

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3
4
5 Legislative Document

No. 1942

6
7 H.P. 1379 House of Representatives, January 27, 1986
8 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 26.

9 Reference to the Committee on Utilities suggested and ordered printed.

EDWIN H. PERT, Clerk

10 Presented by Representative Whitcomb of Waldo.

Cosponsored by Representative Allen of Washington, Representative
Taylor of Camden and Senator Chalmers of Knox.

11
12 STATE OF MAINE
13

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

17 AN ACT to Create the Lincolville,
18 Camden, Hope, Searsmont and Belmont
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 referendum, the inhabitants and territory
25 within the Towns of Lincolville, Camden, Hope,
26 Searsmont and Belmont shall constitute a quasi-municipal
27 corporation under the name of Lincolville, Camden,
28 Hope, Searsmont and Belmont Water District for
29 the purpose of supplying the inhabitants of the district
30 with pure water for domestic, sanitary, manufacturing
31 and municipal purposes; controlling the water sheds
32 encompassed by these towns; and to be in a position,
33 with the inhabitants' consent, to oversee the distribution
34 of water supply resources on an equal basis in accordance
35 with need. All incidents, rights, powers and privileges
36 necessary to the accomplishment of the main objectives
37 set forth in this

1 law are granted to the Lincolnville, Camden, Hope,
2 Searsmont and Belmont Water District.

3 Sec. 2. Source of supply. The water district
4 for the purposes of its incorporation may take hold,
5 divert, use and distribute water from any source in
6 the Towns of Lincolnville, Camden, Hope, Searsmont
7 and Belmont. These sources are as follows:

8 1. Lincolnville: Brooks-Miservey, Minnow, brook
9 from west side of Camercon Mountain; brook off
10 Megunticook Mountain through Winslow's gravel pit;
11 Baird, Wiley's, Marriner's, Kendall and Black Brook,
12 Duck Trap River and Levenseller Pond, Coleman Pond,
13 Norton's Pond, Megunticook Lake, Moody Pond and
14 Pitcher Pond;

15 2. Camden: Brooks-Stream entering at Bog
16 Bridge; brook entering at Barrett Cove; Corle,
17 streams entering Hosmer Pond from Bald and Ragged
18 Mountains; runoff from Megunticook Mountain, Goose
19 River, Megunticook River, Hosmer Pond and Megunticook
20 Lake;

21 3. Hope: Brooks-Baird, Megunticook Lake (Fish
22 Pond and Hobbs Pond are presently in the water compa-
23 ny watershed) Alford Lake, Lermond Pond and Lily
24 Pond;

25 2tf 4. Searsmont: Brooks-Jam Brook, Black, Stearns
26 and Bartlett Stream; St. George River;
27 Levenseller Pond, Lowry Pond and Quantabacock
28 Lake; and

29 5. Belmont: Brooks-Alder, Warren; Ducktrap Riv-
30 er; and Tilden Pond.

31 Sec. 3. Eminent domain. The district may ac-
32 quire and hold, as for the public use, lands, inter-
33 est therein and water rights. These may be acquired
34 by purchase, gift or exercise of the right of eminent
35 domain, which right is expressly delegated to the wa-
36 ter district for use within the district. Nothing
37 contained in this law may be construed as authorizing
38 the water district to take by right of eminent domain
39 any of the property or facilities of any other public
40 service corporation or district used or acquired for

1 future use by the owner thereof in the performance of
2 a public duty, unless expressly authorized by subse-
3 quent Act of the Legislature or as provided in sec-
4 tion 11.

