

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

L.D. 1626
(Filing No. H- 425)

3
4
5
6

STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
FIRST REGULAR SESSION

7
8
9

HOUSE AMENDMENT "*A*" to H.P. 1116, L.D. 1626,
Bill, "AN ACT to Create the Newcastle-Damariscotta
Water District."

10
11

Amend the bill by striking out all of the title
and inserting in its place the following:

12
13

'AN ACT to Create the Twin Villages Water Dis-
trict.'

14
15
16

Further amend the bill by striking out everything
after the enacting clause and inserting in its place
the following:

17
18
19
20
21
22
23
24
25
26
27
28

'Sec. 1. Territorial limits; name; pur-
poses; Subject to section 16, the inhabitants and
territory within the Towns of Newcastle and
Damariscotta shall constitute a quasi-municipal cor-
poration under the name of "Twin Villages Water Dis-
trict" for the purpose of supplying the inhabitants
of the district with pure water for domestic, sani-
tary, manufacturing and municipal purposes. All in-
cidental rights, powers and privileges necessary to
the accomplishment of the main objectives set forth
in this Act are granted to the Twin Villages Water
District.

29
30
31
32
33
34
35
36

Sec. 2. Source of supply. The water district,
for the purposes of its incorporation, may take,
hold, divert, use and distribute water from any
source in the Towns of Newcastle and Damariscotta and
from any other source from which the Maine Water Com-
pany, Damariscotta Division, is now authorized to
take water, including sources outside the Towns of
Newcastle and Damariscotta.

37

Sec. 3. Eminent domain. The district may ac-

HOUSE AMENDMENT "A" to H.P. 1116, L.D. 1626

1 quire and hold as for public uses, lands, interests
2 therein and water rights. These may be acquired by
3 purchase, gift or exercise of the right of eminent
4 domain, which right is expressly delegated to the wa-
5 ter district for use within the district and for the
6 purposes of section 11. Nothing contained in this
7 Act may be construed as authorizing the water dis-
8 trict to take by right of eminent domain any of the
9 property or facilities of any other public service
10 corporation or district used or acquired for future
11 use by the owner thereof in the performance of a pub-
12 lic duty, unless expressly authorized by subsequent
13 Act of the Legislature or as provided in section 11.

14 Sec. 4. Authorized to lay pipes and fixtures
15 through public ways and across private
16 lands. Provided that the necessary easements or
17 rights-of-way are acquired, the district may lay
18 pipes, aqueducts, mains and fixtures as may be neces-
19 sary, in and through the streets, roads, ways, high-
20 ways and private lands in the district and maintain
21 and replace the same. The water district may exca-
22 vate through any lands when necessary and convenient
23 for its corporate purposes. Whenever the district
24 lays any pipes, aqueducts or mains in any street,
25 road, way or highway, it shall do so with as little
26 obstruction as practicable to the public travel and
27 shall at its own expense without unnecessary delay
28 replace in proper condition the earth and pavement
29 removed.

30 Sec. 5. Authorized to erect and maintain dams,
31 reservoirs, and similar facilities. Provided that
32 the necessary property rights are acquired, the dis-
33 trict may erect and maintain all dams, pumping sta-
34 tions, reservoirs, standpipes, treatment facilities
35 and structures necessary and convenient for its cor-
36 porate purposes.

37 Sec. 6. Procedure in exercising rights of emi-
38 nent domain; assessment of damages; appeal proce-
39 dure. In exercising the right of eminent domain in

