

# MAINE STATE LEGISLATURE

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(Emergency)  
THIRD SPECIAL SESSION

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ONE HUNDRED AND THIRTEENTH LEGISLATURE

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Legislative Document

No. 2660

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S.P. 1015 In Senate, September 15, 1988  
Approved for Introduction by a Majority of the Legislative  
Council pursuant to Joint Rule 26.  
Received by the Secretary of the Senate on September 1,  
1988. Referred to the Committee on Utilities and 1,600 ordered  
printed pursuant to Joint Rule 14.

JOY J. O'BRIEN, Secretary of the Senate  
Presented by Senator PERKINS of Hancock.  
Cosponsored by Representative RICE of Stonington.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-EIGHT

---

1 AN ACT to Create the Deer Isle Water  
2 District.  
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4 **Emergency preamble.** Whereas, Acts of the  
5 Legislature do not become effective until 90 days  
6 after adjournment unless enacted as emergencies; and

7 Whereas, an adequate supply of pure water is  
8 essential to the health and well-being of the

1 inhabitants of the Town of Deer Isle; and

2       Whereas, the present water system is inadequate to  
3 protect the quality of the water, health and  
4 well-being of some of the inhabitants of the Town of  
5 Deer Isle; and

6       Whereas, it is desirable that a public district be  
7 formed in part of Deer Isle to be able to supply water  
8 to the people of the area; and

9       Whereas, in the judgment of the Legislature, these  
10 facts create an emergency within the meaning of the  
11 Constitution of Maine and require the following  
12 legislation as immediately necessary for the  
13 preservation of the public peace, health and safety;  
14 now, therefore,

15 Be it enacted by the People of the State of Maine as  
16 follows:

17       **Sec. 1. Territorial limits; corporate name;**  
18 **purposes.** Subject to section 15, the inhabitants and  
19 territory of that part of the Town of Deer Isle in  
20 Hancock County comprised of the area beginning at the  
21 intersection of Route 15 and Main Street, thence south  
22 on Route 15 for 500 feet, thence west to the  
23 coastline, thence northwesterly along the coastline to  
24 the junction with the causeway, thence east on Main  
25 Street to the point of beginning, shall constitute a  
26 body politic and corporate under the name of "The Deer  
27 Isle Water District" for the purpose of supplying the  
28 inhabitants and others of the district with pure water  
29 for domestic, sanitary, commercial, industrial,  
30 agricultural and municipal purposes.

31       **Sec. 2. Powers of Deer Isle Water District.**  
32 The Deer Isle Water District is authorized, for the  
33 purposes of its incorporation, to take, collect,  
34 store, flow, use, divert, distribute and convey to the  
35 district, or any part of the district, water from any  
36 source, natural or artificial, within the area of the  
37 Town of Deer Isle. It is also authorized to locate,  
38 construct and maintain aqueducts, pipes, conduits,

1 dams, wells, reservoirs, standpipes, hydrants, pumping  
2 stations and other necessary structures and equipment  
3 therefor, and do anything necessary to furnish water  
4 for public purposes and for the public health, comfort  
5 and convenience of the inhabitants and others of the  
6 district, or to contract to do any and all of the  
7 foregoing things. The district may not take, withdraw  
8 or divert water from any source for the above  
9 enumerated purposes, unless it has filed a written  
10 petition and obtained the approval of the Public  
11 Utilities Commission. The petition shall include a  
12 plan for the taking, withdrawal or diversion of  
13 water. The petition and plan shall set forth adequate  
14 information upon which findings may be made regarding  
15 the nature, capacity, safe yield and rechargeability  
16 of the source, the amount of water to be taken over  
17 time and other existing and projected uses and demands  
18 on the source. The commission may by rule or order  
19 prescribe other information to be contained in the  
20 petition and plan. The commission may not approve a  
21 petition unless it finds that the plan ensures that  
22 adequate water remains in the source to meet the  
23 reasonable needs of existing and projected demands on  
24 the source. The commission may impose reasonable  
25 terms, conditions or other requirements on the plan.  
26 The commission shall issue its order approving or  
27 disapproving the plan within 9 months after it  
28 determines the petition to be complete.

