

MAINE STATE LEGISLATURE

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(After Deadline)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1765

H.P. 1328

House of Representatives, June 14, 1983

Reference to the Committee on Public Utilities suggested and Ordered
Printed.

EDWIN H. PERT, Clerk

Presented by Representative Soule of Westport.

STATE OF MAINE

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

AN ACT Creating the Wiscasset Water
District.

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

Sec. 1. Territorial limits; corporate name; purposes. Subject to section 13, the inhabitants and territory within the Town of Wiscasset, shall be and hereby are constituted a public municipal corporation under the name of "Wiscasset Water District" for the purpose of supplying the inhabitants of the district with pure water for domestic, sanitary, manufacturing and municipal purposes.

Sec. 2. Source of supply. The water district, for the purposes of its incorporation, may take, collect, store, hold, divert, use, flow, detain and distribute water from any lake, pond, stream or river

1 and from any surface or underground brook, spring or
2 vein of water in the Town of Wiscasset and from any
3 other source from which the Maine Water Company,
4 Wiscasset Division, is now authorized to take any
5 water, including sources outside of the Town of
6 Wiscasset.

7 Sec. 3. Right of eminent domain conferred. The
8 district, for the purposes of its incorporation, may
9 take and hold, as for public uses, by purchase, gift
10 or by exercise of the right of eminent domain, which
11 right is expressly delegated to the water district
12 for those purposes, any lands or interests therein or
13 water rights necessary for erecting and maintaining
14 dams; flowage; power; pumping its water supply
15 through its mains; reservoirs and standpipes; pre-
16 serving the purity of the water and watershed; laying
17 and maintaining aqueducts, mains and other structures
18 for taking, distributing, purifying, discharging and
19 disposing of water; and rights-of-way or roadways to
20 its sources of supply, dams, power stations, reser-
21 voirs, standpipes, mains, aqueducts, structures and
22 lands. Nothing contained in this Act may be con-
23 strued as authorizing the water district to take by
24 right of eminent domain any of the property or facil-
25 ities of any other public service corporation or dis-
26 trict used or acquired for future use by the owner
27 thereof in the performance of a public duty, unless
28 expressly authorized in this Act or by subsequent Act
29 of the Legislature, or as provided in sections 7 and
30 12.

31 Sec. 4. Authorized to lay pipes, public ways and
32 across private lands. The district may lay in and
33 through the streets, roads, ways and highways within
34 the district and across private lands in the dis-
35 trict, and maintain and replace all such pipes, aque-
36 ducts, mains and fixtures as may be necessary, and
37 may excavate through any lands when necessary and
38 convenient for its corporate purposes. Whenever the
39 district lays 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 may, for the purposes
3 of its incorporation, erect and maintain all dams,
4 pumping stations, with all necessary appliances re-
5 quired therefor, reservoirs, standpipes and struc-
6 tures necessary and convenient for its corporate pur-
7 poses.

8 Sec. 6. Procedure in exercising rights of emi-
9 nent domain; assessment of damages; appeal proce-
10 dure. The water district is liable for all damage
11 that is sustained by any person or corporation in his
12 or its property by the taking of any land or interest
13 therein whatsoever, for water, or by flowage, or by
14 excavating through any land for the purpose of laying
15 pipes, aqueducts or mains, building dams or con-
16 structing reservoirs or any other construction neces-
17 sary to the taking, distributing, purifying, dis-
18 charging and disposing of water for its users.

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

1 If any person or corporation sustains damages by
2 any taking and the water district does not mutually
3 agree upon the sum to be paid therefor, either party,
4 upon petition to the county commissioners of Lincoln
5 County, may have those damages assessed by them. The
6 procedure and all subsequent proceedings and right of
7 appeal shall be had under the same restrictions, con-
8 ditions and limitations as are or may be by law pre-
9 scribed in the case of damages by the laying out of
10 town ways.