HOUSE AMENDMENT "A" to H.P. 1116, L.D. 1626

1 the taking of lands, interests therein or water
2 rights, the district shall file in the office at the
3 county commissioners of Lincoln County and record in
4 the Lincoln County registry of deeds plans of the lo-
5 cation of all such property to be taken, with an ap-
6 propriate description and the names of the owners, if
7 known. Notice of the filing shall be sent by mail to
8 the owners at the address appearing on the tax
9 records of the municipality in which the land is lo-
10 cated. When for any reason the district fails to ac-
11 quire the property which it is authorized to take,
12 and which is described in that location, or if the
13 location recorded is defective or uncertain, it may,
14 at any time, correct and perfect that location and
15 file a new description, and in such case the district
16 is liable in damages only for property for which the
17 owner had not previously been paid, to be assessed as
18 of the time of the original taking, and the district
19 is not liable for any acts which would have been jus-
20 tified if the original taking had been lawful. No
21 entry may be made on any private lands, except to
22 make surveys, until the expiration of 10 days from
23 that filing, at which time possession may be had of
24 all lands, interests therein or water rights so
25 taken, but title shall not vest in the district until
26 payment therefor.

27 If any person or corporation sustains damages by
28 any taking and does not agree with the water district
29 on the sum to be paid therefor, either party, upon
30 petition to the county commissioners of Lincoln Coun-
31 ty, may have those damages assessed by them; and the
32 procedure and right of appeal shall be the same as
33 are prescribed in the case of damages by the laying
34 out of town ways.

35 Sec. 7. Procedures for crossing of public utili-
36 ty lines. In case of any crossing of a public utili-
37 ty line or right-of-way, unless consent is given by
38 the public utility as to place, manner and conditions
39 of the crossing, within 30 days after that consent is
40 requested by the district, the Public Utilities Com-

1 mission, upon petition by the district, shall deter-
2 mine the place, manner and conditions of that cross-
3 ing; and all work on the property of the public util-
4 ity shall be done under the supervision and to the
5 satisfaction of the public utility or as prescribed
6 by the Public Utilities Commission, but at the ex-
7 pense of the district.

8 **Sec. 8. Board of Trustees.** All of the affairs
9 of the district shall be managed by a board of trust-
10 ees composed of 5 members, 2 of whom shall be legal
11 voters of the Town of Newcastle and 2 of whom shall
12 be legal voters of the Town of Damariscotta and one
13 of whom shall be a legal voter of either town chosen
14 for the at-large seat. Each trustee shall serve for
15 a term of 3 years, except that the initial appointed
16 trustees shall serve only until the first elected
17 trustees are qualified and the first elected trustees
18 shall serve the following terms: From each town one
19 trustee shall serve a term of one year; one trustee
20 shall serve a term of 2 years; and the at-large
21 trustee shall serve a term of 3 years. At their
22 first meeting, the first elected trustees shall de-
23 termine their terms of office by lot. Initially, 2
24 of the trustees shall be appointed by the municipal
25 officers of Damariscotta and 2 of the trustees shall
26 be appointed by the municipal officers of Newcastle
27 and one of the trustees shall be appointed by the mu-
28 nicipal officers of both towns together. The term of
29 office of the trustees shall end on April 30th or un-
30 til their successors are qualified. Whenever the
31 term of office of a trustee will expire within the
32 year, a successor shall be elected by secret ballot
33 at the regular yearly municipal elections of
34 Newcastle and Damariscotta. Notwithstanding the res-
35 idency requirements for trustees, all voters of the
36 district are eligible to vote for all members of the
37 board of trustees. Nominations for trustees shall be
38 in accordance with the procedures for municipal elec-
39 tions, but voters from either town may sign the peti-
40 tions, which shall be verified by the registrar of
41 voters in the town of residence, and the dates of no-

HOUSE AMENDMENT "A" to H.P. 1116, L.D. 1626

1 tice and filing shall be determined based on the date
2 of elections in the first of the towns to vote in the
3 calendar year. There shall be a separate ballot for
4 the election of trustees of the water district. If
5 the municipal elections are not on the same date, the
6 ballots for trustees from the first town shall be
7 sealed and kept securely by the town clerk until the
8 voters in the 2nd town have cast their ballots.
9 Then, all the ballots shall be counted and the re-
10 sults certified by the clerks of both towns. In case
11 any other vacancy arises, it shall be temporarily
12 filled by appointment by the municipal officers of
13 the town or towns in the same manner as the initial
14 appointed trustees and shall be permanently filled
15 for the unexpired term at the next regular annual mu-
16 nicipal elections. When any trustee ceases to be a
17 resident of the town or towns from which he was
18 elected, he vacates the office of trustee.