29 All incidental powers, rights and privileges  
30 necessary to the accomplishment of the main objectives  
31 set forth in this Act are granted to the district  
32 created by this Act.

33 Sec. 3. Authorized to lay mains, pipes,  
34 conduits, aqueducts, fixtures and appurtenances  
35 through public ways and across private lands. The  
36 district is authorized to lay in and through the  
37 streets, roads, ways, highways and bridges in the Town  
38 of Deer Isle and across private lands in the Town of  
39 Deer Isle, and to maintain, repair and replace all  
40 such pipes, mains, conduits, aqueducts and fixtures  
41 and appurtenances as may be necessary and convenient  
42 for its corporate purposes and, whenever the district  
43 shall lay any pipes, mains, conduits, aqueducts and

1 fixtures or appurtenances in any street, road, way or  
2 highway, it shall cause the same to be done with as  
3 little obstruction as practicable to the public travel  
4 and shall, at its own expense, without unnecessary  
5 delay, cause the earth and pavement removed by it to  
6 be replaced in proper condition.

7       Sec. 4. Authorized to erect dams and reservoirs;  
8 to cross navigable waters; to supply water to  
9 utilities. The water district is authorized, for the  
10 purposes of its incorporation, to erect and maintain  
11 all dams, reservoirs and structures necessary and  
12 convenient for its corporate purposes. The water  
13 district is also authorized to lay, construct and  
14 maintain its pipes and fixtures in, over and under  
15 navigable waters and to build and maintain structures  
16 therefor.

17       Sec. 5. Rights of eminent domain. The  
18 district, for the purposes of its incorporation, is  
19 authorized to take and hold, as for public uses, real  
20 estate and personal property and any interest therein  
21 located in the Town of Deer Isle, necessary or  
22 convenient for those purposes, by purchase, lease or  
23 otherwise and is expressly authorized to exercise the  
24 right of eminent domain, as hereinafter provided, to  
25 acquire for those purposes any land or interest in  
26 land or water rights necessary for erecting and  
27 maintaining dams, plants and works, for flowage,  
28 power, pumping, supplying water through its mains, for  
29 reservoirs, preserving the purity of the water and  
30 watershed, laying and maintaining aqueducts and other  
31 structures for taking, distributing, discharging and  
32 disposing of water and for rights-of-way or roadways  
33 to its sources of supply, dams, power stations,  
34 reservoirs, mains, aqueducts, structures and lands.

35       The district is authorized, for the purposes of  
36 its incorporation, to erect and maintain all dams,  
37 reservoirs and structures necessary and convenient for  
38 its corporate purposes. Nothing contained in this  
39 section may be construed as authorizing the district  
40 to take by right of eminent domain any of the property  
41 or facilities of any other public utility used, or  
42 acquired for future use, by the owner of that property

1 or facilities in the performance of a public duty,  
2 unless expressly authorized to do so by this section,  
3 by subsequent Act of the Legislature or as provided in  
4 section 6.

5       **Sec. 6. Procedure if public utility must be**  
6 **crossed.** In case of crossing of any public utility,  
7 unless consent is given by the company owning and  
8 operating the public utility as to place, manner and  
9 conditions of the crossing within 30 days after  
10 consent is requested by the district, the Public  
11 Utilities Commission, upon petition by the district,  
12 shall determine the place, manner and conditions of  
13 the crossing, and all work on the property of the  
14 public utility shall be done under the supervision and  
15 to the satisfaction of the public utility, or as  
16 prescribed by the Public Utilities Commission, but at  
17 the expense of the district.

