

# MAINE STATE LEGISLATURE

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1 (After Deadline)  
2 FIRST REGULAR SESSION  
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE  
5

6 Legislative Document

No. 1626,  
7

8 H.P. 1116

House of Representatives, May 28, 1985

9 Approved for introduction by a majority of the Legislative Council  
10 pursuant to Joint Rule 27.

11 Referred to the Committee on Utilities. Sent up for concurrence and  
ordered printed.

EDWIN H. PERT, Clerk

12 Presented by Representative Stetson of Damariscotta.

13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-FIVE  
17

18 AN ACT to Create the Newcastle-Damariscotta  
19 Water District.  
20

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

23 Sec. 1. Territorial limits; name; purposes.  
24 Subject to section 16, the inhabitants and territory  
25 within the Towns of Newcastle and Damariscotta shall  
26 constitute a quasi-municipal corporation under the  
27 name of "Newcastle-Damariscotta Water District" for  
28 the purpose of supplying the inhabitants of the dis-  
29 trict with pure water for domestic, sanitary, manu-  
30 facturing and municipal purposes. All incidental  
31 rights, powers and privileges necessary to the accom-  
32 plishment of the main objectives set forth in this  
33 Act are granted to the Newcastle-Damariscotta Water  
34 District.

35 Sec. 2. Source of supply. The water district,  
36 for the purposes of its incorporation, may take,

1 hold, divert, use and distribute water from any  
2 source in the Towns of Newcastle and Damariscotta and  
3 from any other source from which the Maine Water Com-  
4 pany is now authorized to take any water, including  
5 sources outside the Towns of Newcastle and  
6 Damariscotta.

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

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

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

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

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

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

33 **Sec. 7. Procedures for crossing of public utili-**  
34 **ty lines.** In case of any crossing of a public utili-  
35 ty line or right-of-way, unless consent is given by  
36 the public utility as to place, manner and conditions  
37 of the crossing, within 30 days after that consent is  
38 requested by the district, the Public Utilities Com-  
39 mission, upon petition by the district, shall deter-  
40 mine the place, manner and conditions of that cross-  
41 ing; and all work on the property of the public util-  
42 ity shall be done under the supervision and to the  
43 satisfaction of the public utility or as prescribed  
44 by the Public Utilities Commission, but at the ex-  
45 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 6 members 3 of whom are legal voters  
4 of the Town of Newcastle and 3 of whom are legal vot-  
5 ers of the Town of Damariscotta. Initially, 3 of the  
6 trustees shall be chosen by the municipal officers of  
7 Newcastle and 3 of the trustees shall be chosen by  
8 the municipal officers of Damariscotta. Each trust-  
9 ee shall serve for a term of 3 years, except that the  
10 initial trustees from each town shall serve the fol-  
11 lowing terms: One trustee shall serve until the next  
12 annual town meeting; 1 trustee shall serve until the  
13 2nd annual town meeting; and 1 trustee shall serve  
14 until the 3rd annual town meeting after the initial  
15 trustees are appointed. At the first meeting, the  
16 initial trustees may determine by agreement, or fail-  
17 ing to agree, they shall determine by lot, the term  
18 of office of each trustee. The term of office of the  
19 trustees shall end at the annual town meeting. When-  
20 ever the term of office of a trustee will expire at  
21 the next town meeting, a successor shall be elected  
22 by secret ballot at the regular yearly municipal  
23 election in the municipality which the trustee repre-  
24 sents to serve the full term of 3 years. In case any  
25 other vacancy arises, it shall be temporarily filled  
26 by appointment by the selectmen of the town which the  
27 trustee represents, and shall be permanently filled  
28 for the unexpired term at the next regular yearly  
29 town election in that municipality. When any trustee  
30 ceases to be a resident of the town he represents, he  
31 vacates the office of trustee.

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

37       All decisions of the board of trustees shall be  
38 by a majority of those present and voting. A quorum  
39 of the board of trustees shall be 3 trustees.

40       Trustees compensation shall be set in accordance  
41 with the Revised Statutes, Title 35, section 3223,  
42 subsection 4.

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

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

18           The district, through its trustees, without the  
19 vote of its inhabitants may issue bonds, notes or  
20 other evidences of indebtedness of the district, in  
21 such amounts, bearing such interest and having such  
22 terms as the trustees shall determine; provided that,  
23 except for the purposes specified in sections 10 and  
24 11, issuance of bonds and notes shall be in accord-  
25 ance with the Revised Statutes, Title 35, section  
26 3224.

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

42           All bonds, notes and evidences of indebtedness  
43 issued by the district shall be legal obligations of

1 the district, which is declared to be a quasi-municipal corporation within the meaning of the Revised Statutes, Title 30, section 5053, and all provisions of that section shall be applicable thereto.

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

12 **Sec. 10. Authority to purchase property of Maine Water Company.** The Newcastle-Damariscotta Water District may acquire by purchase the entire plant, property, franchises, rights and privileges of the Maine Water Company located in or serving the Towns of Newcastle and Damariscotta, except its cash assets, mortgages, liens, encumbrances, accounts receivable and payable, including all land, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by that company, whether the record title thereto is or is not in the Maine Water Company. The company may sell, transfer and convey its franchises and property to the water district, subject to the Public Utilities Commission approval.

