

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 1328, L.D. 1765)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

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Legislative Document

No. 2242

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H.P. 1712

House of Representatives, March 16, 1984

Reported by Representative Vose from the Committee on Public Utilities and ordered printed under Joint Rule 2.

Original bill presented by Representative Soule of Westport.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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

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AN ACT Creating the Wiscasset Water  
District.

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

Sec. 1. Territorial limits; name; purposes. Subject to section 16, the inhabitants and territory within the Town of Wiscasset shall constitute 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. All incidental rights, powers and privileges necessary to the accomplishment of the main objectives set forth in this Act are granted to the Wiscasset Water District.

Sec. 2. Source of supply. The water district may take, hold, divert, use and distribute water from

1 any source in the Town of Wiscasset and from any oth-  
2 er source from which the Maine Water Company,  
3 Wiscasset Division, is now authorized to take any wa-  
4 ter, including sources outside the Town of Wiscasset.

5       **Sec. 3. Eminent domain.** The district may ac-  
6 quire and hold lands, interests therein and water  
7 rights. These may be acquired by purchase, gift or  
8 exercise of the right of eminent domain, which right  
9 is expressly delegated to the water district. Noth-  
10 ing contained in this Act may be construed as autho-  
11 rizing the water district to take by right of eminent  
12 domain any of the property or facilities of any other  
13 public service corporation or district used or ac-  
14 quired for future use by the owner thereof in the  
15 performance of a public duty, unless expressly autho-  
16 rized by this Act or by subsequent Act of the Legis-  
17 lature.

18       **Sec. 4. Authorized to lay pipes, etc. through**  
19 **public ways and across private lands.** The district  
20 may lay pipes, aqueducts, mains and fixtures as may  
21 be necessary, in and through the streets, roads,  
22 ways, highways and private lands in the district, and  
23 maintain and replace the same. The water district  
24 may excavate through any lands when necessary and  
25 convenient for its corporate purposes. Whenever the  
26 district lays any pipes, aqueducts or mains in any  
27 street, road, way or highway, it shall do so with as  
28 little obstruction as practicable to the public  
29 travel, and shall at its own expense without unneces-  
30 sary delay replace in proper condition the earth and  
31 pavement removed.

32       **Sec. 5. Authorized to erect and maintain dams,**  
33 **reservoirs, etc.** The district may erect and maintain  
34 all dams, pumping stations, reservoirs, standpipes,  
35 treatment facilities and structures necessary and  
36 convenient for its corporate purposes.

37       **Sec. 6. Procedure in exercising rights of emi-**  
38 **nent domain; assessment of damages; appeal procedure.**  
39 In exercising the right of eminent domain in the tak-  
40 ing of lands, interests therein or waters rights, the  
41 district shall file in the office of the county com-  
42 missioners of Lincoln County and record in the Lin-  
43 coln County registry of deeds plans of the location

1 of all such property to be taken, with an appropriate  
2 description and the names of the owners, if known.  
3 Notice of the filing shall be sent by mail to the  
4 owners at the address appearing on the tax records of  
5 the municipality in which the land is located. When  
6 for any reason the district fails to acquire the  
7 property which it is authorized to take, and which is  
8 described in that location, or if the location re-  
9 corded is defective or uncertain, it may, at any  
10 time, correct and perfect that location and file a  
11 new description, and in such case the district is li-  
12 able in damages only for property for which the owner  
13 had not previously been paid, to be assessed as of  
14 the time of the original taking, and the district is  
15 not liable for any acts which would have been justi-  
16 fied if the original taking had been lawful. No en-  
17 try may be made on any private lands, except to make  
18 surveys, until the expiration of 10 days from that  
19 filing, at which time possession may be had of all  
20 lands, interests therein or water rights so taken,  
21 but title shall not vest in the district until pay-  
22 ment therefor.

23 If any person or corporation sustains damages by  
24 any taking, and does not agree with the water dis-  
25 trict on the sum to be paid therefor, either party,  
26 upon petition to the county commissioners of Lincoln  
27 County, may have those damages assessed by them; and  
28 the procedure and right of appeal shall be the same  
29 as are prescribed in the case of damages by the lay-  
30 ing out of town ways.

31 **Sec. 7. Procedures for crossing of public utili-**  
32 **ty lines.** In case of any crossing of a public utili-  
33 ty line or right-of-way, unless consent is given by  
34 the public utility as to place, manner and conditions  
35 of the crossing, within 30 days after that consent is  
36 requested by the district, the Public Utilities Com-  
37 mission, upon petition by the district, shall deter-  
38 mine the place, manner and conditions of that cross-  
39 ing; and all work on the property of the public utili-  
40 ty shall be done under the supervision and to the  
41 satisfaction of the public utility or as prescribed  
42 by the Public Utilities Commission, but at the ex-  
43 pense of the district.