19 No employee of the district may serve as trustee
20 or be a candidate for that office while still an em-
21 ployee. No person may be employed by the district in
22 any other capacity while holding the office of trust-
23 ee.

24 Organization of the board of trustees shall be in
25 accordance with the Maine Revised Statutes, Title 35,
26 section 3223, subsection 3. The trustees shall have
27 the powers specified in the Maine Revised Statutes,
28 Title 35, section 3223, subsection 3.

29 All decisions of the board of trustees shall be
30 by a majority of those present and voting. A quorum
31 of the board of trustees shall be 3 trustees.

32 The trustees shall receive compensation as recom-
33 mended by them and approved by a majority of the mu-
34 nicipal officers of both municipalities together, in-
35 cluding compensation for any duties they perform as
36 officers, as well as for their duties as trustees.
37 Certification thereof shall be recorded with the Sec-
38 retary of State and recorded in the bylaws. Their

HOUSE AMENDMENT "A" to H.P. 1116, L.D. 1626

1 compensation for duties as trustees shall be on the
2 basis of a specified amount for each meeting actually
3 attended and reimbursement for travel and expenses,
4 with the total not to exceed such specific amount as
5 may be specified in the bylaws.

6 Sec. 9. Authorized to receive governmental aid;
7 to borrow money; to issue bonds and notes. For ac-
8 complishing the purposes of this Act, the district,
9 through its trustees, without vote of the inhabi-
10 tants, may receive municipal, state and federal aid
11 grants. The district may reimburse the Towns of
12 Newcastle and Damariscotta for any expense incurred
13 for the benefit of the district.

14 The district, through its trustees, without the
15 vote of its voters, may borrow money temporarily and
16 issue therefor its negotiable notes, for the purpose
17 of renewing and refunding the indebtedness so cre-
18 ated, of paying any necessary expenses and liabili-
19 ties incurred under this Act, including organization-
20 al and other necessary expenses and liabilities,
21 whether incurred by the district or the Towns of
22 Newcastle or Damariscotta.

23 The district, through its trustees, may issue
24 bonds, notes or other evidences of indebtedness of
25 the district, in such amounts, bearing such interest
26 and having such terms as the trustees shall deter-
27 mine, provided that, except for the purposes speci-
28 fied in sections 10 and 11, issuance of bonds and
29 notes shall be in accordance with this section.

30 In the event that the trustees vote to authorize
31 bonds or notes, the estimated cost of which, singly
32 or in the aggregate included in any one financing, is
33 \$150,000 or more adjusted, relative to 1981 as the
34 base year according to the annual Consumer Price In-
35 dex, as defined in Title 5, section 1001, subsection
36 6-A, the trustees shall provide notice to the general
37 public of the proposed bond or note issue and the
38 purposes for which the debt is being issued. The no-

HOUSE AMENDMENT "A" to H.P. 1116, L.D. 1626

1 tice shall be published at least once in a newspaper
2 having general circulation in the district. The
3 trustees shall give notice to each ratepayer by mail.

4 No debt may be incurred under the vote of the
5 trustees until the expiration of 7 full days follow-
6 ing the date on which the notice was first published
7 and mailed. Prior to the expiration of the period,
8 the trustees shall call a special district meeting
9 for the purpose of permitting the collection of tes-
10 timony from the public concerning the amount of debt
11 so authorized.

