

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)  
2 (New Draft of H.P. 1313, L.D. 1829)  
3 SECOND REGULAR SESSION  
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5 ONE HUNDRED AND TWELFTH LEGISLATURE  
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7 Legislative Document

No. 2299

8  
9 H.P. 1631

House of Representatives, April 1, 1986

10 Reported by Representative McHenry from the Committee on Utilities  
11 and printed under Joint Rule 2. Original bill sponsored by Senator Violette of  
Aroostook. Cosponsored by Speaker Martin of Eagle Lake, Representative  
Nadeau of Lewiston and Representative Carroll of Gray.

12 EDWIN H. PERT, Clerk

13  
14 STATE OF MAINE  
15

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16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-SIX  
18

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19 AN ACT to Amend the Charter of the  
20 Passamaquoddy Water District.  
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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 Passamaquoddy Water District serves  
26 an essential purpose, namely, providing an adequate  
27 supply of pure water to the people of the City of  
28 Eastport and to the inhabitants of the Town of Perry  
29 and to the Pleasant Point Passamaquoddy Indian Reser-  
30 vation; and

31 Whereas, the water quality in the district pres-  
32 ently does not meet federal or state standards and  
33 there exists no supply of ground water within the  
34 district that is adequate to supply the needs of the  
35 people of the district with pure water without having  
36 to build an expensive treatment plant; and

1       Whereas, the district has located an adequate  
2 supply of ground water for the needs of the district  
3 located in an aquifer found on land presently owned  
4 by the Lincoln Company in the Town of Pembroke; and

5       Whereas, estimates, on the basis of extensive  
6 professional testing, show that the aquifer in ques-  
7 tion has a sustainable yield of about 500,000 gallons  
8 per day, which is far in excess of the present aver-  
9 age daily demand of the district; and

10       Whereas, the district's charter must be amended  
11 to permit the district to acquire or lease this land  
12 and to use water from this land to supply the needs  
13 of the district and it is vital that the district's  
14 charter be so amended at once for the benefit of the  
15 customers of the district; and

16       Whereas, in the judgment of the Legislature,  
17 these facts create an emergency within the meaning of  
18 the Constitution of Maine and require the following  
19 legislation as immediately necessary for the preser-  
20 vation of the public peace, health and safety; now,  
21 therefore,

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

24       Sec. 1. P&SL 1983, c. 25, §2, is amended to  
25 read:

26       Sec. 2. Source of supply. The water district,  
27 for the purposes of its incorporation, is authorized  
28 to take, collect, store, hold, divert, use, flow, de-  
29 tain and distribute water from any lake, pond,  
30 stream or river and from any surface or underground  
31 brook, spring or vein of water in the reservation,  
32 ~~and~~ from any other source from which the Eastport Wa-  
33 ter Company is now authorized to take water, includ-  
34 ing sources outside of the reservation and from any  
35 surface or underground brook, spring or vein of water  
36 located on property presently owned by the Lincoln  
37 Company on Little Falls Road in the Town of Pembroke.

38       The taking of ground water by the district from  
39 that property presently owned by the Lincoln Company

1 shall be limited to the lesser of the long-term sus-  
2 tainable yield or 500,000 gallons per day averaged  
3 over any calendar year.

4 Sec. 2. P&SL 1983, c. 25, §2-A is enacted to  
5 read:

6 2-A. Responsibilities to Pembroke residents.

7 1. As used in this section the term "aquifer  
8 map" means a map prepared by W. Bradford Caswell,  
9 hydrologist, dated January 27, 1986, which describes  
10 the location of the aquifer underlying the site pres-  
11 ently owned by the Lincoln Company in the Town of  
12 Pembroke.

13 2. In the event of an adverse impact at any time  
14 prior to July 1, 2006, upon the water supply of any  
15 Pembroke resident whose home is located within the  
16 aquifer as defined by the aquifer map, the district,  
17 at its discretion, will either:

18 A. Assume the costs of restoring the well of the  
19 adversely affected residence to its former state;  
20 or

21 B. Hook up the adversely affected residence to  
22 the district's water lines free of charge and  
23 thereafter provide water service to the residence  
24 at a rate not to exceed the amount which the res-  
25 idence formerly was paying for use and maintenace  
26 of its well.

27 3. In the event any Pembroke resident whose home  
28 is not located within the aquifer, as defined by the  
29 aquifer map, claims before July 1, 2006, that the  
30 district's use of the site has adversely affected the  
31 resident's water supply, the district agrees to con-  
32 sider the claim and if determined valid, to take ei-  
33 ther of the steps outlined in subsection 2. In the  
34 event the district and the resident disagree over the  
35 validity of the claim, the district will submit the  
36 matter to binding arbitration by an arbitrator or ar-  
37 bitrators agreed upon by the district and the resi-  
38 dent.

1       4. The district shall set up an escrow account  
2 containing \$10,000 to be maintained until July 1,  
3 2006, and to be used solely for the purpose of paying  
4 for the costs of any actions the district must take  
5 pursuant to subsections 2 and 3.

6       5. The district shall provide water service, at  
7 its customary rates, to any resident in Pembroke who  
8 requests the service, in conformance with the Public  
9 Utilities Commission's rules regulating water main  
10 extensions.

11       Sec. 3. P&SL 1983, c. 25, §4, is amended to  
12 read:

13       Sec. 4. Authorized to lay pipes, public ways and  
14 across private lands. The district is authorized to  
15 lay in and through the streets, roads, ways and high-  
16 ways within the district, the Town of Pembroke and  
17 any city or town which the Eastport Water Company is  
18 serving or authorized to serve and across private  
19 lands therein, and to maintain and replace all such  
20 pipes, aqueducts, mains and fixtures as may be neces-  
21 sary, and may excavate through any lands when neces-  
22 sary and convenient for its corporate purposes; and  
23 whenever the district shall lay any pipes, aqueducts  
24 or mains in any street, road, way or highway, it  
25 shall cause the same to be done with as little ob-  
26 struction as practicable to the public travel, and  
27 shall at its own expense without unnecessary delay  
28 cause the earth and pavement removed by it to be re-  
29 placed in proper conditions.

30       Sec. 4. P&SL 1983, c. 25, §§19-A and 19-B are  
31 enacted to read:

32       Sec. 19-A. Authority to purchase or lease prop-  
33 erty of the Lincoln Company. The Passamaquoddy Water  
34 District may acquire by purchase, or may lease, real  
35 property owned by the Lincoln Company in the Town of  
36 Pembroke located on the Little Falls Road, including  
37 all water and water rights appurtenant thereto.

38       Sec. 19-B. Authority to sell or lease surplus  
39 property. The right and power necessary to sell or  
40 lease any assets or property of the district not  
41 needed for the accomplishment of the main object set  
42 forth in this Act are granted to the district.

1       **Emergency clause.** In view of the emergency cited  
2 in the preamble, this Act shall take effect when ap-  
3 proved.

4                               STATEMENT OF FACT

5       This new draft provides extensive protection to  
6 residents of Pembroke, while meeting the water supply  
7 needs of the water district. Withdrawals by the dis-  
8 trict are limited to the lesser of 500,000 gallons  
9 per day or the sustainable yield of the aquifer. In  
10 the event that any well on the aquifer is adversely  
11 affected, the district will restore the well or pro-  
12 vide a free hookup to the system. The district will  
13 set up an escrow fund of \$10,000 for that purpose.  
14 Finally, the district will provide service on re-  
15 quest, at customary rates to any resident of  
16 Pembroke.

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