1           **Sec. 8. Board of trustees.** All of the affairs  
2 of the district shall be managed by a board of trust-  
3 ees composed of 5 members who are legal voters of the  
4 Town of Wiscasset. Initially the trustees shall be  
5 chosen by the municipal officers of Wiscasset. Each  
6 trustee shall serve for a term of 3 years, except  
7 that the initial trustees shall serve the following  
8 terms: One trustee shall serve until the next March  
9 town meeting; 2 trustees shall serve until the 2nd  
10 March town meeting; and 2 trustees shall serve until  
11 the 3rd March town meeting after the initial trustees  
12 are appointed. At the first meeting, the initial  
13 trustees may determine by agreement, or failing to  
14 agree, they shall determine by lot the term of office  
15 of each trustee. The term of office of the trustees  
16 shall end at the annual town meeting held in March.  
17 Whenever the term of office of a trustee will expire  
18 at the next town meeting, a successor shall be  
19 elected by secret ballot at the regular yearly munic-  
20 ipal election to serve the full term of 3 years. In  
21 case any other vacancy arises, it shall be temporari-  
22 ly filled by appointment by the selectmen of the Town  
23 of Wiscasset, and shall be permanently filled for the  
24 unexpired term at the next regular yearly town elec-  
25 tion. When any trustee ceases to be a resident of  
26 the Town of Wiscasset, he vacates the office of  
27 trustee.

28           Organization of the board of trustees shall be in  
29 accordance with the Revised Statutes, Title 35, sec-  
30 tion 3223, subsection 3. The trustees shall have the  
31 powers specified in the Revised Statutes, Title 35,  
32 section 3223, subsection 3.

33           All decisions of the board of trustees shall be  
34 by a majority of those present and voting. A quorum  
35 of the board of trustees shall be 3 trustees.

36           Trustees compensation shall be set in accordance  
37 with the Revised Statutes, Title 35, section 3223,  
38 subsection 4.

39           **Sec. 9. Authorized to receive governmental aid;**  
40 **to borrow money; to issue bonds and notes.** For ac-  
41 complishing the purposes of this Act, the district,  
42 through its trustees, without vote of the inhabi-  
43 tants, may receive municipal, state and federal aid

1 grants. The district may reimburse the Town of  
2 Wiscasset for any expense incurred for the benefit of  
3 the district.

4 The district, through its trustees, without the  
5 vote of its inhabitants, may borrow money temporarily  
6 and issue therefor its negotiable notes, for the pur-  
7 pose of renewing and refunding the indebtedness so  
8 created, of paying any necessary expenses and liabil-  
9 ities incurred under the provisions of this Act, in-  
10 cluding organizational and other necessary expenses  
11 and liabilities, whether incurred by the district or  
12 the Town of Wiscasset.

13 The district, through its trustees, without the  
14 vote of its inhabitants may issue bonds, notes or  
15 other evidences of indebtedness of the district, in  
16 such amounts, bearing such interest and having such  
17 terms as the trustees shall determine; provided that  
18 issuance of bonds and notes shall be in accordance  
19 with the Revised Statutes, Title 35, section 3224.

20 The bonds, notes and evidences of indebtedness  
21 may be issued to mature serially or made to run for  
22 such periods as the trustees may determine. Bonds,  
23 notes or evidences of indebtedness may be issued with  
24 or without provisions for calling the same prior to  
25 maturity and, if callable, may be made callable at  
26 par or at such premium as the trustees may determine.  
27 All bonds, notes or other evidences of indebtedness  
28 shall have inscribed upon their faces the words  
29 "Wiscasset Water District," shall be signed by the  
30 treasurer, if any, and countersigned by the president  
31 of the district and, if coupon bonds are issued, the  
32 interest coupons attached thereto shall bear the fac-  
33 simile signature of the treasurer or president.

34 All bonds, notes and evidences of indebtedness  
35 issued by the district shall be legal obligations of  
36 the district, which is declared to be a quasi-munici-  
37 pal corporation within the meaning of the Revised  
38 Statutes, Title 30, section 5053, and all provisions  
39 of that section shall be applicable thereto.

40 The district may refund and reissue, in one or in  
41 separate series, its bonds, notes and other evidences  
42 of indebtedness, and each authorized issue shall con-

1     stitute a separate loan. All bonds, notes and evi-  
2     dences of indebtedness issued by the district shall  
3     be legal investments for savings banks in this State,  
4     and shall be free from taxation.

