

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

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H.P. 955

House of Representatives, April 24, 1989

Reference to the Committee on Utilities suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative CLARK of Millinocket.

STATE OF MAINE

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

An Act to Govern the Formation of Water Districts.



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

3 35-A MRSA c. 64 is enacted to read:

5 CHAPTER 64

7 WATER DISTRICT ENABLING ACT

9 SUBCHAPTER I

11 GENERAL PROVISIONS

13 §6401. Short title

15 This chapter shall be known and may be cited as the "Water
17 District Enabling Act."

19 §6402. Definitions

21 As used in this subchapter, unless the context otherwise
23 indicates, the following terms have the following meanings.

25 1. Application. "Application" means an application to form
27 a water district, filed with the commission.

29 2. Board. "Board" means the board of trustees of a water
31 district.

33 3. Commission. "Commission" means the Public Utilities
35 Commission, which is the state agency empowered to authorize
37 formation of a water district under this Act.

39 4. Preparatory costs. "Preparatory costs" include, but are
41 not limited to, the cost of preparation of an engineering study
43 or studies; legal costs with relation to the application and
45 presentation of any application for the formation of a water
47 district; other engineering costs that may not be included in a
49 study; costs for financial advice; and administrative expense and
51 such other expense as may be necessary or incident to the action
of any municipality in the formation of a water district under
this Act.

§6403. Declaration of policy

It is declared to be the policy of the State to encourage
the development of water districts organized as:

1. Municipality. A municipality;

2. Municipalities. Two or more municipalities;

1 3. Portions. A portion or portions of sufficient size of a
2 municipality or 2 or more municipalities;

3 4. Unorganized territory. A sufficient number of persons
4 residing in unorganized territory; or

5 5. Combination. Any combination of the foregoing, so that
6 the districts may economically produce an adequate supply of pure
7 water to serve the people of the districts in a manner that is
8 consistent with the protection of health and economic welfare of
9 the citizens.

10 A water district may be formed when the commission finds
11 that there is a need throughout a part or all of the territory
12 within the proposed district for an adequate, efficient system of
13 supplying pure water for the people of the district. These
14 purposes must be effectively accomplished on an equitable basis
15 by a water district and the creation and maintenance of the
16 district must be administratively feasible and in furtherance of
17 the public health, safety and welfare.

18 **§6404. Purpose of water district**

19 The purpose of each water district formed under this chapter
20 shall be to construct, maintain, operate and provide a system to
21 supply pure water for public purposes and for the health,
22 welfare, comfort and convenience of the inhabitants of the
23 district.

24 **§6405. Applicability**

25 Any quasi-municipal district formed on or after January 1,
26 1989, to serve the functions of a water district shall be formed
27 in accordance with this chapter. Any water district in existence
28 on that date shall conform its charter to this chapter and obtain
29 approval of the commission prior to January 1, 1991.

30 **§6406. Reimbursement of preparatory costs to municipalities**

31 Any municipality or municipalities which fall within a water
32 district formed under this Act shall be entitled to reimbursement
33 from the water district for the preparatory costs of formation of
34 the district when the water district is in a position to
35 reimburse those costs.

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SUBCHAPTER II

ORGANIZATION

§6411. Formation

The formation of a water district shall be accomplished as follows.

1. Application by municipal officers. The municipal officers of the municipality or municipalities, or portions thereof, or the residents of unorganized territory, that desire to form a water district shall file an application with the commission on a form or forms to be prepared by the agency, setting forth the name or names of the municipality or municipalities, or portions thereof, or, in the case of residents of unorganized territory, the names of the residents proposed to be included in the district and they shall furnish such other data as the board may determine necessary and proper. The application shall contain, but not be limited to, a description of the territory of the proposed district, the name proposed for the district which shall include the words "Water District," a statement showing the existence in the territory of the conditions requisite for the creation of a water district as prescribed in section 6403. A copy of an engineering study or studies shall be filed with the application.

2. Application by petition and referendum. Residents of a municipality or municipalities, or portions thereof, who desire to form a water district may petition the municipal officers to file an application for a water district with the Board of Environmental Protection. The petition shall contain a description of the territory of the proposed district.

Upon receipt of a written petition signed by at least 10% of the number of voters voting for the gubernatorial candidates at the last statewide election in that proposed district, the municipal officers shall submit the question to the voters of the proposed district at the next general, primary or special election within the proposed district. The referendum question shall read as follows:

"Shall the municipal officers representing the proposed water district, consisting of (describe the territory of the proposed district), file an application for a water district with the Public Utilities Commission on behalf of the residents of the proposed district?"

If the referendum question is approved by a majority of the legal voters voting at the election, provided that the total number of votes cast for and against the referendum question equals or

1 exceeds 20% of the total number of votes cast in the proposed
3 district in the last gubernatorial election, the municipal
5 officers representing the residents of the proposed water
district shall file an application for that proposed district in
accordance with subsection 1.

7 3. Public hearing. Upon receipt of the application, the
9 commission shall cause a public hearing to be held on the
application at a convenient place within the proposed district.

11 4. Approval of application; notice. After the public
13 hearing, the commission shall make findings of fact and
15 conclusions based on the evidence received at the hearing and
17 determine of record whether or not the conditions requisite for
19 the creation of a water district under this chapter exist in the
territory described in the application. If the commission finds
that those conditions do exist, it shall issue an order approving
the proposed district.

