions to the voters of
27 North Berwick at the November general election in
28 1982, and the results of the referendum votes indi-
29 cated that the voters desired to have the trustees
30 acquire the assets of the North Berwick Water Company
31 and commence operation of the district and authorize
32 the drilling of wells to acquire a new water supply
33 and to make other improvements, the initial cost of
34 the acquisition and certain improvements to be
35 \$400,000 financed by notes and bonds, and the cost of
36 the new water supply and further improvements to be
37 \$400,000 financed by a \$32,000 grant from the Farmers
38 Home Administration and the sale of \$368,000 of bonds
39 to the Farmers Home Administration; and

40 Whereas, Private and Special Law 1981, chapter
41 54, section 21, provided, among other things, that if
42 the North Berwick Water District failed to purchase

1 the properties of the North Berwick Water Company or
2 to file a petition prior to December 31, 1982, to
3 exercise its right of eminent domain, Private and
4 Special Law 1981, chapter 54, should become inopera-
5 tive and void on December 31, 1982; and

6 Whereas, the present water system in North
7 Berwick is inadequate and in need of immediate
8 improvement and repair to protect the quality of the
9 water service and the health and well-being of the
10 customers of the North Berwick Water Company; and

11 Whereas, an adequate supply of pure water is
12 essential to the health and well-being of the custom-
13 ers of the North Berwick Company; and

14 Whereas, it is desirable that the public water
15 district created by Public and Special Law 1981,
16 chapter 54, be reincorporated and empowered to take
17 over the North Berwick Water Company forthwith in
18 order to supply water service to the inhabitants of
19 the Town of North Berwick; and

20 Whereas, it is vital that this be done at once
21 for the benefit of the customers of the present water
22 system; and

23 Whereas, in the judgment of the Legislature,
24 these facts create an emergency within the meaning of
25 the Constitution of Maine and require the following
26 legislation as immediately necessary for the preser-
27 vation of the public peace, health and safety; now,
28 therefore,

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

31 **Sec. 1. North Berwick Water District Reincor-**
32 **porated.** Subject to section 7, the inhabitants and
33 territory within the Town of North Berwick in the
34 County of York are hereby reincorporated and consti-
35 tuted a public municipal corporation under the name
36 of "North Berwick Water District" with all the
37 rights, powers, privileges and franchises granted to
38 the North Berwick Water District pursuant to the
39 provisions of Private and Special Law 1981, chapter

1 54, and all of the provisions of Private and Special
2 Law 1981, chapter 54, are hereby incorporated in,
3 made part of this Act and reenacted with the same
4 effect as if set forth verbatim in this chapter,
5 except as amended by sections 3, 4 and 5.

6 **Sec. 2. Validation of election of trustees and**
7 **proceedings of trustees and action of officers and**
8 **agents.** The Trustees of North Berwick Water District
9 appointed by the board of selectmen or elected at the
10 annual election of municipal officers of the Town of
11 North Berwick are hereby declared to be, and to have
12 been, duly appointed, elected and qualified for the
13 respective terms for which each was appointed or
14 elected, and all of the proceedings of the trustees
15 of that district as the board of trustees was from
16 time to time constituted and shown by the records of
17 that district, and all of the action duly taken in
18 accordance therewith by the officers and agents of
19 that district, is hereby validated, confirmed and
20 made effective.

21 **Sec. 3. P&SL 1981, c. 54, §9, 2nd sentence is**
22 **amended to read:**

23 The district by vote of its board of trustees, with-
24 out district vote except as provided, is also author-
25 ized to issue, from time to time, bonds, notes or
26 other evidences of indebtedness of the district in
27 the amount or amounts, not exceeding the sum of
28 \$1,500,000 outstanding at any one time, except for
29 indebtedness to fund projects specifically mandated
30 by the State Government or Federal Government, bear-
31 ing interest at such rate or rates, and having the
32 terms and provisions as the trustees shall determine;
33 provided that, except for not in excess of \$768,000
34 principal amount of notes and bonds at any one time
35 outstanding to be issued by vote of the trustees
36 without district vote for the purpose of acquiring
37 properties of the North Berwick Water Company and
38 making certain improvements, and for the purpose of
39 acquiring a new water supply and making further
40 improvements, in the case of a vote any other votes
41 by the trustees to authorize bonds or notes to pay
42 for the acquisition of property, for the cost of a
43 water system or part thereof, for renewal or addi-
44 tions or for other improvements in the nature of

1 capital costs, the estimated cost of which, singly or
2 in the aggregate included in any one financing is
3 \$150,000 or more, or for renewing or refunding exist-
4 ing indebtedness, notice of the proposed debt and of
5 the general purpose or purposes for which it was
6 authorized shall be given by the clerk by publication
7 at least once in a newspaper having a general circu-
8 lation in the Town of North Berwick.

