

MAINE STATE LEGISLATURE

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(New Draft of S.P. 372, L.D. 1146)
(New Title)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document No. 1717

S.P. 595 In Senate, May 31, 1983

Reported by Senator Gill of Cumberland from the Committee on Health and Institutional Services and printed under Joint Rule 2.
Original bill presented by Senator Bustin of Kennebec. Cosponsored by Representative Chonko of Topsham, Representative Manning of Portland and Senator Najarian of Cumberland

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

AN ACT to Amend the Statutes Relating
to Fluoridation.

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

Sec. 1. 22 MRSA §2651, as enacted by PL 1975, c. 751, §4, is repealed.

Sec. 2. 22 MRSA §§2651-A and 2651-B are enacted to read:

§2651-A. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1 1. Multiservice municipality. "Multiservice
2 municipality" means any municipality served in whole
3 or in part by more than one public water system.

4 2. Multiple community water district. "Multiple
5 community water district" means that area comprising
6 all municipalities served in whole or part by a sin-
7 gle public water system plus those public water sys-
8 tem zones within multiservice municipalities served
9 by the same public water system.

10 3. Multiple community water system district-wide
11 election. "Multiple community water system district-
12 wide election" means an election held in each munici-
13 pality within a multiple community water district to
14 determine whether or not to fluoridate the water
15 supply of that system.

16 4. Municipality. "Municipality" means a city,
17 town or plantation.

18 5. Public water system. "Public water system"
19 means the public water agency, company, utility, dis-
20 trict or other entity serving one or more municipali-
21 ties in whole or in part.

22 6. Public water system zone. "Public water sys-
23 tem zone" means any one of the 2 or more areas of a
24 multiservice municipality served by a single public
25 water system, as further defined in section 2657.

26 7. Registered petitioners. "Registered peti-
27 tioners" means those registered voters residing in a
28 single community water district or, in the case of a
29 multiple community water system district-wide elec-
30 tion, those registered voters residing in the multi-
31 ple community water district who have accepted the
32 responsibility of receiving notice concerning the
33 filing of petitions pursuant to section 2655, subsec-
34 tion 3, paragraph B.

35 8. Single community water district. "Single
36 community water district" means a municipality served
37 in whole or in part by a water system which serves no
38 other municipalities.

1 9. Single-service municipality. "Single-service
2 municipality" means any municipality served in whole
3 or in part by a single public water system.

4 §2651-B. Fluoridation

5 No public water system may add any fluoride to
6 its water supply without written approval of the
7 department.

8 Sec. 3. 22 MRSA §2652, as enacted by PL 1975, c.
9 751, §4, is repealed.

10 Sec. 4. 22 MRSA §§2653 to 2659 are enacted to
11 read:

12 §2653. Authorization of fluoridation; general provi-
13 sions

14 1. Requirement for authorization. No public
15 water system may add any fluoride to any water supply
16 without first having been authorized to do so by the
17 affected single or multiple community water district
18 served by it. Any public water system duly author-
19 ized to add fluoride to any water supply shall do so
20 within 9 months after being notified in accordance
21 with this section. The municipal clerk shall, within
22 10 days after the vote, notify the public water sys-
23 tem of the vote favoring or not favoring the addition
24 of fluoride to the public water supply.

25 2. Form of question. Any time the issue of
26 whether to fluoridate a public water supply is sub-
27 mitted to voters, the question shall be phrased as
28 follows: "Shall fluoride be added to the public
29 water supply for the intended purpose of reducing
30 tooth decay?"

31 3. Prohibition. Whenever a single community
32 water district has approved fluoridation, it may not
33 again vote on the matter for a minimum period of 2
34 years from the date of installation of fluoride.
35 Whenever a single community water district has disap-
36 proved fluoride, it may not vote again on the matter
37 for a minimum period of 2 years. Whenever a multiple
38 community water district has approved fluoridation,
39 it may not vote again on the matter until the first

1 general election after 2 years from the date of
2 installation of fluoride. Whenever a multiple commu-
3 nity water district disapproves fluoride, it may not
4 vote again on the matter until the next general elec-
5 tion.

6 §2654. Procedure for elections

7 1. Single community water districts. In the
8 case of a city, authorization shall be by a majority
9 vote of the legal voters voting at a regular or spe-
10 cial city election. In the case of a town or
11 plantation, authorization shall be by a majority vote
12 of the inhabitants present at an annual town or
13 plantation meeting.