5 **Sec. 4. Authorized to lay pipes and other fix-**
6 **tures through public ways and across private lands.**
7 **Provided that the necessary easements or rights-**
8 **of-way are acquired, the district may lay pipes, aq-**
9 **ueducts, mains and fixtures, as may be necessary, in**
10 **and through the streets, roads, ways, highways and**
11 **private lands in the district and maintain and re-**
12 **place the same. The water district may excavate**
13 **through any lands when necessary and convenient for**
14 **its corporate purposes. Whenever the district lays**
15 **any pipes, aqueducts or mains in any street, road,**
16 **way or highway, it shall do so with as little ob-**
17 **struction as practicable to the public travel and**
18 **shall at its own expense without unnecessary delay**
19 **replace in proper condition the earth and pavement**
20 **removed.**

21 **Sec. 5. Authorized to erect and maintain dams,**
22 **reservoirs and other structures, provided that the**
23 **necessary property rights are acquired. The district**
24 **may erect and maintain all dams, pumping stations,**
25 **reservoirs, standpipes, treatment facilities and**
26 **structures necessary and convenient for its corporate**
27 **purposes.**

28 **Sec. 6. Procedure in exercising rights of emi-**
29 **nent domain; assessment of damages; appeal procedure.**
30 **In exercising the right of eminent domain in the tak-**
31 **ing of lands, interests in land or water rights, the**
32 **district shall file in the office of the county com-**
33 **missioners of Waldo and Knox Counties and record in**
34 **the Waldo and Knox County registries of deeds plans**
35 **of the location of all such property to be taken,**
36 **with an appropriate description and the names of the**
37 **owners, if known. Notice of the filing shall be sent**
38 **by mail to the owners at the address appearing on the**
39 **tax records of the municipality in which the land is**
40 **located. When for any reason the district fails to**
41 **acquire the property which it is authorized to take**
42 **and which is described in that location or if the lo-**
43 **cation recorded is defective or uncertain, it may, at**
44 **any time, correct and perfect that location and file**

1 a new description and in that case the district is
2 liable in damages only for property for which the
3 owner had not previously been paid, to be assessed as
4 of the time of the original taking and the district
5 is not liable for any acts which would have been just-
6 ified if the original taking had been lawful. No
7 entry may be made on any private lands except to make
8 surveys, until the expiration of 10 days from that
9 filing, at which time possession may be had of all
10 lands, interests therein or water rights so taken,
11 but title shall not vest in the district until pay-
12 ment therefor.

13 If any person or corporation sustains damages by
14 any taking and does not agree with the water district
15 on the sum to be paid therefor, either party, upon
16 petition to the county commissioners of Waldo and
17 Knox Counties, may have those damages assessed by
18 them and the procedure and right of appeal shall be
19 the same as are prescribed in the case of damages by
20 the laying out of town ways.

21 **Sec. 7. Procedures for crossing of public utili-**
22 **ty lines.** In case of any crossing of a public utili-
23 ty line or right-of-way, unless consent is given by
24 the public utility as to place, manner and conditions
25 of the crossing, within 30 days after that consent is
26 requested by the district, the Public Utilities Com-
27 mission, upon petition by the district, shall deter-
28 mine the place, manner and conditions of that cross-
29 ing. All work on the property of the public utility
30 shall be done under the supervision and to the satis-
31 faction of the public utility or as prescribed by the
32 Public Utilities Commission, but at the expense of
33 the district.

34 **Sec. 8. Board of trustees.** All of the affairs
35 of the district shall be managed by a board of trust-
36 ees composed of 5 members, each a legal voter of the
37 town he represents. Each trustee shall serve for a
38 term of 3 years, except that the initial appointed
39 trustees shall serve only until the first elected
40 trustees are qualified; and of the first elected
41 trustees, one shall serve for a term of one year; 2
42 shall serve for terms of 2 years; and 2 shall serve
43 for terms of 3 years. The first elected trustees
44 shall make the determination among themselves as to