21 The board shall give notice to the municipal officers within the
23 municipality or municipalities involved, and when unorganized
25 territory is involved, to the persons signing the application
27 mentioned and to the commissioners of the county where that
29 unorganized territory is located, of a date, time and place of a
31 meeting of those persons for the purposes of subsection 6. The
33 notice shall be in writing and sent by certified mail, return
receipt requested, to the addresses shown on the application and,
in the case of county commissioners, to the addresses of the
commissioners as obtained from the county clerk. A return
receipt properly endorsed shall be evidence of the receipt of
notice. The notice shall be mailed at least 10 days prior to the
date set for the meeting.

35 5. Denial of application. After the public hearing if the
37 commission determines that the creation of a water district in
39 the territory described in the application is not warranted for
41 any reason, it shall make findings of fact and conclusions and
43 enter an order denying its approval. The commission shall give
45 notice of the denial by mailing certified copies of the decision
47 and order to the municipal officers of the municipality or
49 municipalities involved, and when unorganized territory is
51 involved, to the persons signing the application and to the
commissioners of the county where that unorganized territory is
located. No application for the creation of a water district,
consisting of exactly the same territory, may be entertained
within one year after the date of the issuance of an order
denying approval of the formation of a water district, but this
provision shall not preclude action on an application for the
creation of a water district embracing all or part of the
territory described in the original application, provided that
the territory of the proposed district is different in some
respect, or an allegation of change in circumstances from those

1 existing on the date of the previous application is furnished to
2 the commission with the resubmitted application.

3
4 6. Meeting. The persons to whom the notice described in
5 subsection 4 is directed shall meet at the time and place
6 appointed. If more than one municipality is involved or if
7 unorganized territory is involved, they shall organize by
8 electing a chair and a secretary.

9
10 No action may be taken at the meeting unless at the time of
11 convening there are present at least 1/2 of the total number of
12 municipal officers eligible to attend and participate at the
13 meeting, and, when the proposed district includes unorganized
14 territory, at least 2/3 of the persons from the unorganized
15 territory who signed the application and at least 2 commissioners
16 of the county where that unorganized territory is located, other
17 than to report to the commission that a quorum was not present
18 and to request the commission to issue a notice for another
19 meeting.

20
21 The purpose of the meeting shall be to determine a fair and
22 equitable number of trustees, subject to section 6415, to be
23 elected by and to represent each participating municipality, or
24 in the case of unorganized territory, the residents of that
25 territory within the bounds of the proposed district. When a
26 decision has been reached on the number of trustees and the
27 number to represent each municipality or the residents of the
28 unorganized territory within the bounds of the proposed district,
29 subject to the limitations provided, this decision shall be
30 reduced to writing by the secretary and must be approved by a 2/3
31 vote of those present. When 2 or more municipalities are
32 involved or unorganized territory is involved, the record of the
33 meeting and the vote shall be signed by the chair and attested by
34 the secretary and filed with the commission. In cases where a
35 single municipality is involved, a copy of the vote of the
36 municipal officers duly attested by the clerk of the municipality
37 shall be filed with the commission.

38
39 7. Submission. When the record of the meeting and the vote
40 has been received by the commission and found by it to be in
41 order, the commission shall order the question of the formation
42 of the proposed water district and other questions relating to
43 the water district to be submitted to the legal voters residing
44 within the portion of the municipality, municipalities or
45 unorganized territory which falls within the proposed water
46 district. The order shall be directed to the municipal officers
47 of the municipality or municipalities and, where the proposed
48 water district includes unorganized territory, to the
49 commissioners of the county where that unorganized territory is
50 located, directing them to call town meetings, city elections or
51 a meeting of the residents of the unorganized territory within
the bounds of the proposed water district be, for the purpose of

1 voting on each of the following questions, in the applicable
2 form, substantially as follows.

3 A. The form of the articles shall be as follows.

4
5 (1) Shall the town (or city) of (name of town or city)
6 incorporate as a water district to be called (name)
7 Water District?

8
9
10 (2) Shall the residents of the following described
11 section of the town (or city) of (name of town or city)
12 incorporate as a water district to be called (name)
13 Water District: (legal description of the bounds of
14 section of land to be included)?

15
16 (3) Shall the residents of the following described
17 section of (name of town, city) (unorganized territory)
18 join with the residents of the following described
19 section of (name of town or city) (unorganized
20 territory) to incorporate as a water district to be
21 called (name) Water District: (legal description of the
22 bounds of the proposed water district except where
23 district is to be composed of entire municipalities)?

24
25 (4) Shall the inhabitants of the following described
26 section of that unorganized territory known as Township
27 (number), Range (number) incorporate as a water
28 district to be called (name) Water District: (legal
29 description of the bounds of the proposed water
30 district)?

31
32 (5) Shall the residents of the above described section
33 of (name of town or city) approve the total number of
34 trustees and the allocation of representation among the
35 municipalities (and included section of unorganized
36 territory) on the board of trustees as determined by
37 the municipal officers (and the persons representing
38 the included area of unorganized territory) and listed
39 as follows:

40
41 The total number of trustees shall be _____ and the
42 residents of the above described section of (town or
43 city) shall be entitled to _____ trustees (and the
44 residents of the above described section of unorganized
45 territory shall be entitled to _____ trustees)?

46
47 (6) Shall the residents of the above described section
48 of (name of town or city) choose (number) trustees to
49 represent the residents of the above described section
50 of (town or city) (unorganized territory) on the board
51 of trustees of the (name) Water District?