11 **Sec. 7. Procedures in crossing of railroads or**
12 **utility rights-of way.** In case of any crossing of a
13 railroad or the right-of-way occupied by the trans-
14 mission or distribution lines of an electric company
15 or telephone company, unless consent is given by the
16 company owning or operating that railroad or trans-
17 mission line, as to place, manner and conditions of
18 the crossing, within 30 days after that consent is
19 requested by the district, the Department of Trans-
20 portation shall, upon petition setting forth a de-
21 scription of the premises and the reasons for the
22 crossing, after notice given as the commission may
23 prescribe, determine the place, manner and conditions
24 of that crossing. All work within the limits of that
25 railroad location or right-of-way shall be done under
26 the supervision and to the satisfaction of the rail-
27 road company, telephone company or electric company,
28 as the case may be, but at the expense of the dis-
29 trict, unless otherwise ordered by the Department of
30 Transportation, which shall award to the railroad,
31 telephone company or electric company any damage suf-
32 fered by it occasioned by the crossing.

33 **Sec. 8. Board of trustees; appointment; compen-**
34 **sation.** All of the affairs of the district shall be
35 managed by a board of trustees composed of 5 members
36 of the legal voters of the district from the Town of
37 Wiscasset. Initially the trustees shall be chosen by
38 the municipal officers of Wiscasset. Each trustee
39 shall serve for a term of 3 years, except that the
40 initial trustees shall serve for one, 2 or 3 years.
41 At the first meeting, the trustees may determine by
42 agreement, or failing to agree, they shall determine
43 by lot, the term of office of each trustee so that no
44 more than 2 may retire each year. The term of office
45 of the trustees shall end at the annual town meeting

1 held in March. Whenever the term of office of a
2 trustee expires, a successor is elected by secret
3 ballot at the regular yearly municipal election to
4 serve the full term of 3 years. In case any other
5 vacancy arises from any cause, it shall be filled in
6 like manner for the unexpired term. When any trustee
7 ceases to be a resident of the town from which he was
8 elected or appointed, he vacates the office of the
9 trustee.

10 The trustees shall hold a meeting at the town
11 office in Wiscasset and organize by the election of a
12 president and clerk, adopt a corporate seal and, when
13 necessary, may choose a treasurer and all other need-
14 ful officers and agents for the proper conduct and
15 management of the affairs of the district. The
16 trustees may also ordain and establish such bylaws as
17 are necessary for their own convenience and the
18 proper management of the affairs of the district.
19 The trustees may procure an office and incur such
20 expenses as may be necessary. The treasurer shall
21 furnish bond in such sum and with such sureties as
22 they may approve. The voters of the district shall
23 set the salaries of the trustees. The trustees shall
24 also receive reimbursement for all necessary and
25 reasonable expenses, including travel. A quorum of
26 the board of trustees shall be 3 trustees. All deci-
27 sions of the board of trustees shall be by a majority
28 of those present and voting. The trustees shall be
29 sworn to the faithful performance of their duties
30 which shall include the duties of any member who
31 shall serve as clerk or clerk pro tem.

32 Sec. 9. Temporary loans negotiated; issue of
33 bonds. For accomplishing the purposes of this Act,
34 the water district, through its trustees, may borrow
35 money temporarily and issue therefor the negotiable
36 notes of the district, and for the purpose of refund-
37 ing the indebtedness so created, for paying any
38 necessary expenses and liabilities incurred under the
39 provisions of this Act, including the expenses incur-
40 red in the creation of a district, in securing
41 sources of supply, taking water and land, paying dam-
42 ages, taking rights-of-way or other interests in real
43 estate, by purchase or otherwise, laying pipes, aque-
44 ducts and mains, constructing, installing, maintain-
45 ing and operating reservoirs, standpipes, dams, pump-