1 which trustees shall serve the one-year, 2-year and
2 3-year terms. The initial trustees shall be ap-
3 pointed by their respective municipal officers. The
4 terms of office of the trustees shall end on April
5 30th or until their successors are qualified. When-
6 ever the term of office of a trustee will expire
7 within the year, a successor shall be elected by se-
8 cret ballot at the appropriate town regular yearly
9 municipal election. In case any other vacancy
10 arises, it shall be temporarily filled by appointment
11 by the municipal officers of the town where the va-
12 cancy occurs and shall be permanently filled for the
13 unexpired term at the next regular annual municipal
14 election. When any trustee ceases to be a resident
15 of the town from which he was elected, he vacates the
16 office of trustee. No employee of the district may
17 serve as trustee or be a candidate for that office
18 while still an employee. No person may be employed
19 by the district in any other capacity while holding
20 the office of trustee. Organization of the board of
21 trustees shall be in accordance with the Maine Re-
22 vised Statutes, Title 35, section 3223, subsection 3.
23 The trustees shall have the powers specified in the
24 Maine Revised Statutes, Title 35, section 3223, sub-
25 section 3. All decisions of the board of trustees
26 shall be by a majority of those present voting. A
27 quorum of the board of trustees shall be 3 trustees.
28 Trustees shall receive compensation for each meeting
29 actually attended and reimbursement for travel and
30 expenses in accordance with the Maine Revised Stat-
31 utes, Title 35, section 3223, subsection 4.

32 Sec. 9. Authorized to receive governmental aid;
33 to borrow money; to issue bonds and notes. For ac-
34 complishing the purposes of this Act, the district,
35 through its trustees, without vote of the inhabi-
36 tants, may receive municipal, state and federal aid
37 grants. The district may reimburse the towns for any
38 expense incurred for the benefit of the district.
39 The district, through its trustees, without the vote
40 of its voters, may borrow money temporarily and issue
41 therefor its negotiable notes, for the purpose of re-
42 newing and refunding the indebtedness so created for
43 paying any necessary expenses and liabilities in-
44 curred under this Act, including organizational and
45 other necessary expenses and liabilities, whether in-
46 curred by the district or the towns. Where water is

1 needed in one town and that town's own resources are
2 to supply its own water, that town is to finance its
3 own expenses and not bind the credit of the remaining
4 participants of this Act. A joint venture would en-
5 tail financing from all those towns involved. Limit
6 to exposure is by setting limits for each town. The
7 district through its trustees without the vote of its
8 voters, except as provided in this Act, may issue
9 bonds, notes or other evidences of indebtedness of
10 the district, in such amounts, bearing such interest
11 and having such terms as the trustees shall deter-
12 mine; provided that, except for the purposes speci-
13 fied in sections 10 and 11, issuance of bonds and
14 notes shall be in accordance with this section. In
15 the event the trustees vote to authorize bonds or
16 notes, the estimated cost which singly or in the ag-
17 gregate included in any one financing is \$150,000, or
18 more adjusted, relative to 1981 as the base year ac-
19 cording to the annual Consumer Price Index, as de-
20 fined in the Maine Revised Statutes, Title 5, section
21 1001, subsection 6-A, the trustees shall provide no-
22 tice to the general public of the proposed bond or
23 note issue and the purposes for which the debt is be-
24 ing issued. The notice shall be published at least
25 once in a newspaper having general circulation in the
26 district. The trustees shall give notice to each
27 ratepayer by mail.

28 No debt may be incurred by vote of the trustees
29 until the expiration of 7 full days following the
30 date on which the notice was first published and
31 mailed. Prior to the expiration of that period, the
32 trustees shall call a special district meeting for
33 the purpose of permitting the collection of testimony
34 from the public concerning the amount of debt so au-
35 thorized.

36 Except for indebtedness to fund projects specifi-
37 cally mandated by the State Government and Federal
38 Government, for debts in excess of the amount speci-
39 fied in this section, if requested by petition of not
40 less than 50 voters of the district or 5% of the vot-
41 ers, whichever is greater, filed with the clerk of
42 the district on or before the date of the meeting,
43 the meeting shall express approval or disapproval of
44 the amount of debt authorized by the trustees. If a
45 majority of voters present and voting expresses dis-

1 approval of the amount of debt authorized by the
2 trustees, the debt shall not be incurred and the vote
3 of the trustees authorizing it shall be void and of
4 no effect.