12 Except for indebtedness to fund projects specifi-
13 cally mandated by the State Government and Federal
14 Government, for debts in excess of the amount speci-
15 fied in this section, if requested by petition of not
16 less than 50 of the voters or 5% of the voters of the
17 district, whichever is greater, filed with the clerk
18 of the district on or before the date of the meeting,
19 the meeting shall express approval or disapproval of
20 the amount of debt authorized by the trustees. If a
21 majority of voters present and voting expresses dis-
22 approval of the amount of debt authorized by the
23 trustees, the debt shall not be incurred and the vote
24 of the trustees authorizing it shall be void and of
25 no effect.

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

HOUSE AMENDMENT "A" to H.P. 1116, L.D. 1626

1 All bonds, notes and evidences of indebtedness
2 issued by the district shall be legal obligations of
3 the district, which is declared to be a quasi-municipal
4 corporation within the meaning of the Maine Revised
5 Statutes, Title 30, section 5053, and all provisions
6 of that section shall be applicable thereto.

7 The district may refund and reissue, in one or in
8 separate series, its bonds, notes and other evidences
9 of indebtedness and each authorized issue shall constitute
10 a separate loan. All bonds, notes and evidences
11 of indebtedness issued by the district shall be legal
12 investments for savings banks in this State and shall
13 be free from taxation.

14 The total debt of the district outstanding at any
15 one time shall not exceed \$1,000,000.

16 Sec. 10. Authority to purchase property of Maine
17 Water Company. The Twin Villages Water District may
18 acquire by purchase the plant, property, franchises,
19 rights and privileges of the Maine Water Company located
20 in or serving the Towns of Newcastle and Damariscotta,
21 except its cash assets and mortgages, liens and encumbrances
22 held by the company, including all land, waters, water rights,
23 dams, structures, reservoirs, pipes, machinery, fixtures,
24 hydrants, tools and all apparatus and appliances owned by
25 that company, whether the record title thereto, is or is
26 not in the Maine Water Company. The company may
27 sell, transfer and convey its franchises and property
28 to the water district, subject to the Public Utilities
29 Commission approval.
30

31 Sec. 11. Procedure in case trustees and Maine
32 Water Company fail to agree on terms of purchase. If
33 the trustees fail to agree with the Maine Water Company
34 upon the terms of purchase, then the district, through
35 its trustees, may take such plan, property, interest and
36 franchises of the Maine Water Company as set forth in
37 section 10 in the manner provided in

HOUSE AMENDMENT "A" to H.P. 1116, L.D. 1626

1 this section. The district, through its trustees,
2 may file a petition entitled "Notice of Condemnation
3 and Taking" in the clerk's office of the Superior
4 Court for the County of Lincoln, addressed to any
5 justice, giving notice of its condemnation and taking
6 of the plant, property, interests and franchises of
7 the Maine Water Company. After notice to the Maine
8 Water Company, the court shall, after hearing, and
9 after consideration of names submitted by the par-
10 ties, appoint 3 referees, one of whom shall be a law-
11 yer, for the purposes of fixing the valuations of the
12 plant, property, interests and franchises of the
13 Maine Water Company described in section 10. This
14 appointment shall be treated as a reference pursuant
15 to the Maine Rules of Civil Procedure, Rule 53(b)(1),
16 and in all other respects the procedure shall be gov-
17 erned by the provisions of that rule and the Maine
18 Revised Statutes, Title 4, section 501, except that
19 the referees shall be obligated to file their report
20 in the clerk's office within 6 months after their ap-
21 pointment. Upon confirmation of the report, the
22 court shall thereupon make final decree upon the en-
23 tire matter, including the application of the pur-
24 chase money and transfer of the property, jurisdic-
25 tion over which is hereby confirmed, and with the
26 power to enforce the decree as in equity cases. Un-
27 less the parties agree otherwise within 60 days of
28 final judgment, the district shall tender to the
29 Maine Water Company a check in the amount determined
30 by the court to be just compensation for the plant,
31 property, interests and franchises taken from the
32 Maine Water Company. Upon tender by the district of
33 that amount and the performance of all other terms
34 and conditions imposed by the court, including with-
35 out limitation the effect of material additions or
36 subtractions from the plant, the plant, property, in-
37 terests and franchises of the Maine Water Company, as
38 described in section 10, shall become vested in the
39 district. Appeal from the decision of the Superior
40 Court may be had to the Law Court as in other civil
41 actions.