14 2. Multiple community water districts. In the
15 case of a multiple community water district, authori-
16 zation shall be by a majority vote of those voting at
17 a multiple community water system district-wide elec-
18 tion. A valid request for an election on whether or
19 not to authorize the addition of fluoride may be made
20 in either of the following ways.

21 A. A valid request for an election shall have
22 been made when a majority of municipal officials,
23 in a majority of municipalities within a multiple
24 community water system district, vote to call an
25 election. All such votes must be taken at least
26 90 days before the general election. Each voting
27 municipality shall certify within 5 days to all
28 other municipalities within the public water sys-
29 tem district the results of its vote.

30 A multiple community water system district-wide
31 election shall take place in each municipality
32 within the district if, on the basis of the cer-
33 tificates, a majority of public officials within
34 a majority of the municipalities in the district
35 have called for an election.

36 B. A valid request for election shall have been
37 made when a number of registered voters within a
38 multiple community water district equal to at
39 least 10% of the total number of votes cast for
40 Governor at the last gubernatorial election in
41 all municipalities, wholly or partially within

1 the multiple community water district, file a
2 petition or petitions with the appropriate munic-
3 ipality or municipalities which are wholly or
4 partially within the multiple community water
5 district.

6 §2655. Petitions in multiple community water dis-
7 tricts

8 Petitions for an election shall be governed by
9 the following provisions.

10 1. Circulation. Any time the issue of whether
11 to fluoridate a public water supply is submitted to
12 the voters in multiple community water districts pur-
13 suant to petition, the petition or petitions shall be
14 circulated and signed in the manner prescribed by
15 Title 30, section 5353, subsection 3, paragraph B,
16 subparagraphs (2) and (3), and shall be dated and
17 gathered within the time frame prescribed by the Con-
18 stitution of Maine, Article IV, Part 3rd, Section 18,
19 subsection 2.

20 2. Forms; instructions. On request of a voter,
21 the Secretary of State shall furnish petition forms
22 to that voter within 10 days of the request. The
23 Secretary of State may charge a reasonable fee for
24 the petitions.

25 If a voter, at his own expense, wishes to have the
26 forms printed and furnished by himself rather than by
27 the Secretary of State, he may do so provided that
28 these petition blanks are first approved by the
29 Secretary of State as to form and content.

30 The Secretary of State shall prepare complete
31 instructions to advise the signers, circulators,
32 registered petitioners, municipal clerks and election
33 officials as to any statutory and constitutional re-
34 quirements. The instructions must specify the condi-
35 tions which have been held to invalidate either indi-
36 vidual signatures or complete petitions. The
37 instructions must be printed in bold type or capital
38 letters on the petition.

39 3. Signing; filing. Petitions may be signed and
40 filed as follows.

1 A. In single-service municipalities, petitions
2 may be signed by any registered voter within the
3 municipality.

4 B. In multiservice municipalities, petitions may
5 be signed by any registered voter residing within
6 the affected public water system zone of the
7 municipality. All such petitions shall be filed
8 with the appropriate municipality at least 120
9 days before the next general election. In each
10 municipality in which petitions are filed, the
11 petition or petitions shall be accompanied with
12 the name and address of at least one, but not
13 more than 5, registered voters who shall be the
14 registered petitioners for the purpose of subsec-
15 tion 4. The registered petitioners must reside
16 in the multiple community water district, but
17 need not reside in the municipality in which a
18 petition is filed.

19 4. Certification. Within 20 days after a peti-
20 tion is filed, the municipal clerk shall complete a
21 certificate which states the number of valid
22 signatures on the petition and identifies the rele-
23 vant multiple community water district or districts
24 involved. The certificate shall be sent by regis-
25 tered mail to the registered petitioners, who shall
26 be responsible for transmitting them to the Secretary
27 of State.

28 The Secretary of State shall total the number of
29 valid signatures as certified by the municipal clerk.
30 As soon as the total number of certified valid
31 signatures is found to be equal to at least 10% of
32 the total number of votes cast for Governor at the
33 last gubernatorial election in all municipalities
34 which are wholly or partially within the multiple
35 community water district, the Secretary of State
36 shall certify that fact to each municipality which is
37 wholly or partially in the multiple community water
38 district within 48 hours.