5 The bonds, notes and evidences of indebtedness
6 may be issued to mature serially or may run for such
7 periods as the trustees may determine. Bonds, notes
8 or evidences of indebtedness may be issued with or
9 without provisions for calling the same prior to ma-
10 turity and, if callable, may be made callable at par
11 or at such premium as the trustees may determine.
12 All bonds, notes or other evidences of indebtedness
13 shall have inscribed upon their faces the words
14 "Lincolnvile, Camden, Hope, Searsmont and Belmont
15 Water District," and shall be signed by the treasurer,
16 if any, and countersigned by the president of the
17 district and, if coupon bonds are issued, the inter-
18 est coupons attached thereto shall bear the facsimi-
19 le signature of the treasurer or president.

20 All bonds, notes and evidences of indebtedness
21 issued by the district shall be legal obligations of
22 the district, which is declared to be a quasi-municipal
23 corporation within the meaning of the Maine Re-
24 vised Statutes, Title 30, section 5053, and all pro-
25 visions of that section shall be applicable to the
26 district.

27 The district may refund and reissue, in one or in
28 separate series, its bonds, notes and other evidences
29 of indebtedness, and each authorized issue shall con-
30 stitute a separate loan. All bonds, notes and evi-
31 dences of indebtedness issued by the district shall
32 be legal investments for savings banks in this State
33 and shall be free from taxation.

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

36 **Sec. 10. Existing statutes not affected; rights**
37 **conferred subject to provisions of law.** Nothing in
38 this law is intended to repeal or may be construed as
39 repealing any existing law and all the rights and du-
40 ties mentioned in this Act shall be exercised and
41 performed in accordance with all the applicable pro-
42 visions of the laws of this State.

1 Sec. 11. Acceptance subject to referendum. This
2 Act shall take effect 90 days after adjournment of
3 the Second Regular Session of the 112th Legislature
4 for the sole purpose of permitting its submission to
5 the legal voters within the district at a special
6 election to be called for that purpose and to be held
7 within 6 months of the effective date of this Act.
8 The election shall be called, advertised and con-
9 ducted according to the law relating to municipal
10 elections, provided that the registrars of voters in
11 each municipality shall not be required to prepare or
12 the clerks to post a new list of voters, and for this
13 purpose the registrars of voters shall be in session
14 the 3 secular days preceding the election, of which
15 the first 2 days shall be devoted to registration of
16 the voters and the last day to enable the registrars
17 to verify the lists and to complete the records of
18 these sessions. The subject matter of this Act shall
19 be reduced to the following question:

20 "Shall the Lincolnvile, Camden, Hope, Searsmont
21 and Belmont Water District be created?"

22 The voters shall indicate by a cross or check
23 mark placed against the words "Yes" or "No" their
24 opinion of the same.

25 The results shall be declared by the municipal
26 officers of the Towns of Lincolnvile, Camden, Hope,
27 Searsmont and Belmont and due certificate thereof
28 filed by the clerks with the Secretary of State.

29 This Act shall take effect for all its purposes
30 immediately upon its acceptance by a majority of the
31 legal voters in the towns set forth voting at the
32 special election. Failure of the approval by the
33 necessary majority of voters at any such election
34 shall not prevent a subsequent election to be held
35 for that purpose.

36 The district shall be created in those towns vot-
37 ing a majority "Yes." A subsequent election may be
38 held for towns failing to achieve this vote and shall
39 become a part of this district at that time.

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STATEMENT OF FACT

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This bill allows the establishment of the
Lincolnton, Camden, Hope, Seasmont and Belmont Wa-
ter District.

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