1 Sec. 12. Reserve fund. The contingency reserve
2 fund shall be governed by the provisions of the Maine
3 Revised Statutes, Title 35, concerning reserve funds
4 for quasi-municipal water districts.

5 Sec. 13. Water rates. Individuals, firms and
6 corporations, whether private, public or municipal,
7 shall pay to the treasurer or other designated offi-
8 cer of the district the rates established by the
9 board of trustees for the water used by them. The
10 rates shall be established in accordance with the
11 Maine Revised Statutes, Title 35, section 73, so as
12 to provide revenue for the purposes set forth there-
13 in.

14 Sec. 14. District and town authorized to make
15 contracts. The district through its trustees may
16 contract with persons and corporations, including the
17 Towns of Newcastle and Damariscotta, and the Towns of
18 Newcastle and Damariscotta may contract with the dis-
19 trict for the supply of water for municipal purposes.

20 Sec. 15. Existing laws not affected; rights con-
21 ferred subject to provisions of law. Nothing in this
22 Act is intended to repeal or may be construed as re-
23 pealing any existing law and all the rights and du-
24 ties mentioned in this Act shall be exercised and
25 performed in accordance with all the applicable pro-
26 visions of the laws of this State.

27 Sec. 16. Certain sections inoperative on failure
28 to acquire Maine Water Company plant. If the water
29 district fails to acquire the plant, property, fran-
30 chises, rights and privileges owned by the Maine Wa-
31 ter Company and used or usable in supplying water to
32 the Towns of Newcastle and Damariscotta or to file
33 the petition referred to in section 11, on or before
34 July 1, 1987, this Act shall be void.

35 Sec. 17. Acceptance subject to referendum. This
36 Act shall take effect 90 days after adjournment of
37 the First Regular Session of the 112th Legislature

HOUSE AMENDMENT "A" to H.P. 1116, L.D. 1626

1 for the sole purpose of permitting its submission to
2 the legal voters within the district at an election
3 to be called for that purpose and to be held prior to
4 December 31, 1986. The election shall be called, ad-
5 vertised and conducted according to the law relating
6 to municipal elections, provided that the registrars
7 of voters in each municipality shall not be required
8 to prepare or the clerks to post a new list of vot-
9 ers, and for this purpose the registrars of voters
10 shall be in session the 3 secular days preceding the
11 election, of which the first 2 days will be devoted
12 to registration of the voters and the last day to en-
13 able the registrars to verify the lists and to com-
14 plete the records of these sessions. The subject
15 matter of this Act shall be reduced to the following
16 question.

17 "Shall the Twin Villages Water District be cre-
18 ated?"

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 Towns of Newcastle and Damariscotta
24 and due certificate thereof filed by the clerks with
25 the Secretary of State.

26 This Act shall take effect for all its purposes
27 immediately upon its acceptance by a majority of all
28 legal voters in both Newcastle and Damariscotta vot-
29 ing at the special election. Failure of the approval
30 by the necessary majority of voters at any such elec-
31 tion shall not prevent a subsequent election to be
32 held for that purpose.'

33 STATEMENT OF FACT

34 The purpose of this amendment is to create the
35 Twin Villages Water District to serve the Towns of

HOUSE AMENDMENT "A" to H.P. 1116, L.D. 1626

1 Newcastle and Damariscotta. The district would have
2 the authority to acquire the Damariscotta Division of
3 the Maine Water Company. Formation of the district is
4 subject to approval in referendum by the voters of
5 Newcastle and Damariscotta.

6

4383061485

Filed by Rep. Vose of Eastport
Reproduced and distributed under the direction of the
Clerk of the House

6/17/85

(Filing No. H-425)