1 At any such town meeting, city election, or election by the
3 residents of the proposed water district, trustees shall be
5 chosen to represent the municipality or the unorganized territory
7 within the proposed water district in the manner provided in
9 section 6416.

7 **§6412. Organization after approval**

9 When the residents of the municipality or each municipality
11 where more than one is involved, or of the unorganized territory
13 within the proposed water district, have voted upon the formation
15 of a proposed water district and all of the other questions
17 submitted with the proposal, the clerk of each of the
19 municipalities and for unorganized territory the county clerk
21 shall make a return to the commission in such form as the
23 commission shall determine. If the commission finds from the
25 returns that a majority of the residents within each of the
27 municipalities involved, and that a majority of the residents of
29 any unorganized territory within the proposed water district,
31 voting on each of the articles and questions submitted to them,
33 have voted in the affirmative, and they have approved the number
35 of trustees and elected the trustees to represent each
37 municipality and the residents of any unorganized territory
39 within the proposed water district, and that all other steps in
41 the formation of the proposed water district are in order and in
43 conformity with law, the commission shall make a finding to that
45 effect and record that upon its records. The commission shall
47 also direct the trustees to meet at a specified date, time and
49 place to organize the water district.

31 The original certificate shall be delivered to the trustees on
33 the day that they are directed to organize and a copy of the
35 certificate duly attested by the commissioner or chair of the
37 commission shall be filed and recorded in the office of the
39 Secretary of State. The issuance of the certificate by the board
41 shall be conclusive evidence of the lawful organization of the
43 water district. The water district shall not be operative until
45 the date set by the commission.

39 **§6413. Transfer of property and assets**

41 When a water district has been issued its certificate of
43 organization and has assumed the management and control of the
45 operation of the water facilities within its territorial limits,
47 the trustees of the district shall determine what property or
49 properties owned by any municipality within the district are
51 necessary to carry on the functions of the water district and
shall request in writing that the municipal officers of the
municipality convey the title to that property to the water
district and the municipal officers shall make conveyance without
payment of consideration.

1 §6414. Operational date of water districts

3 Notwithstanding the prior issuance of a certificate of
4 organization, a water district shall not be in operation and
5 shall not exercise any of its powers granted in this chapter
6 until the date set by the commission as provided in section
7 6412. On that date, the water district shall become operative
8 and the trustees shall assume the management and control of the
9 operation. The municipalities and residents of unorganized
10 territory within the water district on and after that date shall
11 have no responsibility for the operation or control of aqueducts,
12 pipes, conduits, dams, wells, reservoirs, standpipes, hydrants
13 and pumping stations within their respective jurisdictions other
14 than to pay for services rendered to the municipality or to the
15 residents by the water district.

17 §6415. Trustees

19 1. Authorization. All the affairs of a water district
20 shall be managed by an elected board of trustees, or not less
21 than 5 trustees in water districts involving more than one
22 municipality or one or more municipalities and residents of an
23 unorganized territory. The exact number of trustees shall be
24 determined in accordance with section 6411, subsections 6 and 7.
25 A water district may alter the number of trustees by submitting
26 the proposed alteration to the voters in the same manner as
27 provided in section 6411, subsection 7. No municipality or
28 unorganized territory within any water district may have less
29 than one trustee. A quorum of the trustees may conduct the
30 affairs of the district even if there is a vacancy on the board
31 of trustees.

33 2. Initial officers. The trustees shall organize by
34 election from their own members a chair, a vice-chair, a
35 treasurer and a clerk and choose and employ and fix the
36 compensation of other necessary officers and agents who shall
37 serve at their pleasure, and they shall adopt a corporate seal.
38 Prior to the election of the officers, each trustee shall be
39 sworn to the faithful performance of the trustee's duties.

41 3. Trustees compensation. The trustees shall receive
42 compensation as recommended by them and approved by majority vote
43 of the municipal officers in municipalities representing a
44 majority of the population within the district, including
45 compensation for any duties they perform as officers as well as
46 for their duties as trustees. Certification thereof shall be
47 recorded with the Secretary of State and in the bylaws. Their
48 compensation for duties as trustees shall be on the basis of such
49 specific amount as may be specified in the bylaws, each meeting
50 actually attended and reimbursement for travel and expenses, with
51 the total not to exceed such specific amount as may be specified

1 in the bylaws. Compensation schedules in effect in January 1,
2 1982, shall continue in effect until changed.

3
4 4. Bylaws. The trustees shall from time to time adopt,
5 establish and amend by bylaws consistent with the laws of the
6 State, and necessary for their own convenience and the proper
7 management of the affairs of the district and perform any other
8 acts within the powers delegated to them by law. Adoption of the
9 bylaws and any change in them must be discussed in at least one
10 public meeting of the trustees prior to the meeting at which they
11 take final action.

12
13 5. Annual meetings; officers. After the original
14 organizational meeting the trustees shall meet annually at a time
15 determined by their bylaws for the purpose of electing from among
16 the members a chair, vice-chair, treasurer and clerk to serve
17 until the next annual election and until their successors are
18 elected and qualified. The treasurer shall furnish bond in such
19 sum and with such sureties as the trustees shall approve, the
20 cost to be paid by the district. The chair, vice-chair,
21 treasurer and clerk may receive such compensation for serving in
22 these capacities as the trustees shall determine. This
23 compensation shall be in addition to the compensation payable to
24 them as trustees. The trustees shall make and publish an annual
25 report including a report of the treasurer.