39 §2656. Elections in multiple community water dis-
40 tricts

41 1. Multiple community water system district-wide
42 elections. In the case of public systems serving

1 more than one municipality, in whole or in part,
2 elections shall be held simultaneously in all municipi-
3 palities served by the water system at the first gen-
4 eral election following the certification of a
5 request for an election on the issue of whether or
6 not to fluoridate the water supply. Those eligible
7 to vote shall be all registered voters within
8 affected single-service municipalities and all regis-
9 tered voters within the affected public water system
10 zone of multiservice municipalities.

11 2. Reporting election results. Each municipal
12 clerk shall certify in writing the results of the
13 election within 72 hours of the vote to the Secretary
14 of State. The results shall be certified as to the
15 number of eligible voters voting in favor of
16 fluoridation and the number of eligible voters voting
17 in opposition to fluoridation. The municipality
18 shall also certify to the Secretary of State the
19 identity of the relevant public water district or
20 districts involved.

21 3. Vote tabulation. The Secretary of State
22 shall, within 48 hours of receiving the last written
23 certification, tabulate the votes from each municipi-
24 pality and immediately make public the results of the
25 multiple community water system district-wide elec-
26 tion by mailing to each affected municipality and
27 public water system the results of the election,
28 including the submitted votes from that municipality
29 and public water system zone and the total multiple
30 community water system district-wide vote.

31 §2657. Establishment of public water system zones

32 1. Division into zones. In order to facilitate
33 elections in multiservice municipalities, each munic-
34 ipality shall divide itself into as many zones as
35 there are public water services supplying the munic-
36 ipality. The zones shall be so structured as to
37 insure that:

38 A. All residents served by a given public water
39 service fall within the same zone;

40 B. Each registered voter within the municipality
41 is within one of the zones; and

1 C. The size of the zone bears a rational rela-
2 tionship to the area of the municipality being
3 served by a given public water system.

4 2. Map. Upon request by a municipality, a
5 public water system shall provide to the municipality
6 within 14 days a map which clearly delineates the
7 boundaries of the service area of the public water
8 system and any other requested information reasonably
9 necessary to enable the municipality to determine the
10 precise area of service in the municipality of the
11 public water system.

12 3. Description; map; files. Each multiservice
13 municipality shall keep on file, as a public docu-
14 ment, a precise description and accompanying map of
15 its public water system zones.

16 §2658. Allocation of costs

17 The Public Utilities Commission, upon applica-
18 tion, shall determine and allocate the cost of
19 fluoridation among the customers of a public water
20 system and shall from time to time review that deter-
21 mination and allocation as required. In the event
22 that a community water district which has approved
23 fluoridation votes to discontinue fluoridation, the
24 public water system may amortize the remaining cost
25 of its investment in these facilities and allocate
26 the cost of that amortization among its customers,
27 over such period of time as is approved by the Public
28 Utilities Commission.

29 §2659. Rules

30 The Department shall promulgate such rules, pur-
31 suant to the Maine Administrative Procedure Act,
32 Title 5, chapter 375, subchapter II, as it deems
33 necessary to carry out the purposes of this subchap-
34 ter, including, but not limited to, rules regarding
35 the time and manner in which municipalities shall
36 establish public water system zones.

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STATEMENT OF FACT

This new draft retains some of the language of the current law, but reorganizes it in order to insert a new section on definitions and to separate out the provisions relating to rules. A minor technical change is made in the section requiring departmental approval.

The current law on authorization has been rewritten into several sections in order to clarify the different provisions for municipalities served by more than one public water system, and to specify the procedures for putting the question of fluoridation before the voters. The petition procedure is equivalent to that in other state referenda, with appropriate modifications to cover signatures being required from persons in more than one municipality. Municipalities will have to establish water system zones, and be able to identify voters within the zones for purposes of certifying the petitions. The wording of the question on fluoridation is spelled out.

Much of the current statute on authorization is retained, including the limitations on revoting, addition of fluoride and notification on the results of the vote. The majority requirement is retained for all municipalities, cities, towns and plantations, as is the requirement that the Public Utilities Commission allocate the costs of fluoridation among the customers of the water system.

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