18       **Sec. 7. Procedure in exercising right of eminent**  
19 **domain.** In exercising the right of eminent domain in  
20 the taking of land, interests therein or water rights,  
21 the district shall file in the office of the county  
22 commissioners of Hancock County and record in the  
23 Hancock County registry of deeds plans of the location  
24 of all such property to be taken, with an appropriate  
25 description and the names of the owners, if known.  
26 Notice of the filing shall be sent by mail to the  
27 owners at the address appearing on the tax records of  
28 the municipality in which the land is located. When  
29 for any reason the district fails to acquire the  
30 property which it is authorized to take, and which is  
31 described in that location, or if the location  
32 recorded is defective or uncertain, it may, at any  
33 time, correct and perfect that location and file a new  
34 description, and in such case the district is liable  
35 in damages only for property for which the owner had  
36 not previously been paid, to be assessed at the time  
37 of the original taking, and the district is not liable  
38 for any acts which would have been justified if the  
39 original taking had been lawful. No entry may be made  
40 on any private lands, except to make surveys, until  
41 the expiration of 10 days from that filing, at which  
42 time possession may be had of all lands, interests  
43 therein or water rights so taken, but title shall not

1 vest in the district until payment is received  
2 therefor.

3       **Sec. 8. Adjustment of damages; procedure as in**  
4 **laying out of highways.** If any person sustaining  
5 damages by any taking pursuant to the right of eminent  
6 domain shall not agree with the district upon the sum  
7 to be paid therefor, either party, upon petition to  
8 the county commissioners of Hancock County, may have  
9 the damages assessed by them. The procedure and all  
10 subsequent proceedings and right of appeal therefrom  
11 shall be had under the same restrictions, conditions  
12 and limitations as are or may be by law prescribed in  
13 the case of damages by the laying out of highways.

14       **Sec. 9. Trustees; how elected; first board;**  
15 **meeting; officers.** All of the affairs of the  
16 district shall be managed by a board of trustees  
17 composed of 5 members, all of whom shall be residents  
18 of the district, and elected as provided in the Maine  
19 Revised Statutes, Title 35-A, chapter 63 and this  
20 section.

21       1. First board. Within 14 days after the  
22 acceptance of this Act, the selectmen of the Town of  
23 Deer Isle, who are especially appointed for this  
24 purpose, shall give notice of a special election of  
25 the Deer Isle Water District, for the purpose of  
26 selecting the first board of trustees, by posting a  
27 notice at least 30 days prior to the date set for  
28 election. The notice shall be published in one public  
29 and conspicuous place in the Town of Deer Isle. The  
30 candidates for office shall obtain nomination papers  
31 from the clerk of the Town of Deer Isle, who is  
32 appointed especially to act as clerk in this  
33 particular instance. The form of the nomination papers  
34 and the ballot shall be as provided in this Act. After  
35 the selection of the first board, the only eligibility  
36 requirements for the office of trustee of the district  
37 shall be residence within the district and eligibility  
38 to vote, and all subsequent trustees shall be elected  
39 as provided in the Maine Revised Statutes, Title 35-A,  
40 chapter 63 in an annual election to be held on the  
41 first Saturday of March in each year.

1 Organization of the board of trustees and its  
2 specific powers shall be in accordance with the Maine  
3 Revised Statutes, Title 35-A, chapter 63. The first  
4 order of business shall be to draw by lot to fix the  
5 terms of the trustees. Of the original trustees, 2  
6 shall serve for one year, 2 for 2 years and one for 3  
7 years. Thereafter, trustees shall be selected to serve  
8 for 3-year terms.

9 2. Decisions of the board. All decisions of the  
10 board of trustees shall be by a majority of those  
11 present and voting. A quorum of the board of trustees  
12 shall be 3 trustees.

13 3. Compensation. Trustees' compensation shall be  
14 set in accordance with the Maine Revised Statutes,  
15 Title 35-A, chapter 63.

16 4. Vacancies; incompatible offices. Whenever the  
17 term of office of a trustee expires, a successor shall  
18 be elected by a plurality vote by the inhabitants of  
19 the district, and upon nomination made as provided in  
20 this section for the election of trustees; and for the  
21 purpose of election a special election shall be called  
22 and held on the first Saturday of March in each year,  
23 the election to be called by the trustees of the  
24 district in the same manner as town meetings are  
25 called. For this purpose, the trustees are vested  
26 with the powers of selectmen of towns. The trustees so  
27 elected shall serve the full term of 3 years and, in  
28 case any vacancy arises in the membership of the board  
29 of trustees, it shall be filled in like manner for the  
30 unexpired term by special election to be called by the  
31 trustees of the district. When any trustee ceases to  
32 be a resident of the district, that trustee shall  
33 vacate the office of trustee and the vacancy shall be  
34 filled as provided in this section. All trustees shall  
35 be eligible for reelection, but no person holding  
36 office of selectman or road commissioner in the Town  
37 of Deer Isle may be eligible for nomination or  
38 election as trustee.