26
27 6. Trustees retirement. Persons who have not been trustees
28 prior to January 1, 1982, and who are not full-time employees,
29 shall not be eligible to become members of the Maine State
30 Retirement System as a result of their selection as trustees.

31
32 7. Conflict of interest. No member of the board of
33 trustees may be employed for compensation as an employee or in
34 any other capacity by the water district of which the member is a
35 trustee, except as provided in this chapter.

36 §6416. Election of trustees; vacancy; recall

37
38
39 1. Election. Trustees shall be nominated and elected in
40 the same manner as municipal officers are nominated and elected
41 under Title 30-A, or in accordance with a municipal charter,
42 whichever is applicable; or, in the case of unorganized
43 territory, in accordance with the procedure for the organization
44 of larger townships set forth in Title 30-A, section 7001. Upon
45 receipt of the names of all the trustees, the Board of
46 Environmental Protection shall set a date, time and place for the
47 first meeting of the trustees, notice to be given to the trustees
48 by certified mail, return receipt requested, mailed at least 10
49 days prior to the date set for the meeting, to determine the
50 length of their terms. The terms of the first trustees shall be
51 determined by lot in accordance with the following table:

	<u>TERM</u>			
	<u>Total number</u>	<u>1 year</u>	<u>2 years</u>	<u>3 years</u>
	<u>of trustees</u>			
1				
3				
5				
7	<u>3</u>	<u>1</u>	<u>1</u>	<u>1</u>
9	<u>4</u>	<u>1</u>	<u>1</u>	<u>2</u>
11	<u>5</u>	<u>1</u>	<u>2</u>	<u>2</u>
13	<u>6</u>	<u>2</u>	<u>2</u>	<u>2</u>
15	<u>7</u>	<u>2</u>	<u>2</u>	<u>3</u>
17	<u>8</u>	<u>2</u>	<u>3</u>	<u>3</u>
19	<u>9</u>	<u>3</u>	<u>3</u>	<u>3</u>
21	<u>10</u>	<u>3</u>	<u>3</u>	<u>4</u>
	<u>11</u>	<u>3</u>	<u>4</u>	<u>4</u>
	<u>12</u>	<u>4</u>	<u>4</u>	<u>4</u>
	<u>13</u>	<u>4</u>	<u>4</u>	<u>5</u>
	<u>14</u>	<u>4</u>	<u>5</u>	<u>5</u>
	<u>15</u>	<u>5</u>	<u>5</u>	<u>5</u>
	<u>16</u>	<u>5</u>	<u>5</u>	<u>6</u>
	<u>17</u>	<u>5</u>	<u>6</u>	<u>6</u>
	<u>18</u>	<u>6</u>	<u>6</u>	<u>6</u>

23 The trustees shall enter on their records the determination so
 25 made. The trustees shall serve their terms as determined at the
 27 organizational meeting, except that in the case of trustees
 29 representing a municipality, those trustees shall serve an
 31 additional period until the next regular election of the
 33 municipality, and thereafter those trustees' terms of office
 35 shall date from the time of each regular municipal election; and
 37 except that in the case of trustees representing residents of
unorganized territory, those trustees shall serve until an
election to fill the vacancy caused by the expiration of their
terms shall be called by the county commissioners; and those
commissioners shall call the election in the same manner as is
provided for the initial election of trustees and cause the same
to be held on a date as closely following the date upon which
such terms expire as may be.

39 At the expiration of any term so determined the vacancy shall be
 41 filled for a term of 3 years and the trustees shall notify the
 43 municipal officers of the municipalities within the water
 45 district before the annual town meeting or before the regular
 47 city election if a city falls within the water district; or, in
 49 the case of unorganized territory, the trustees shall notify the
 51 commissioners of the county where the unorganized territory
encompassed by the water district is located, of the fact that a
vacancy will occur so that the municipal officers in these
municipalities or the county commissioners may provide for the
election of a trustee or trustees to fill the vacancy that will
occur. All trustees shall serve until their successors are
elected and qualified.

1 2. Vacancy. When a vacancy on the board of trustees occurs
2 by reason of death, resignation or otherwise, the municipal
3 officers of the municipality that the trustee represented shall
4 fill the vacancy by electing a trustee from the municipality to
5 serve until the municipality fills the vacancy at its next annual
6 town meeting or next regular city election. In the case of a
7 vacancy in the office of a trustee representing unorganized
8 territory, the commissioners of the county where the unorganized
9 territory is located shall fill the vacancy by electing a trustee
10 from the unorganized territory and resident within the boundaries
11 of the water district until the next election of trustees is
12 held. The person so chosen shall serve until a successor is
13 elected and qualified. In case any member of the board of
14 trustees shall remove from the municipality that the member
15 represents, or, in the case of a trustee representing unorganized
16 territory, in case the trustee shall remove without the
17 boundaries of the water district, a vacancy shall be declared to
18 exist by the board of trustees, and the municipal officers or the
19 county commissioners shall thereafter choose another trustee as
20 provided.

21 3. Recall. Trustees may be recalled under the following
22 provisions.

