

MAINE STATE LEGISLATURE

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(EMERGENCY)
THIRD SPECIAL SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2676

H.P. 1978 House of Representatives, September 12, 1988
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.
Received by the Clerk of the House on September 9, 1988.
Referred to the Committee on Utilities and ordered printed
pursuant to Joint Rule 14.

EDWIN H. PERT, Clerk
Presented by Representative LORD of Waterboro.
Cosponsored by Representative RIDLEY of Shapleigh and
Senator BLACK of Cumberland.

STATE OF MAINE

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

1 AN ACT to Create the South Waterboro Water
2 District.
3

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, wells in the South Waterboro area have
8 become contaminated with gasoline and pose a serious
9 threat to the health and well-being of residents of

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 South Waterboro; and

5 Whereas, it is desirable that a public district be
6 formed in South Waterboro to be able to supply water
7 to 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.** The inhabitants and territory of that part
18 of the Town of Waterboro in York County comprised of
19 the area beginning at the point where Carle Branch
20 crosses the town line between Waterboro and Lyman,
21 then going south along the town line to the point
22 where it is crossed by Carpenter Brook, then going
23 west along Carpenter Brook to the point where it meets
24 Hamilton Branch, then going north along Hamilton
25 Branch to the point where it meets Carle Branch, then
26 going east along Carle Branch to the point of
27 beginning shall constitute a body politic and
28 corporate under the name of "South Waterboro Water
29 District" for the purpose of supplying the inhabitants
30 and others of the district with pure water for
31 domestic, sanitary, commercial, industrial,
32 agricultural and municipal purposes.

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

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

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

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

1 for its corporate purposes and, whenever the district
2 shall lay any pipes, mains, conduits, aqueducts and
3 fixtures or appurtenances in any street, road, way or
4 highway, it shall cause the same to be done with as
5 little obstruction as practicable to the public travel
6 and shall, at its own expense, without unnecessary
7 delay, cause the earth and pavement removed by it to
8 be replaced in proper condition.

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

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

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

1 acquired for future use, by the owner of that property
2 or facilities in the performance of a public duty,
3 unless expressly authorized to do so by this section,
4 by subsequent Act of the Legislature or as provided in
5 section 6.

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

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

1 therein or water rights so taken, but title shall not
2 vest in the district until payment is received
3 therefor.

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

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

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

1 first Saturday of March in each year.

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

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

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

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

40 5. Additional powers. The trustees may procure

1 an office and incur such expenses as may be necessary.

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

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

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

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

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

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

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

42 The district may refund and reissue, from time to

1 time, in one or in separate series, its bonds, notes
2 and other evidences of indebtedness, and each
3 authorized issue shall constitute a separate loan. All
4 bonds, notes and evidences of indebtedness issued by
5 the district shall be legal investments for savings
6 banks in the State, and shall be free from taxation.

7 **Sec. 13. Rates; application of revenue; sinking**
8 **fund.** Individuals, firms and corporations, whether
9 private, public or municipal, shall pay to the
10 treasurer or other designated officer of the district
11 the rates established by the board of trustees for the
12 water used by them. The rates shall be established in
13 accordance with the Maine Revised Statutes, Title
14 35-A, chapter 61 to provide for the purposes set forth
15 therein.

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

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

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

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

17 "Shall 'The Act to Incorporate the South Waterboro
18 Water District' passed by the Legislature be
19 accepted?"

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

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

37 **Emergency clause.** In view of the emergency
38 cited in the preamble, this Act shall take effect when
39 approved.

STATEMENT OF FACT

1
2 The purpose of this bill is to authorize the
3 creation of the South Waterboro Water District in the
4 Town of Waterboro.

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