

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 (EMERGENCY)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1927

7
8 S.P. 763

In Senate, January 21, 1986

9 Approved for introduction by a majority of the Legislative Council
10 pursuant to Joint Rule 26.

Reference to the Committee on Utilities suggested and ordered printed.

11 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Clark of Cumberland.

12 Cosponsored by Representative Mitchell of Freeport.

13 STATE OF MAINE
14

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

18 AN ACT to Allow the Freeport Sewer District
19 to Acquire the Freeport Branch of the
20 Maine Water Company.
21

22 **Emergency preamble.** Whereas, Acts of the Legis-
23 lature do not become effective until 90 days after
24 adjournment unless enacted as emergencies; and

25 Whereas, the Freeport Sewer District is desirous
26 of acquiring the Freeport Branch of the Maine Water
27 Company; and

28 Whereas, the Charter of the Freeport Sewer Dis-
29 trict must be amended to allow the acquisition; and

30 Whereas, the Freeport Sewer District voted to
31 make the acquisition on May 13, 1985, but it was too
32 late to amend the charter in the First Regular Ses-
33 sion of the 112th Legislature; and

1 Whereas, the acquisition will insure the continu-
2 ation of safe and dependable water and sewerage ser-
3 vices for the residents of the Town of Freeport; and

4 Whereas, in the judgment of the Legislature,
5 these facts create an emergency within the meaning of
6 the Constitution of Maine and require the following
7 legislation as immediately necessary for the preser-
8 vation of the public peace, health and safety; now,
9 therefore,

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

12 Sec. 1. P&SL 1947, c. 60, is amended by adding
13 before section 1 the following:

14 PART I

15 Sec. 2. P&SL 1947, c. 60, Pt. II is enacted to
16 read:

17 PART II

18 Sec. 1. Purposes. The district may supply its
19 inhabitants with pure water for domestic, sanitary,
20 manufacturing and municipal purposes. All incidental
21 rights, powers and privileges necessary to the accom-
22 plishment of the main objectives set forth in this
23 Part are granted to the district.

24 The water system, acquired and operated as pro-
25 vided in this section, shall constitute a separate
26 department of the district and revenues of the de-
27 partment from water system rates, fees and charges
28 shall be held by the district treasurer apart from
29 other funds of the district. The revenue and any
30 governmental grants or private gifts for water system
31 purposes shall be applied by the treasurer without
32 the need for specific appropriations by any town
33 meeting only to the operation, maintenance, repair,
34 reconstruction, improvement and extension of the wa-
35 ter system and to the establishment of a water de-
36 partment sinking fund.

1 Sec. 2. Source of supply. The district may
2 take, hold, divert, use and distribute water from any
3 source in the Town of Freeport and from any other
4 source from which the Maine Water Company, Freeport
5 Division, is now authorized to take any water, in-
6 cluding sources outside the Town of Freeport.

7 Sec. 3. Eminent domain. The district may ac-
8 quire and hold, as for public uses, land, interest in
9 land and water rights. These may be acquired by pur-
10 chase, gift or exercise of the right of eminent do-
11 main, which right is expressly delegated to the dis-
12 trict. Nothing contained in this Part authorizes the
13 district to take by right of eminent domain any of
14 the property or facilities of any other public ser-
15 vice corporation or district used or acquired for fu-
16 ture use by the owner thereof in the performance of a
17 public duty, unless expressly authorized by this sec-
18 tion, by subsequent Act of the Legislature or as pro-
19 vided in section 10.

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

35 Sec. 5. Authorized to erect and maintain dams,
36 reservoirs and other structures. The district may
37 erect and maintain all dams, pumping stations, reser-
38 voirs, standpipes, treatment facilities and struc-
39 tures necessary and convenient for its corporate pur-
40 poses.

41 Sec. 6. Procedure in exercising rights of emi-
42 nent domain; assessment of damages; appeal procedure.
43 In exercising the right of eminent domain in the tak-

1 ing of lands, interests therein or water rights, the
2 district shall file in the office of the county com-
3 missioners of Cumberland County and record in the
4 Cumberland County Registry of Deeds plans of the lo-
5 cation of all the 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 that 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 district on
29 the sum to be paid therefor, either party, upon peti-
30 tion to the county commissioners of Cumberland 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 utility
36 lines. In case of any crossing of a public utility
37 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-
41 mission, upon petition by the district, shall deter-
42 mine the place, manner and conditions of that cross-
43 ing, and all work on the property of the public utility
44 shall be done under the supervision and to the
45 satisfaction of the public utility or as prescribed

1 by the Public Utilities Commission, but at the ex-
2 pende of the district.

3 Sec. 8. Authorized to receive governmental aid;
4 borrow money; issue bonds and notes. For accomplish-
5 ing the purposes of this Part, the district, through
6 its trustees, without vote of the inhabitants, may
7 receive municipal, state and federal aid grants. The
8 district may reimburse the Town of Freeport for any
9 expense incurred for the benefit of the district.