23 A. The qualified electors of the water district may
24 petition for the recall of any trustee after the first year
25 of the term for which the trustee is elected by filing a
26 petition with the municipal clerk, or the county
27 commissioners in the case of unorganized territory,
28 demanding the recall of the trustee. A trustee may be
29 subject to recall for misfeasance, malfeasance or
30 nonfeasance in office. The petition shall be signed by
31 electors of the political subdivision which that trustee
32 represents equal to at least 25% of the vote cast for the
33 office of Governor at the last gubernatorial election within
34 the political subdivision of the trustee being recalled.
35 The recall petition shall state the reason for which removal
36 is sought.

37 B. Within 3 days after the petition is offered for filing,
38 the official with whom the petition is left shall determine
39 by careful examination whether the petition is sufficient
40 and so state in a certificate attached to the petition. If
41 the petition is found to be insufficient, the certificate
42 shall state the particulars creating the insufficiency. The
43 petition may be amended to correct any insufficiency within
44 5 days following the affixing of the original certificate.
45 Within 2 days after the offering of the amended petition for
46 filing, it shall again be carefully examined to determine
47 sufficiency and a certificate stating the findings shall be
48 attached. Immediately upon finding an original or amended
49 petition sufficient, the official shall file the petition
50 sufficient, the official shall file the petition
51 sufficient, the official shall file the petition

1 and call a special election to be held not less than 40 days
3 nor more than 45 days from the filing date. The official
5 shall notify the trustee against whom the recall petition is
7 filed of the special election.

9 C. The trustee against whom the recall petition is filed
11 shall be a candidate at the special election without
13 nomination, unless the trustee resigns within 10 days after
15 the original filing of the petition. There shall be no
17 primary. Candidates for the office may be nominated under
19 the usual procedure of nomination for a primary election by
21 filing nomination papers, not later than 5 p.m., on the
23 Tuesday 4 weeks preceding the election and have their names
25 placed on the ballot at the special election.

27 D. The official against whom a recall petition has been
29 filed shall continue to perform the duties of the office
31 until the result of the special election is officially
33 declared. The person receiving the highest number of votes
35 at the special election shall be declared elected for the
37 remainder of the term. If the incumbent receives the
39 highest number of votes, the incumbent shall continue in
41 office. If another receives the highest number of votes,
43 that person shall succeed the incumbent, if qualified,
45 within 10 days after receiving notification.

47 E. After one recall petition and special election, no
49 further recall petition may be filed against the same
51 official during the term for which that official was elected.

31 SUBCHAPTER III

33 POWERS

35 §6421. Specific powers

37 1. Authorization. Each water district formed under this
39 chapter shall have the power, within the district, to take,
41 collect, store, flow, use, divert, distribute and convey to the
43 district, or any part of the district, water from any source,
45 natural or artificial, within the district. It is also
47 authorized to locate, construct and maintain necessary structures
and equipment therefor, and do anything necessary to furnish
water for public purposes and for the public health, comfort and
convenience of the inhabitants and others of the district or to
contract to do any and all of the foregoing things.

2. Exercise of water rights. The district may not take,
withdraw or divert water from any source for the purposes set
forth in subsection 1, unless it has filed a written petition and
obtained the approval of the commission. The petition shall
include a plan for the taking, withdrawal or diversion of water.

1 The petition and plan shall set forth adequate information upon
3 which findings may be made regarding the nature, capacity, safe
5 yield and rechargeability of the source, the amount of water to
7 be taken over time and other existing and projected uses and
9 demands on the source. Any petition for exercise of water rights
11 to the commission must be discussed in at least one public
13 meeting of the trustees prior to the meeting at which they vote
15 to submit that petition. The commission may by rule or order
17 prescribe other information to be contained in the petition and
19 plan. The commission may not approve a petition unless it finds
21 that the plan ensures that adequate water remains in the source
23 to meet the reasonable needs of existing and projected demands on
25 the source. The commission may impose reasonable terms,
27 conditions or other requirements on the plan. The commission
29 shall issue its order approving or disapproving the plan within 9
31 months after it determines the petition to be complete.

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

§6422. Eminent domain

Upon majority vote of the trustees and subject to any
additional requirements of the bylaws, a water district may
exercise the right of eminent domain for obtaining sources of
supply and locations for storage and for the protection of them
and locations for transmission and distribution of water to the
public in accordance with the procedures of chapters 65 and 67.

§6423. Crossing other public utilities

In case of crossing of any public utility, unless consent is
given by the company owning and operating the public utility as
to place, manner and conditions of the crossing within 30 days
after consent is requested by the district, the commission, upon
petition by the district, shall determine the place, manner and
conditions of the crossing, and all work on the property of the
public utility shall be done under the supervision and to the
satisfaction of the public utility, or as prescribed by the
commission, but at the expense of the district.

§6424. Conditions for carrying out work

When any water district formed under this chapter enters,
digs up or excavates any public way or other land for any
authorized purpose, the work shall be done expeditiously, and on
completion of the work the district shall restore the way or land
to the condition it was in prior to the work, or to a condition
equally good. Whenever the character of the work may endanger
travel on any public way, the municipal officers of the

1 municipality in which the work is being done, or, if the work is
2 being done in unorganized territory, the commissioners of the
3 county where the unorganized territory is located, may order a
4 temporary closing of the way, and of any intersecting way, upon
5 request of the district, and the way shall remain closed to
6 public travel until the municipal officers or county
7 commissioners determine it restored to a condition safe for
8 traffic.

9
10 **§6425. Expansion of water district boundaries**

11 A water district may expand the boundaries of the water
12 district in the same manner as is provided for the formation of a
13 water district in subchapter II.

