

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 that area; and

2 Whereas, an adequate supply of pure water is
3 essential to the health and well-being of the
4 inhabitants of East Pittston; and

5 Whereas, it is desirable that a public district be
6 formed in East Pittston to be able to supply water to
7 the people of the area; and

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

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

16 **Sec. 1. Territorial limits; corporate name;**
17 **purposes.** Subject to section 15, the inhabitants and
18 territory of that part of the Town of Pittston in
19 Kennebec County comprised of the area beginning at the
20 junction of the east and west branches of the Eastern
21 River (approximately 600 feet east northeast of the
22 crossing of the Eastern River by Route 194) in East
23 Pittston, then going 900 feet S 10°W to a point, then
24 going 900 feet S 30°W to a point, then going 975 feet
25 S 42°W to a point, then going N 50°W to a point 550
26 feet N 50°W of the center line of the Dresden Road
27 (also called the Kelly Road on some maps), then going
28 directly north to the Eastern River, then following
29 the Eastern River upstream to the point of beginning
30 shall constitute a body politic and corporate under
31 the name of "East Pittston Water District" for the
32 purpose of supplying the inhabitants and others of the
33 district with pure water for domestic, sanitary,
34 commercial, industrial, agricultural and municipal
35 purposes.

36 **Sec. 2. Powers of East Pittston Water**
37 **District.** The East Pittston Water District is
38 authorized, for the purposes of its incorporation, to
39 take, collect, store, flow, use, divert, distribute
40 and convey to the district, or any part of the
41 district, water from any source, natural or
42 artificial, within the area of the Town of Pittston.
43 It is also authorized to locate, construct and
44 maintain aqueducts, pipes, conduits, dams, wells,
45 reservoirs, standpipes, hydrants, pumping stations and
46 other necessary structures and equipment therefor, and

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

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

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

1 little obstruction as practicable to the public travel
2 and shall, at its own expense, without unnecessary
3 delay, cause the earth and pavement removed by it to
4 be replaced in proper condition.

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

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

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

1 by subsequent Act of the Legislature or as provided in
2 section 6.

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

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

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

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

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

40 Organization of the board of trustees and its
41 specific powers shall be in accordance with the Maine

1 Revised Statutes, Title 35-A, chapter 63. The first
2 order of business shall be to draw by lot to fix the
3 terms of the trustees. Of the original trustees, 2
4 shall serve for one year, 2 for 2 years and one for 3
5 years. Thereafter, trustees shall be selected to serve
6 for 3-year terms.

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

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

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

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

39 The trustees shall appoint a registrar of voters
40 for the district who may also be the registrar of

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

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

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

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

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

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

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

38 The district may refund and reissue, from time to
39 time, in one or in separate series, its bonds, notes
40 and other evidences of indebtedness, and each
41 authorized issue shall constitute a separate loan. All
42 bonds, notes and evidences of indebtedness issued by

1 the district shall be legal investments for savings
2 banks in the State, and shall be free from taxation.

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

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

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

32 Sec. 16. Referendum; effective date. This Act
33 shall take effect when approved only for the purpose
34 of permitting its submission to the legal voters of
35 the district at a special election or elections called
36 and held for the purpose. The election shall be called
37 by the municipal officers of the Town of Pittston and
38 shall be held at the regular voting places; the dates
39 of the elections shall be determined by the municipal
40 officers, but the first meeting of the town shall not
41 be later than December 1, 1989. These special

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

13 "Shall 'The Act to Incorporate the East Pittston
14 Water District' passed by the Legislature be
15 accepted?"

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

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

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

36 STATEMENT OF FACT

37 The purpose of this bill is to authorize the

1 creation of the East Pittston Water District in the
2 Town of Pittston.

3 5830081188