9 Sec. 4. P&SL 1981, c. 54, §19 is amended to
10 read:

11 Sec. 19. Existing statutes not affected; rights
12 conferred subject to provisions of law. Nothing in
13 this ~~section~~ Act is intended to repeal, or shall be
14 construed as repealing, the whole or any part of any
15 existing statute and all the rights and duties men-
16 tioned in this ~~section~~ Act, shall be exercised and
17 performed in accordance with all the applicable
18 provisions of the Revised Statutes, Title 35, and all
19 Acts amendatory thereof or additional thereto pro-
20 vided that the provisions of the Revised Statutes,
21 Title 35, chapter 262, shall not apply to the dis-
22 trict except that section 3223, subsections 4 and 5
23 shall apply to the district.

24 Sec. 5. P&SL 1981, c. 54, §21 is amended to
25 read:

26 Sec. 21. Act inoperative, void on failure to ac-
27 quire North Berwick Water Company. If the water dis-
28 trict shall fail to purchase the plant, property,
29 franchises, rights and privileges owned by the North
30 Berwick Water Company and used or usable in supplying
31 water to the Town of North Berwick or shall fail to
32 file a petition before December 31, ~~1982~~ 1983; to
33 exercise its right of eminent domain as in this Act
34 provided, for the acquisition of the plant, property,
35 franchises, rights and privileges owned by the North
36 Berwick Water Company and used or usable in supplying
37 water to the Town of North Berwick, except its cash
38 assets and accounts receivable, then this Act shall
39 on December 31, ~~1982~~ 1983 be inoperative, and void.

40 Sec. 6. Saving clause. If any provision of this
41 Act or the application thereof to any person or cir-
42 cumstances is held invalid, the remainder of the Act

1 and the application of that provision to other per-
2 sons or circumstances shall not be affected thereby.

3 **Sec. 7. Acceptance subject to referendum.**

4 Unless accepted and approved by a majority vote of
5 the legal voters within the North Berwick Water Dis-
6 trict voting in an election called and held for the
7 purpose by the municipal officers of the Town of
8 North Berwick, this Act shall become inoperative.
9 The subject matter of this Act shall be reduced to
10 the following question: "Shall the North Berwick
11 Water District be reincorporated?" The voters shall
12 indicate by a cross or check mark placed against the
13 words "Yes" or "No" their opinion of the same. The
14 result shall be declared by the municipal officers
15 and due certificate thereof filed by the Town Clerk
16 of North Berwick with the Secretary of State. This
17 Act shall take effect for all the purposes thereof
18 immediately upon its acceptance by a majority of the
19 legal voters in the district voting at the election;
20 provided that the total number of votes cast for and
21 against the acceptance of this Act equals or exceeds
22 20% of the total vote for all candidates for Governor
23 at the next previous gubernatorial election; but
24 failure of approval by the necessary percentages of
25 voters at any such elections shall not prevent a
26 subsequent election or elections to be held for that
27 purpose within the time limitation of section 21.

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

31 **STATEMENT OF FACT**

32 The purpose of this bill is to reincorporate the
33 North Berwick Water District, which was duly formed
34 pursuant to the provisions of Private and Special Law
35 1981, chapter 54, and the charter of which became
36 void on its failure to acquire the properties of the
37 North Berwick Water Company by December 31, 1982, and
38 to make certain amendments to the original Act. If
39 this Act is approved by referendum pursuant to
40 section 7 of this Act, the trustees will be author-
41 ized, without district vote, to issue and sell not in
42 excess of \$768,000 principal amount of notes and

1 bonds for the purpose of acquiring the properties of
2 the North Berwick Water Company, making certain
3 improvements thereto, and developing a new source of
4 water supply. At the general election in November,
5 the voters of North Berwick in nonbinding referendum
6 votes indicated their approval of that action.

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