27 **Sec. 11. Procedure in case trustees and Maine Water Company fail to agree on terms of purchase.** If the trustees fail to agree with the Maine Water Company upon the terms of purchase, then the district, through its trustees, may take such plan, property, interests and franchises of the Maine Water Company as set forth in section 10 in the manner provided in this section. The district, through its trustees, may file a petition entitled "Notice of Condemnation and Taking" in the clerk's office of the Superior Court for the County of Lincoln, addressed to any justice, giving notice of its condemnation and taking of the plant, property, interests and franchises of the Maine Water Company. After notice to the Maine Water Company, the court shall, after hearing, and within 60 days after the filing of the petition, appoint 3 disinterested appraisers, one of whom shall be learned in the law, for the purpose of fixing the

1 valuations of the plant, property, interests and  
2 franchises of the Maine Water Company described in  
3 section 10. This appointment shall be treated as a  
4 reference pursuant to the Maine Rules of Civil Procedure,  
5 Rule 53(b)(1), and in all other respects the  
6 procedure shall be governed by the provisions of that  
7 rule and the Revised Statutes, Title 4, section 501,  
8 except that the appraisers shall be obligated to file  
9 their report in the clerk's office within 6 months  
10 after their appointment. Upon confirmation of the  
11 report, the court shall thereupon make final decree  
12 upon the entire matter, including the application of  
13 the purchase money and transfer of the property, jurisdiction  
14 over which is hereby confirmed, and with  
15 the power to enforce the decree as in equity cases.  
16 Within 60 days of final judgment, the district shall  
17 tender to the Maine Water Company a check in the  
18 amount determined by the court to be just compensation  
19 for the plant, property, interests and franchises  
20 taken from the Maine Water Company. Upon  
21 tender by the district of that amount and the performance  
22 of all other terms and conditions imposed by  
23 the court, including without limitation the effect of  
24 material additions or subtractions from the plant,  
25 the plant, property, interests and franchises of the  
26 Maine Water Company, as described in section 10,  
27 shall become vested in the district. Appeal from the  
28 decision of the Superior Court may be had to the Law  
29 Court as in other civil actions.

30       **Sec. 12. Reserve fund.** The contingency reserve  
31 fund shall be governed by the Revised Statutes, Title  
32 35, section 3311.

33       **Sec. 13. Water rates.** Individuals, firms and  
34 corporations, whether private, public or municipal,  
35 shall pay to the treasurer, or other designated officer,  
36 of the district the rates established by the  
37 board of trustees for the water used by them. The  
38 rates shall be established in accordance with the Revised  
39 Statutes, Title 35, section 73, so as to provide  
40 revenue for the purposes set forth therein.

41       **Sec. 14. District and town authorized to make**  
42 **contracts.** The district through its trustees may  
43 contract with persons and corporations, including the  
44 Towns of Newcastle and Damariscotta, and the Towns of



1 Newcastle and Damariscotta may contract with it for  
2 the supply of water for municipal purposes.

3       **Sec. 15. Existing statutes not affected; rights**  
4 **conferred subject to provisions of law.** Nothing in  
5 this Act is intended to repeal or may be construed as  
6 repealing any existing statute and all the rights and  
7 duties mentioned in this Act shall be exercised and  
8 performed in accordance with all the applicable pro-  
9 visions of the laws of this State.

10       **Sec. 16. Certain sections inoperative on failure**  
11 **to acquire Maine Water Company plant.** If the water  
12 district fails to acquire the plant, property, fran-  
13 chises, rights and privileges owned by the Maine Wa-  
14 ter Company and used or usable in supplying water to  
15 the Towns of Newcastle and Damariscotta, or file the  
16 petition referred to in section 11, this Act shall be  
17 inoperative, December 31, 1986.

18       **Sec. 17. Acceptance subject to referendum.** This  
19 Act shall take effect 90 days after adjournment of  
20 the First Regular Session of the 112th Legislature  
21 for the sole purpose of permitting its submission to  
22 the legal voters within the district at an election  
23 to be called for that purpose and to be held within 6  
24 months of the effective date of this Act. The elec-  
25 tion shall be called, advertised and conducted ac-  
26 cording to the law relating to municipal elections,  
27 provided that the registrars of voters in each munic-  
28 ipality shall not be required to prepare or the  
29 clerks to post a new list of voters, and for this  
30 purpose the registrars of voters shall be in session  
31 the 3 secular days preceding the election, of which  
32 the first 2 days will be devoted to registration of  
33 the voters and the last day to enable the registrars  
34 to verify the lists and to complete the records of  
35 these sessions. The subject matter of this Act shall  
36 be reduced to the following question:

37       "Shall the Newcastle-Damariscotta Water District  
38 be created?"

39       The voters shall indicate by a cross or check  
40 mark placed against the words "Yes" or "No" their  
41 opinion of the same.