39 5. Additional powers. The trustees may procure  
40 an office and incur such expenses as may be necessary.



1 The trustees shall appoint a registrar of voters  
2 for the district who may also be the registrar of  
3 voters for the Town of Deer Isle and fix the salary.  
4 It shall be the registrar's duty to make and keep a  
5 complete list of all the eligible voters of the  
6 district, and the list prepared by the registrar, as  
7 provided by the laws of the State, shall govern the  
8 eligibility of any voter. In determining the eligible  
9 voters of the district, the registrar of voters shall  
10 exclude from the lists and from all checklists the  
11 legal voters who are resident outside the territorial  
12 limits of the water district as defined in this Act,  
13 and all warrants issued for elections by the trustees  
14 shall be varied accordingly to show that only the  
15 voters resident within the territorial limits of the  
16 water district are entitled to vote.

17 **Sec. 10. Annual report.** The trustees shall  
18 make and publish an annual report, including a report  
19 of the treasurer, and the report may be included in,  
20 and published as part of, the annual town report of  
21 the Town of Deer Isle.

22 **Sec. 11. District and towns authorized to make**  
23 **and assume contracts.** The district, through its  
24 trustees, is authorized to contract with persons and  
25 corporations, including the Town of Deer Isle, and the  
26 Town of Deer Isle is authorized to contract with it  
27 for the supply of water for municipal purposes.

28 **Sec. 12. Authorized to receive governmental aid;**  
29 **borrow money; issue bonds and notes.** For  
30 accomplishing the purposes of this Act and for such  
31 other expenses as may be necessary for the carrying  
32 out of these purposes, the district, through its  
33 trustees, without vote of the inhabitants, is  
34 authorized to receive both state and federal aid  
35 grants; and to borrow money temporarily and to issue  
36 therefor its negotiable notes, for the purpose of  
37 renewing and refunding the indebtedness so created,  
38 for paying any necessary expenses and liabilities  
39 incurred under this Act, including organizational and  
40 other necessary expenses and liabilities, whether  
41 incurred by the district or the Town of Deer Isle, the  
42 district being authorized to reimburse the Town of

1 Deer Isle for any such expense incurred by them and in  
2 acquiring properties, paying damages, laying pipes,  
3 mains, aqueducts and conduits, constructing,  
4 maintaining and operating a water plant or system and  
5 making renewals, additions, extensions and  
6 improvements to the same and to cover interest  
7 payments during the period of construction. The  
8 district, through its trustees, is authorized to  
9 issue, in accordance with the Maine Revised Statutes,  
10 Title 35-A, chapter 63, from time to time, bonds,  
11 notes or other evidence of indebtedness of the  
12 district in such amount or amounts bearing interest at  
13 such rate or rates, selling at par, or at a discount  
14 or a premium and having such other terms and  
15 provisions as the trustees shall determine, except  
16 that loans running for one year or less do not require  
17 the Public Utilities Commission's approval.

18 The bonds, notes and evidences of indebtedness may  
19 be issued to mature serially or made to run for such  
20 periods as the trustees determine. Bonds, notes or  
21 evidences of indebtedness may be issued with or  
22 without provisions for calling the same prior to  
23 maturity and, if callable, may be made callable at par  
24 or at such premium as the trustees determine. All  
25 bonds, notes or other evidences of indebtedness shall  
26 have inscribed upon their face the words "Deer Isle  
27 Water District," shall be signed by the treasurer and  
28 countersigned by the president of the board of  
29 trustees of the district and, if coupon bonds are  
30 issued, the interest coupon attached to the coupon  
31 bonds shall bear the facsimile signature of the  
32 treasurer.