1 ing stations and whatever equipment may be necessary
2 or incidental to the construction and installation of
3 that system of water works and making renewals of or
4 extensions, additions and improvements to the same,
5 the district by votes of its board of trustees, with-
6 out district vote, except as provided in this Act,
7 may also issue, from time to time, bonds, notes or
8 other evidences of indebtedness of the district in
9 the amount or amounts, bearing interest at such rate
10 or rates, and having such terms and provisions as the
11 trustees determine; provided that in the case of a
12 vote by the trustees to authorized bonds or notes to
13 pay for the acquisition of property, for the cost of
14 a water system or part thereof, for renewal or addi-
15 tions or for other improvements in the nature of cap-
16 ital costs, or for renewing or refunding existing
17 indebtedness, notice of the proposed debt and of the
18 general purpose or purposes for which it was author-
19 ized shall be given by the clerk by publication at
20 least once in a newspaper having a general circula-
21 tion in the Town of Wiscasset. No debt may be incur-
22 red under the vote of trustees until the expiration
23 of 7 full days following the date on which the notice
24 was first published. Prior to the expiration of the
25 period, the trustees may call a special district
26 meeting for the purpose of permitting the voters of
27 the district to express approval or disapproval of
28 the amount of debt so authorized. The trustees shall
29 call a special district meeting if, within 7 days
30 following the publication of the notice, there is
31 filed with the clerk of the district a petition or
32 petitions signed by not less than 50 qualified voters
33 of the district requesting that a special meeting be
34 called. If, at the district meeting, a majority of
35 voters present and voting thereon express disapproval
36 of the amount of debt authorized by the trustees, the
37 debt may not be incurred and the vote of the trustees
38 authorizing the same shall be void and of no effect.
39 The bonds, notes and evidences of indebtedness may be
40 issued to mature serially in annual installments of
41 not less than 1% of the face amount of the issue and
42 beginning not later than 2 years from the date
43 thereof, or may be issued with equal annual payments,
44 applied first to interest and the balance to prin-
45 cipal, or made to run for such periods as the
46 trustees may determine, but no issue may run for a
47 longer period than 40 years from the date of original

1 issue. Bonds, notes or evidences of indebtedness may
2 be issued with or without provision for calling the
3 same prior to maturity and, if callable, may be made
4 callable at par or at such premium as the trustees
5 may determine. All bonds, notes or other evidences
6 of indebtedness shall have inscribed upon their face
7 the words "Wiscasset Water District," shall be signed
8 by the treasurer and countersigned by the chairman of
9 the board of trustees of the district and, if coupon
10 bonds are issued, the interest coupons attached
11 thereto shall bear the facsimile of the signature of
12 the treasurer. All bonds, notes and evidences of
13 indebtedness so issued by the district shall be legal
14 obligations of the district, which is declared to be
15 a quasi-municipal corporation within the meaning of
16 the Revised Statutes, Title 30, section 5053, as
17 amended, and all provisions of this section shall be
18 applicable thereto.

19 The district may, from time to time, issue its
20 bonds, notes and other evidences of indebtedness for
21 the purpose of paying, redeeming or refunding out-
22 standing bonds, notes or evidences of indebtedness
23 and each authorized issue shall constitute a separate
24 loan. All bonds, notes and evidences of indebtedness
25 issued by the district shall be legal investments for
26 savings banks in the State and shall be tax exempt.
27 The district may enter into agreements with the State
28 or Federal Government, or any agency of either, or
29 any corporation, commission or board authorized by
30 the State or Federal Government to grant or loan
31 money to or otherwise assist in the financing of
32 projects, such as the district may carry out, and ac-
33 cept grants and borrow money from any government
34 agency, corporation, commission or board as may be
35 necessary or desirable to enforce this Act. All
36 notes and bonds with the maturity of more than one
37 year in connection with the water system may first be
38 approved by the Public Utilities Commission.

39 Sec. 10. Sinking fund provided for. In case any
40 of the bonds or notes are made to run for a period of
41 years, a sinking fund shall be established by the
42 trustees of the district for the purpose of redeeming
43 the bonds or notes when they become due and a sum
44 equal to not less than 1% and not more than 5% of the
45 aggregate principal of the outstanding bonds or

1 notes, except for serial bonds issued on account of
2 or in behalf of the district shall be turned into the
3 sinking fund each year to provide for the final
4 extinguishment of the district funded debt.

5 The money set aside for the sinking fund shall be
6 devoted to the retirement of the notes and bonds, and
7 shall be used for no other purposes, and shall be
8 invested in such securities as savings banks are
9 allowed to hold.

10 Whenever any bonds of the district become due or
11 can be purchased by the trustees on favorable terms,
12 the trustees may, if sufficient funds have accumu-
13 lated in the sinking fund, redeem or purchase the
14 bonds and cancel them. In no case may bonds so can-
15 celed or redeemed be reissued.

16 In case the amount in the sinking fund is not
17 sufficient to pay the total amount of the bonds fall-
18 ing due at any one time, the trustees may issue new
19 bonds sufficient to redeem as many of the bonds as
20 cannot be redeemed from the sinking fund.