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

19 The district, through its trustees, without the
20 vote of its inhabitants, may issue bonds, notes or
21 other evidences of indebtedness of the district, in
22 such amounts, bearing such interest and having such
23 terms as the trustees shall determine; provided that,
24 except for the purposes specified in sections 9 and
25 10, issuance of bonds and notes shall be in accord-
26 ance with the Maine Revised Statutes, Title 35, sec-
27 tion 3224.

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

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 Re-
5 vised Statutes, Title 30, section 5053, and all pro-
6 visions 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 con-
10 stitute a separate loan. All bonds, notes and evi-
11 dences of indebtedness issued by the district shall
12 be legal investments for savings banks in this State
13 and shall be free from taxation.

14 Sec. 9. Authority to purchase property of Maine
15 Water Company. The district may acquire by purchase
16 the entire plant, property, franchises, rights and
17 privileges of the Maine Water Company located in or
18 serving the Town of Freeport, except its cash assets,
19 mortgages, liens, encumbrances, accounts receivable
20 and payable, including all land, waters, water
21 rights, dams, structures, reservoirs, pipes, machin-
22 ery, fixtures, hydrants, tools and all apparatus and
23 appliances owned by that company, whether the record
24 title thereto is or is not in the Maine Water Compa-
25 ny. The company may sell, transfer and convey its
26 franchises and property to the district, subject to
27 the Public Utilities Commission approval.

28 Sec. 10. Procedure in case trustees and Maine
29 Water Company fail to agree on terms of purchase. If
30 the trustees fail to agree with the Maine Water Com-
31 pany upon the terms of purchase, the district,
32 through its trustees, may take such plan, property,
33 interests and franchises of the Maine Water Company,
34 as set forth in section 9, in the manner provided in
35 this section. The district, through its trustees, may
36 file a petition entitled "Notice of Condemnation and
37 Taking" in the clerk's office of the Superior Court
38 for the County of Cumberland addressed to any jus-
39 tice, giving notice of its condemnation and taking of
40 the plant, property, interests and franchises of the
41 Maine Water Company. After notice to the Maine Water
42 Company, the court shall, after hearing, and within
43 60 days after the filing of the petition, appoint 3
44 disinterested appraisers, one of whom shall be

1 learned in the law, for the purpose of fixing the
2 valuations of the plant, property, interests and
3 franchises of the Maine Water Company described in
4 section 9. This appointment shall be treated as a
5 reference pursuant to the Maine Rules of Civil Proce-
6 cedure, Rule 53(b)(1), and in all other respects the
7 procedure shall be governed by the provisions of that
8 rule and the Maine Revised Statutes, Title 4, section
9 501, except that the appraisers shall be obligated to
10 file their report in the clerk's office within 6
11 months after their appointment. Upon confirmation of
12 the report, the court shall make final decree upon
13 the entire matter, including the application of the
14 purchase money and transfer of the property, juris-
15 isdiction over which is confirmed, and with the power
16 to enforce the decree as in equity cases. Within 60
17 days of final judgment, the district shall tender to
18 the Maine Water Company a check in the amount deter-
19 mined by the court to be just compensation for the
20 plant, property, interests and franchises taken from
21 the Maine Water Company. Upon tender by the district
22 of that amount and the performance of all other terms
23 and conditions imposed by the court, including with-
24 out limitation the effect of material additions or
25 subtractions from the plant, the plant, property, in-
26 terests and franchises of the Maine Water Company, as
27 described in section 9, shall become vested in the
28 district. Appeal from the decision of the Superior
29 Court may be had to the Law Court as in other civil
30 actions.

31 Sec. 11. Contingency Reserve Fund. The Contingency
32 Reserve Fund shall be governed by the Maine Re-
33 vised Statutes, Title 35, section 3311.

34 Sec. 12. Water rates. Individuals, firms and
35 corporations, whether private, public or municipal,
36 shall pay to the treasurer, or other designated offi-
37 cer of the district, the rates established by the
38 board of trustees for the water used by them. The
39 rates shall be established in accordance with the
40 Maine Revised Statutes, Title 35, section 73, so as
41 to provide revenue for the purposes set forth in that
42 section.

43 Sec. 13. District and town authorized to make
44 contracts. The district through its trustees may

1 contract with persons and corporations, including the
2 Town of Freeport, and the Town of Freeport may con-
3 tract with it for the supply of water for municipal
4 purposes.

5 Sec. 14. Existing laws not affected; rights con-
6 ferred subject to provisions of law. Nothing in this
7 Part repeals any existing law and all the rights and
8 duties mentioned in this Part shall be exercised and
9 performed in accordance with all the applicable pro-
10 visions of the laws of this State.

11 Sec. 15. Certain sections inoperative on failure
12 to acquire Maine Water Company plant. If the dis-
13 trict fails to acquire the plant, property, fran-
14 chises, rights and privileges owned by the Maine Wa-
15 ter Company and used or usable in supplying water to
16 the Town of Freeport, or file the petition referred
17 to in section 10, this Part shall be inoperative De-
18 cember 31, 1987.

19 **Emergency clause.** In view of the emergency cited
20 in the preamble, this Act shall take effect when ap-
21 proved.

22 STATEMENT OF FACT

23 The intent of this bill is reflected in the emer-
24 gency preamble.

25 5152011586