14
15 **§6426. Water extensions**

16 Prior to authorizing any water extension, except by specific
17 state or federal mandate, the trustees shall notify the
18 legislative bodies and the planning boards of the affected
19 municipalities in order to assure conformity with their
20 comprehensive plans and other public policies relating to their
21 growth and development. The trustees shall publish a notice of
22 the proposed action in a newspaper with general circulation in
23 the district no less than 7 days prior to the meeting at which
24 they will take final action on the authorization of the extension.

25
26
27
28
29 **SUBCHAPTER IV**

30
31 **BONDS, RATES AND ASSESSMENTS**

32
33 **§6431. Bonds and notes**

34
35 1. Authority of the commission. Nothing in this section
36 may detract from the authority of the commission regarding bonds,
37 notes or other evidences of indebtedness issued by any water
38 district.

39
40 2. Authorization of bonds. Any water district formed under
41 this chapter may provide by resolution of its board of trustees,
42 without district vote, except as provided in subsections 11 and
43 12, for the borrowing of money and the issuance from time to time
44 of bonds for any of its corporate purposes, subject to the
45 authority of the commission under this Title. Bonds may be
46 issued under this chapter as general obligations of the district
47 or as special obligations payable solely from particular funds.
48 The principal of, premium, if any, and interest on all bonds
49 shall be payable solely from the funds provided for that purpose
50 from revenues. For purposes of this chapter, the term
51 "revenues" means and includes the proceeds of bonds, all
revenues, rates, fees, entrance charges, assessments, rents and

1 other receipts derived by the district from the operation of its
3 sewer and water systems and other properties, including, but not
5 limited to, investment earnings and the proceeds of insurance,
7 condemnation, sale or other disposition of properties. All bonds
9 issued by a district under this chapter shall be legal
11 obligations of the district, and all districts formed under this
13 chapter are declared to be quasi-municipal corporations within
15 the meaning of Title 30-A, section 2351. Bonds issued under this
17 chapter do not constitute a debt or liability of the State or of
19 any municipality encompassed by the district or a pledge of the
21 faith and credit of the State or any municipality, but the bonds
23 shall be payable solely from the funds provided for that purpose,
25 and a statement to that effect shall be recited on the face of
27 the bonds.

3. Notes. Any district formed under this chapter may also
17 provide by resolution of its board of trustees, without district
19 vote, for the issuance from time to time of notes in anticipation
21 of bonds authorized under this chapter and of notes in
23 anticipation of the revenues to be collected or received in any
25 year or in anticipation of the receipt of federal or state grants
27 or other aid. The issue of these notes shall be governed by the
29 applicable provisions of this Title relating to the issue of
31 bonds, provided that notes in anticipation of revenue must mature
33 no later than one year from their respective dates and notes
issued in anticipation of federal or state grants or other aid
and renewals of the notes must mature no later than the expected
date of receipt of those grants or aid. Notes in anticipation of
revenue issued to mature less than one year from their dates may
be renewed from time to time by the issue of other notes,
provided that the period from the date of an original note to the
maturity of any note issued to renew or pay the same or the
interest on any note may not exceed one year.

35 Any district organized under this chapter is authorized to enter
37 into agreements with the State or the United States, or any
39 agency of either, or any municipality, corporation, commission or
41 board authorized to grant or loan money to or otherwise assist in
the financing of projects of the type which that district is
authorized to carry out, and to accept grants and borrow money
from any entity to accomplish the purposes of the district.

43 4. Maturity; interest; form; temporary bonds. The bonds
45 issued under this chapter shall be dated, shall mature at such
47 time or times not exceeding 40 years from their date or dates and
49 shall bear interest at such rate or rates as may be determined by
51 the board of trustees, and may be made redeemable before
maturity, at the option of the district, at such price or prices
and under such terms and conditions as may be fixed by the board
of trustees prior to the issuance of the bonds. The board of
trustees shall determine the form of the bonds, including any
interest coupons to be attached thereto, and the manner of

1 execution of the bonds, and shall fix the denomination or
2 denominations of the bonds and the place or places of payment of
3 principal and interest, which may be at any bank or trust company
4 within or without the State. Bonds shall be executed in the name
5 of the district by the manual or facsimile signature of such
6 officer or officers as may be authorized in the resolution to
7 execute the bonds, but at least one signature on each bond shall
8 be a manual signature. Coupons, if any, attached to the bonds
9 shall be executed with the facsimile signature of the officer or
10 officers of the district designated in the resolution. In case
11 any officer whose signature or a facsimile of whose signature
12 appears on any bonds or coupons ceases to be that officer before
13 the delivery of the bonds, the signature or its facsimile shall
14 nevertheless be valid and sufficient for all purposes as if the
15 officer had remained in office until the delivery.
16 Notwithstanding any of the other provisions of this chapter or
17 any recitals in any bonds issued under this chapter, all such
18 bonds shall be deemed to be negotiable instruments under the laws
19 of this State. The bonds may be issued in coupon or registered
20 form, or both, as the board of trustees may determine, and
21 provisions may be made for the registration of any coupon bonds
22 as to principal alone and as to both principal and interest, and
23 for the reconversion into coupon bonds of any bonds registered as
24 to both principal and interest. The board of trustees may sell
25 such bonds in such manner, either at public or private sale, and
26 for such price as it may determine to be for the best interests
27 of the district. The proceeds of the bonds of each issue shall
28 be used solely for the purpose for which those bonds have been
29 authorized, and shall be disbursed in such manner and under such
30 restrictions, if any, as the board of trustees may provide in the
31 resolution authorizing the issuance of the bonds or in the trust
32 agreement securing the bonds. The resolution providing for the
33 issuance of bonds, and any trust agreement securing the bonds,
34 may contain such limitations upon the issuance of additional
35 bonds as the board of trustees may deem proper, and these
36 additional bonds shall be issued under such restrictions and
37 limitations as may be prescribed by that resolution or trust
38 agreement. Prior to the preparation of definitive bonds, the
39 board of trustees may, under like restrictions, issue interim
40 receipts or temporary bonds, with or without coupons,
41 exchangeable for definitive bonds when those bonds are executed
42 and are available for delivery. The board of trustees may
43 provide for the replacement of any bond which is mutilated,
44 destroyed or lost.