33 All bonds, notes and evidences of indebtedness so  
34 issued by the district shall be legal obligations of  
35 the district, which is declared to be a  
36 quasi-municipal corporation within the meaning of the  
37 Maine Revised Statutes, Title 30-A, section 5701, and  
38 all provisions of that section shall be applicable  
39 thereto.

40 The district may refund and reissue, from time to  
41 time, in one or in separate series, its bonds, notes  
42 and other evidences of indebtedness, and each

1 authorized issue shall constitute a separate loan. All  
2 bonds, notes and evidences of indebtedness issued by  
3 the district shall be legal investments for savings  
4 banks in the State, and shall be free from taxation.

5       **Sec. 13. Rates; application of revenue; sinking**  
6 **fund.** Individuals, firms and corporations, whether  
7 private, public or municipal, shall pay to the  
8 treasurer or other designated officer of the district  
9 the rates established by the board of trustees for the  
10 water used by them. The rates shall be established in  
11 accordance with the Maine Revised Statutes, Title  
12 35-A, chapter 61 to provide for the purposes set forth  
13 therein.

14       **Sec. 14. Existing statutes not affected; rights**  
15 **conferred subject to provisions of law.** Nothing  
16 contained in this Act is intended to repeal, or may be  
17 construed as repealing, the whole or any part of any  
18 existing law, and all the rights and duties mentioned  
19 in this Act shall be exercised and performed in  
20 accordance with all the applicable provisions of the  
21 Maine Revised Statutes, Title 35-A, and all Acts  
22 amendatory thereof and additional thereto, to the  
23 extent that the Maine Revised Statutes, Title 35-A and  
24 the amendments thereto affect the operations of the  
25 district.

26       **Sec. 15. Separability clause.** If any section  
27 or part of a section of this charter shall be held  
28 invalid by a court of competent jurisdiction, the  
29 holding shall not affect the remainder of this  
30 charter, with the intention that the remaining  
31 portions of this charter shall stand, notwithstanding  
32 the unconstitutionality or invalidity of any section,  
33 sentence, clause or phrase.

34       **Sec. 16. Referendum; effective date.** This Act  
35 shall take effect when approved only for the purpose  
36 of permitting its submission to the legal voters of  
37 the district at a special election or elections called  
38 and held for the purpose. The election shall be called  
39 by the municipal officers of the Town of Deer Isle and  
40 shall be held at the regular voting places; the dates  
41 of the elections shall be determined by the municipal

1 officers, but the first meeting of the town shall not  
2 be later than December 1, 1989. These special  
3 elections shall be called, advertised and conducted  
4 according to the law relating to municipal elections,  
5 provided that the board of registration is not  
6 required to prepare, nor the town clerk to post, a new  
7 list of voters. For this purpose, the board of  
8 registration shall be in session on the 3 secular days  
9 next preceding the elections, the first and 2nd days  
10 to be devoted to registration of voters and the last  
11 day to enable the board to verify the corrections of  
12 the lists and to complete and close up its records of  
13 the session. The town clerk shall reduce the subject  
14 matter of this Act to the following question:

15 "Shall 'The Act to Incorporate the Deer Isle Water  
16 District' passed by the Legislature be accepted?"

17 The voters shall indicate by a cross or check mark  
18 placed against the words "Yes" or "No" their opinion  
19 of the same. This Act shall take effect for all the  
20 purposes hereof immediately upon its acceptance by a  
21 majority of the legal voters of the district voting at  
22 the elections, but only if the total number of votes  
23 cast for and against the acceptance of this Act in the  
24 special elections equals or exceeds 20% of the total  
25 number of names on the checklist of voters of the  
26 district provided for in this Act, which checklist  
27 shall be used at such elections, but failure of  
28 approval by the necessary majority or percentage of  
29 voters shall not prevent subsequent elections.

30 The result of these elections shall be declared by  
31 the municipal officers of the town and due  
32 certificates thereof filed by the town clerk with the  
33 Secretary of State.

34 **Emergency clause.** In view of the emergency  
35 cited in the preamble, this Act shall take effect when  
36 approved.

37 STATEMENT OF FACT

38 The purpose of this bill is to authorize the

1 creation of the Deer Isle Water District in the Town  
2 of Deer Isle.

3 5829082588