21 In the event that the district, with the approval
22 of bond counsel or a bonding organization, estab-
23 lishes a payment schedule that does not require the
24 use of a sinking fund, the provisions of this section
25 shall not apply.

26 **Sec. 11. Authority to purchase property of Maine**
27 **Water Company.** The Wiscasset Water District may ac-
28 quire by purchase the entire plant, property, fran-
29 chises, rights and privileges of the Maine Water Com-
30 pany located in or serving the Town of Wiscasset,
31 except its cash assets, mortgages, liens and encum-
32 brances and accounts receivable and payable, includ-
33 ing all land, waters, water rights, dams, structures,
34 reservoirs, pipes, machinery, fixtures, hydrants,
35 tools and all apparatus and appliances owned by that
36 company, whether the record title thereto is or is
37 not in the Maine Water Company. The company may
38 sell, transfer and convey its franchises and property
39 to the water district, subject to Public Utilities
40 Commission approval.

1 Sec. 12. Procedure in case trustees and Maine
2 Water Company fail to agree on terms of purchase. In
3 case the trustees fail to agree with the Maine Water
4 Company upon the terms of purchase, then the district
5 through its trustees, may take the properties, interest
6 and franchises of the Maine Water Company as set
7 forth in section 11, in the manner provided. in this
8 Act, wherein the Maine Water Company and its mort-
9 gagees, if any, or those having an interest in any
10 realty which is of record, shall be the parties'
11 defendant. The district, through its trustees, may
12 file a petition in the clerk's office of the Superior
13 Court for Lincoln County, addressed to any justice
14 thereof who, after notice to the defendant, shall,
15 after hearing and within 60 days after the filing of
16 the petition, appoint 3 disinterested appraisers for
17 the purpose of fixing the valuations of the plant,
18 property and franchises of the Maine Water Company
19 described in section 11. The court may order under
20 proper terms the production for inspection by the
21 trustees or the appraisers of all books and papers
22 pertaining to the issue, on petition by the peti-
23 tioner, unless the same are voluntarily produced.
24 The appraisers shall after due notice and hearing,
25 fix the valuation, as of the date of filing the peti-
26 tion, of the plants, properties and franchises at
27 what they were fairly and equitably worth so that the
28 company shall receive just compensation for the same.
29 The report of the appraisers or of a majority of
30 them, together with the report of a stenographer cer-
31 tified by the appraisers as correct, shall be filed
32 in the clerk's office within 6 months after their
33 appointment and any Justice of the Superior Court
34 may, after notice and hearing, confirm or reject the
35 same or recommit it, if justice so requires. Upon
36 the confirmation of the report, the court so sitting
37 shall thereupon make final decree upon the entire
38 matter, including the application of the purchase
39 money and transfer of the property, jurisdiction over
40 which is hereby conferred, and with the power to
41 enforce the decree as in equity cases. All findings
42 of fact by the court and the appraisers shall be
43 final, but any party aggrieved may take exceptions as
44 to any matters of law, the same to be accompanied by
45 so much of the case as may be necessary to a clear
46 understanding of the question raised. These excep-
47 tions shall be claimed on the docket within 10 days

1 after the final decree is signed, entered, filed and
2 notice thereof has been given by the clerk to the
3 parties and the exceptions so claimed shall be made
4 up, allowed and filed within that time, unless fur-
5 ther time is granted by the court or by agreement of
6 the parties. They shall be entered at the next term
7 of the Law Court to be held after the filing of these
8 exceptions and there heard, unless otherwise agreed,
9 or the Law Court for good cause shall order further
10 time for hearing thereon. On payment or tender by
11 the district of the amount determined by the final
12 decree and the performance of all other terms and
13 conditions imposed by the court, the plant, prop-
14 erties and franchises of Maine Water Company, as de-
15 scribed in section 11, shall become vested in this
16 district.

17 **Sec. 13. Property tax exempt.** The plant and
18 property of the district within the territorial
19 limits of the district shall be exempt from all taxa-
20 tion in the Town of Wiscasset.