45
46 5. Pledges and covenants; trust agreement. In the
47 discretion of the board of trustees of any district, each or any
48 issue of bonds may be secured by a trust agreement by and between
49 the district and a corporate trustee, which may be any trust
50 company within or without the State.

1 The resolution authorizing the issuance of the bonds or the trust
2 agreement may pledge or assign, in whole or in part, the revenues
3 and other monies held or to be received by the district and any
4 accounts and contracts or other rights to receive the same,
5 whether then existing or thereafter coming into existence and
6 whether then held or thereafter acquired by the district, and the
7 proceeds thereof, but shall not convey or mortgage the water
8 system or any other properties of the district. The resolution
9 may also contain such provisions for protecting and enforcing the
10 rights and remedies of the bondholders as may be reasonable and
11 proper and not in violation of law, including, but not limited
12 to, covenants setting forth the duties of the district and the
13 board of trustees in relation to the acquisition, construction,
14 reconstruction, improvement, repair, maintenance, operation and
15 insurance of its water system or any of its other properties, the
16 fixing and revising of rates, assessments and other charges, the
17 application of the proceeds of bonds, the custody, safeguarding
18 and application of revenues, defining defaults and providing for
19 remedies in the event thereof which may include the acceleration
20 of maturities, the establishment of reserves and the making and
21 amending of contracts. The resolution or trust agreement may set
22 forth the rights and remedies of the bondholders and of the
23 trustee, if any, and may restrict the individual right of action
24 by bondholders as is customary in trust agreements or trust
25 indentures securing bonds or debentures of corporations. In
26 addition, the resolution or trust agreement may contain such
27 other provisions as the board of trustees may deem reasonable and
28 proper for the security of the bondholders. All expenses
29 incurred in carrying out the resolution or trust agreement may be
30 treated as a part of the cost of operation. The pledge by any
31 such resolution or trust agreement shall be valid and binding and
32 shall be deemed continuously perfected for the purposes of the
33 Uniform Commercial Code from the time when the pledge is made.
34 All revenues, money, rights and proceeds so pledged and
35 thereafter received by the district shall immediately be subject
36 to the lien of the pledge without any physical delivery or
37 segregation thereof or further action under the Uniform
38 Commercial Code or otherwise, and the lien of the pledge shall be
39 valid and binding as against all parties having claims of any
40 kind in tort, contract or otherwise against the district
41 irrespective of whether those parties have notice thereof.

42
43 The resolution authorizing the issuance of bonds under this
44 chapter, or any trust agreement securing those bonds, may provide
45 that all or a sufficient amount of revenues, after providing for
46 the payment of the cost of repair, maintenance and operation and
47 reserves therefor as may be provided in the resolution or trust
48 agreement, shall be set aside at such regular intervals as may be
49 provided in the resolution or trust agreement and deposited in
50 the credit of a fund for the payment of the interest on and the
51 principal of bonds issued under this chapter as the same shall
become due, and the redemption price or purchase price of bonds

1 retired by call or purchase. The use and disposition of money to
2 the credit of the fund shall be subject to such regulations as
3 may be provided in the resolution authorizing the issuance of the
4 bonds or in the trust agreement securing the bonds and, except as
5 may otherwise be provided in the resolution or trust agreement,
6 the fund shall be a fund for the benefit of all bonds without
7 distinction or priority of one over another.

9 6. Trust funds. Notwithstanding any other law, all money
10 received pursuant to the authority of this chapter shall be
11 deemed to be trust funds, to be held and applied solely as
12 provided in this chapter. The resolution authorizing the
13 issuance of bonds or the trust agreement securing the bonds shall
14 provide that any officer to whom, or bank, trust company or other
15 fiscal agent to which, the money shall be paid shall act as
16 trustee of the money and shall hold and apply the same for the
17 purposes thereof, subject to such regulations as may be provided
18 in the resolution or trust agreement or as may be required by
19 this chapter.

21 7. Remedies. Any holder of bonds issued under this chapter
22 or any of the coupons appertaining thereto, and the trustee under
23 any trust agreement, except to the extent the rights given may be
24 restricted by the resolution authorizing the issuance of those
25 bonds or trust agreement, may, either at law or in equity, by
26 suit, action, mandamus or other proceeding, including proceedings
27 for the appointment of a receiver to take possession and control
28 of the properties of the district, protect and enforce any and
29 all rights under the laws of the State or granted hereunder or
30 under such resolution or trust agreement, and may enforce and
31 compel the performance of all duties required by this chapter or
32 by such resolution or trust agreement to be performed by the
33 district or by any officer thereof.