5           **Sec. 10. Authority to purchase property of Maine**  
6 **Water Company.** The Wiscasset Water District may ac-  
7     quire by purchase the entire plant, property, fran-  
8     chises, rights and privileges of the Maine Water Com-  
9     pany located in or serving the Town of Wiscasset, ex-  
10    cept its cash assets, mortgages, liens, encumbrances,  
11    accounts receivable and payable, including all land,  
12    waters, water rights, dams, structures, reservoirs,  
13    pipes, machinery, fixtures, hydrants, tools and all  
14    apparatus and appliances owned by that company,  
15    whether the record title thereto is or is not in the  
16    Maine Water Company. The company may sell, transfer  
17    and convey its franchises and property to the water  
18    district, subject to the Public Utilities Commission  
19    approval.

20           **Sec. 11. Procedure in case trustees and Maine**  
21 **Water Company fail to agree on terms of purchase.** In  
22    case the trustees fail to agree with the Maine Water  
23    Company upon the terms of purchase, the district  
24    through its trustees may take the properties, inter-  
25    est and franchises of the Maine Water Company, as set  
26    forth, in the manner provided in this Act. The dis-  
27    trict, through its trustees, may file a petition in  
28    the clerk's office of the Superior Court for the  
29    County of Lincoln, addressed to any justice thereof  
30    who, after notice to the defendant, shall, after  
31    hearing and within 60 days after the filing of the  
32    petition, appoint 3 disinterested appraisers for the  
33    purpose of fixing the valuations of the plant, prop-  
34    erty and franchises of the Maine Water Company de-  
35    scribed in section 10. The report of the appraisers  
36    or of a majority of them, together with the report of  
37    a stenographer certified by the appraisers as cor-  
38    rect, shall be filed in the clerk's office within 6  
39    months after their appointment and any Justice of the  
40    Superior Court may, after notice and hearing, confirm  
41    or reject the same or recommit it if justice so re-  
42    quires. Upon the confirmation of the report, the  
43    court shall thereupon make final decree upon the en-  
44    tire matter, including the application of the pur-  
45    chase money and transfer of the property, jurisdic-

1 tion over which is hereby conferred, and with the  
2 power to enforce the decree as in equity cases. Ap-  
3 peal from the decision of the Superior Court may be  
4 had to the Law Court as in other civil actions. On  
5 payment or tender by the district of the amount de-  
6 termined by the final decree and the performance of  
7 all other terms and conditions imposed by the court,  
8 the plant, properties and franchises of Maine Water  
9 Company, as described in section 10, shall become  
10 vested in the district.

11 **Sec. 12. Reserve fund.** The contingency reserve  
12 fund shall be governed by the Revised Statutes, Title  
13 35, section 3311.

14 **Sec. 13. Water rates.** Individuals, firms and  
15 corporations, whether private, public or municipal,  
16 shall pay to the treasurer, or other designated offi-  
17 cer, of the district the rates established by the  
18 board of trustees for the water used by them. The  
19 rates shall be established in accordance with the Re-  
20 vised Statutes, Title 35, section 73, so as to pro-  
21 vide revenue for the purposes set forth therein.

22 **Sec. 14. District and town authorized to make**  
23 **contracts.** The district through its trustees may  
24 contract with persons and corporations, including the  
25 Town of Wiscasset, and the Town of Wiscasset may con-  
26 tract with it for the supply of water for municipal  
27 purposes.

28 **Sec. 15. Existing statutes not affected; rights**  
29 **conferred subject to provisions of law.** Nothing in  
30 this Act is intended to repeal or shall be construed  
31 as repealing any existing statute and all the rights  
32 and duties mentioned in this Act shall be exercised  
33 and performed in accordance with all the applicable  
34 provisions of the laws of this State.

35 **Sec. 16. Certain sections inoperative on failure**  
36 **to acquire Maine Water Company plant.** If the water  
37 district fails to acquire the plant, property, fran-  
38 chises, rights and privileges owned by the Maine Wa-  
39 ter Company and used or usable in supplying water to  
40 the Town of Wiscasset, this Act shall be inoperative.



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

18           "Shall the Wiscasset Water District be created?"

19           The voters shall indicate by a cross or check  
20 mark placed against the words "Yes" or "No" their  
21 opinion of the same.

22           The results shall be declared by the municipal  
23 officers of the Town of Wiscasset and the due certifi-  
24 cate thereof filed by the clerk with the Secretary  
25 of State.

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

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STATEMENT OF FACT

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This new draft incorporates numerous technical changes and conforms the bill to the general provisions of the Revised Statutes, Title 35, for water districts. The language providing a tax exemption is deleted because, if the district is formed, the property will be tax exempt under the existing law, the Revised Statutes, Title 36, section 651. A referendum is required before creation of the district.

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