

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

(2nd New Draft of H.P. 1328, L.D. 1765)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2326

H.P. 1764

House of Representatives, March 22, 1984

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

Original bill presented by Representative Soule of Westport.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT Creating the Wiscasset Water
District.

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 quasi-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, for the purposes of its incorporation, may take,

1 hold, divert, use and distribute water from any
2 source in the Town of Wiscasset and from any other
3 source from which the Maine Water Company, Wiscasset
4 Division, is now authorized to take any water, in-
5 cluding sources outside the Town of Wiscasset.

6 **Sec. 3. Eminent domain.** The district may ac-
7 quire and hold, as for public uses, lands, interests
8 therein and water rights. These may be acquired by
9 purchase, gift or exercise of the right of eminent
10 domain, which right is expressly delegated to the wa-
11 ter district. Nothing contained in this Act may be
12 construed as authorizing the water district to take
13 by right of eminent domain any of the property or fa-
14 cilities of any other public service corporation or
15 district used or acquired for future use by the owner
16 thereof in the performance of a public duty, unless
17 expressly authorized by this section, by subsequent
18 Act of the Legislature or as provided in section 11.

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

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

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

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

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

32 Sec. 7. Procedures for crossing of public utili-
33 ty lines. In case of any crossing of a public utili-
34 ty line or right-of-way, unless consent is given by
35 the public utility as to place, manner and conditions
36 of the crossing, within 30 days after that consent is
37 requested by the district, the Public Utilities Com-
38 mission, upon petition by the district, shall deter-
39 mine the place, manner and conditions of that cross-
40 ing; and all work on the property of the public util-
41 ity shall be done under the supervision and to the
42 satisfaction of the public utility or as prescribed
43 by the Public Utilities Commission, but at the ex-
44 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 except for the purposes specified in sections 10 and
19 11, issuance of bonds and notes shall be in accord-
20 ance with the Revised Statutes, Title 35, section
21 3224.

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

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

1 The district may refund and reissue, in one or in
2 separate series, its bonds, notes and other evidences
3 of indebtedness, and each authorized issue shall con-
4 stitute a separate loan. All bonds, notes and evi-
5 dences of indebtedness issued by the district shall
6 be legal investments for savings banks in this State,
7 and shall be free from taxation.

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

23 **Sec. 11. Procedure in case trustees and Maine**
24 **Water Company fail to agree on terms of purchase.** If
25 the trustees fail to agree with the Maine Water Com-
26 pany upon the terms of purchase, then the district,
27 through its trustees, may take such plan, property,
28 interests and franchises of the Maine Water Company
29 as set forth in section 10 in the manner provided in
30 this section. The district, through its trustees,
31 may file a petition entitled "Notice of Condemnation
32 and Taking" in the clerk's office of the Superior
33 Court for the County of Lincoln, addressed to any
34 justice, giving notice of its condemnation and taking
35 of the plant, property, interests and franchises of
36 the Maine Water Company. After notice to the Maine
37 Water Company, the court shall, after hearing, and
38 within 60 days after the filing of the petition, ap-
39 point 3 disinterested appraisers, one of whom shall
40 be learned in the law, for the purpose of fixing the
41 valuations of the plant, property, interests and
42 franchises of the Maine Water Company described in
43 section 10. This appointment shall be treated as a
44 reference pursuant to the Maine Rules of Civil Proce-
45 dure, Rule 53(b)(1), and in all other respects the

1 procedure shall be governed by the provisions of that
2 rule and the Revised Statutes, Title 4, section 501,
3 except that the appraisers shall be obligated to file
4 their report in the clerk's office within 6 months
5 after their appointment. Upon confirmation of the
6 report, the court shall thereupon make final decree
7 upon the entire matter, including the application of
8 the purchase money and transfer of the property, ju-
9 risdiction over which is hereby confirmed, and with
10 the power to enforce the decree as in equity cases.
11 Within 60 days of final judgment, the district shall
12 tender to the Maine Water Company a check in the
13 amount determined by the court to be just compensa-
14 tion for the plant, property, interests and fran-
15 chises taken from the Maine Water Company. Upon
16 tender by the district of that amount and the per-
17 formance of all other terms and conditions imposed by
18 the court, including without limitation the effect of
19 material additions or subtractions from the plant,
20 the plant, property, interests and franchises of the
21 Maine Water Company, as described in section 10,
22 shall become vested in the district. Appeal from the
23 decision of the Superior Court may be had to the Law
24 Court as in other civil actions.

25 **Sec. 12. Reserve fund.** The contingency reserve
26 fund shall be governed by the Revised Statutes, Title
27 35, section 3311.

28 **Sec. 13. Water rates.** Individuals, firms and
29 corporations, whether private, public or municipal,
30 shall pay to the treasurer, or other designated offi-
31 cer, of the district the rates established by the
32 board of trustees for the water used by them. The
33 rates shall be established in accordance with the Re-
34 vised Statutes, Title 35, section 73, so as to pro-
35 vide revenue for the purposes set forth therein.

36 **Sec. 14. District and town authorized to make**
37 **contracts.** The district through its trustees may
38 contract with persons and corporations, including the
39 Town of Wiscasset, and the Town of Wiscasset may con-
40 tract with it for the supply of water for municipal
41 purposes.

42 **Sec. 15. Existing statutes not affected; rights**
43 **conferred subject to provisions of law.** Nothing in

1 this Act is intended to repeal or shall be construed
2 as repealing any existing statute and all the rights
3 and duties mentioned in this Act shall be exercised
4 and performed in accordance with all the applicable
5 provisions of the laws of this State.

6 Sec. 16. Certain sections inoperative on failure
7 to acquire Maine Water Company plant. If the water
8 district fails to acquire the plant, property, fran-
9 chises, rights and privileges owned by the Maine Wa-
10 ter Company and used or usable in supplying water to
11 the Town of Wiscasset, or file the petition referred
12 to in section 11, this Act shall be inoperative, De-
13 cember 31, 1985.

14 Sec. 17. Acceptance subject to referendum. This
15 Act shall take effect 90 days after adjournment of
16 the Second Regular Session of the 111th Legislature
17 for the sole purpose of permitting its submission to
18 the legal voters within the district at an election
19 to be called for that purpose and to be held within 6
20 months of the effective date of this Act. The elec-
21 tion shall be called, advertised and conducted ac-
22 cording to the law relating to municipal elections,
23 provided that the registrar of voters shall not be
24 required to prepare or the clerk to post a new list
25 of voters, and for this purpose the registrar of vot-
26 ers shall be in session the 3 secular days preceding
27 the election, of which the first 2 days will be de-
28 voted to registration of the voters and the last day
29 to enable the registrar to verify the lists and to
30 complete the records of these sessions. The subject
31 matter of this Act shall be reduced to the following
32 question:

33 "Shall the Wiscasset Water District be created?"

34 The voters shall indicate by a cross or check
35 mark placed against the words "Yes" or "No" their
36 opinion of the same.

37 The results shall be declared by the municipal
38 officers of the Town of Wiscasset and the due certif-
39 icate thereof filed by the clerk with the Secretary
40 of State.