21 **Sec. 14. Water rates.** Individuals, firms and
22 corporations, whether private, public or municipal,
23 shall pay to the treasurer of the district the rates
24 established by the board of trustees for the water
25 used by them. The rates for water so supplied shall
26 be uniform within the territory supplied by the dis-
27 trict whenever the installation and maintenance of
28 mains and the cost of service is substantially uni-
29 form, but nothing in this Act may preclude the dis-
30 trict from establishing higher rates than the regular
31 rates in sections where for any reason the cost of
32 construction and maintenance or the cost of service
33 exceeds the average, but these higher rates shall be
34 uniform throughout the sections where they apply.
35 The rates shall be established as to provide revenue
36 for the following purposes:

37 1. Current expenses. To pay the current
38 expenses for operating and maintaining the water sys-
39 tem;

40 2. Interest payment. To provide for the payment
41 of the interest on any indebtedness created or
42 assumed by the district;

1 3. Sinking fund. To provide each year a sum
2 equal to not less than 1% and not more than 5% of the
3 entire indebtedness created by the district, which
4 sum shall be used to pay serial bonds or notes when
5 due or be turned into a sinking fund and there kept
6 to provide for extinguishment of the indebtedness.
7 Money set aside for the sinking fund shall be devoted
8 to the retirement of the obligations of the water
9 district and invested in such securities as savings
10 banks in this State are allowed to hold; and

11 4. Surplus. If any surplus remains at the end
12 of the year, it may be turned into the sinking fund
13 or used for such other purposes of the district as
14 the trustees may determine.

15 The water rates, tools, charges and rents shall
16 be filed with, and subject to the approval of, the
17 Public Utilities Commission as required or permitted
18 by the applicable statutes.

19 Sec. 15. District and town authorized to make
20 contracts. The district through its trustees may
21 contract with persons and corporations, including the
22 Town of Wiscasset, and the Town of Wiscasset may con-
23 tract with it for the supply of water for municipal
24 purposes.

25 Sec. 16. Incidental rights and privileges. All
26 incidental rights, powers and privileges necessary to
27 the accomplishment of the main object set forth in
28 this Act are granted to the municipal corporation
29 created by this Act.

30 Sec. 17. Existing statutes not affected; rights
31 conferred subject to provisions of law. Nothing in
32 this Act is intended to repeal, or may be construed
33 as repealing, the whole or any part of any existing
34 statute and all the rights and duties mentioned in
35 this Act shall be exercised and performed in accor-
36 dance with all the applicable provisions of the
37 Revised Statutes, Title 35, and all acts amendatory
38 thereof or additional thereto.

39 Sec. 18. Certain sections inoperative on failure
40 to acquire Maine Water Company plant. If the water
41 district fails to acquire the plant, property, fran-

1 chises, rights and privileges owned by the Maine
2 Water Company and used or useable in supplying water
3 to the Town of Wiscasset then this Act shall be
4 inoperative.

5 Sec. 19. Acceptance subject to referendum. This
6 Act shall take effect when approved by a majority
7 vote of the legal voters within the district voting
8 at an election to be called and held for the purpose
9 within 6 months of the effective date of this Act.
10 The election shall be called, advertised and con-
11 ducted according to the law relating to municipal
12 elections, provided that the registrars of voters
13 shall not be required to prepare or the clerks to
14 post a new list of voters, and for this purpose the
15 registrars of voters shall be in session the 3
16 secular days preceding the election, of which the
17 first 2 days will be devoted to registration of the
18 voters and the last day to enable the registrars to
19 verify the lists and to complete the records of these
20 sessions. The subject matter of this Act shall be
21 reduced to the following question.

22 "Shall the Wiscasset Water District be created?"

23 The voters shall indicate by a cross or check
24 mark placed against the words "Yes" or "No" their
25 opinion of the same.

26 The results shall be declared by the municipal
27 officers of the Town of Wiscasset and the due certifi-
28 cate thereof filed by the clerk with the Secretary
29 of State.

30 This Act shall take effect for all the purposes
31 thereof immediately upon its acceptance by a majority
32 of the legal voters within the district voting at the
33 special election. Failure of the approval by the
34 necessary majority of voters at any such election
35 shall not prevent a subsequent election or elections
36 to be held for that purpose.

37 STATEMENT OF FACT

38 This bill creates a new water district in
39 Wiscasset. At present, the water is poor and advan-

1 tages of a water district is badly needed to service
2 the citizens of this area.

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