35 8. Refunding bonds. Any water district formed under this
36 chapter by resolution of its board of trustees, without district
37 vote, may issue refunding bonds for the purpose of paying any of
38 its bonds at maturity or upon acceleration or redemption. The
39 refunding bonds may be issued at such time prior to the maturity
40 or redemption of the refunded bonds as the board of trustees
41 deems to be in the public interest. The refunding bonds may be
42 issued in sufficient amounts to pay or provide the principal of
43 the bonds being refunded, together with any redemption premium
44 thereon, any interest accrued or to accrue to the date of payment
45 of such bonds, the expenses of issue of the refunding bonds, the
46 expenses of redeeming the bonds being refunded and such reserves
47 for debt service or other capital or current expenses from the
48 proceeds of such refunding bonds as may be required by a trust
49 agreement or resolution securing bonds. The issue of refunding
50 bonds, the maturities and other details thereof, the security
51 therefor, the rights of the holders thereof, and the rights,
duties and obligations of the district in respect of the same

1 shall be governed by the applicable provisions of this chapter
2 relating to the issue of bonds other than refunding bonds.

3
4 9. Tax exemption. All bonds, notes or other evidences of
5 indebtedness issued under this chapter, and their transfer and
6 the income therefrom, including any profit made on the sale
7 thereof, shall at all times be free from taxation within the
8 State.

9
10 10. Bonds declared legal investments. Bonds and notes
11 issued by any district under this chapter are made securities in
12 which all public officers and public bodies of the State and its
13 political subdivisions, all insurance companies and associations
14 and other persons carrying on an insurance business, trust
15 companies, banks, bankers, banking associations, savings banks
16 and saving associations, including savings and loan associations,
17 credit unions, building and loan associations, investment
18 companies, executors, administrators, trustees and other
19 fiduciaries, pension, profit-sharing, retirement funds and other
20 persons carrying on a banking business, and all other persons who
21 are now or may hereafter be authorized to invest in bonds or
22 other obligations of the State, may properly and legally invest
23 funds, including capital in their control or belonging to them.
24 The bonds and notes are made securities which may properly and
25 legally be deposited with and received by any state, municipal or
26 public officer, or any agency or political subdivision of the
27 State, for any purpose for which the deposit of bonds or other
28 obligations of the State is now or may hereafter be authorized by
29 law.

30
31 11. Notice to general public and rate payers. In the event
32 that the trustees vote to authorize bonds or notes, the estimated
33 cost of which, singly or in the aggregate included in any one
34 financing, is \$150,000 or more adjusted, relative to 1981 as the
35 base year according to the annual Consumer Price Index, as
36 defined in Title 5, section 17001, subsection 9, the trustees
37 shall provide notice to the general public of the proposed bond
38 or note issue and the purposes for which the debt is being
39 issued. The notice shall be published at least once in a
40 newspaper having general circulation in the district. The
41 trustees shall give notice to each ratepayer by mail. Notice of
42 a rate change under section 6104, which contains the notice
43 required by this section, satisfies the notice requirements of
44 this section.

45
46 No debt may be incurred under the vote of the trustees until the
47 expiration of 7 full days following the date on which the notice
48 was first published and mailed. Prior to the expiration of the
49 period, the trustees shall call a special district meeting for
50 the purpose of permitting the collection of testimony from the
51 public concerning the amount of debt so authorized.

1 12. Voters approval or disapproval of debt. Except for
2 indebtedness to fund projects specifically mandated by the State
3 Government and Federal Government, for debts in excess of the
4 amount specified in this section, if requested by petition of not
5 less than 50 voters of the district or 5% of the voters,
6 whichever is greater, filed with the clerk of the district on or
7 before the date of the meeting, the meeting shall express
8 approval or disapproval of the amount of debt so authorized. If
9 a majority of voters present and voting expresses disapproval of
10 the amount of debt authorized by the trustees, the debt shall not
11 be incurred and the vote of the trustees authorizing it shall be
12 void.

13
14 13. Debt limit. Any water district may adopt or maintain a
15 limit on the total debt outstanding at one time. Any district
16 which has such a limit shall record the same in the bylaws. Any
17 change in the debt limit requires an affirmative vote of the
18 trustees and of the voters of the district.

19 §6432. Long-term indebtedness of water districts

20
21 The commission may establish reasonable terms upon which
22 water districts shall extinguish their long-term indebtedness.

23
24 §6433. Rates

25
26 1. Authority of the commission. Nothing in this section
27 may detract from the authority of the commission to regulate
28 rates, assessments and charges imposed by water districts.

29
30 2. General provisions. The trustees of the district shall
31 establish rates, assessments and other charges in accordance with
32 chapter 61. All persons, firms and corporations, whether public,
33 private or municipal, shall pay to the treasurer of any district
34 formed under this chapter the rates, assessments and other lawful
35 charges established by the trustees and applicable to them. The
36 other lawful charges may include, but are not limited to,
37 interest on delinquent accounts at a rate not to exceed the
38 highest lawful rate set by the Treasurer of State for municipal
39 taxes.

40
41 Notwithstanding any other provision of law, districts which
42 share, supply or contract for services with another district
43 shall establish rates, tolls, rents and entrance charges mutually
44 agreeable to the trustees of each participating district.

45
46 3. Collection of unpaid rates. The treasurer of the
47 district shall have full and complete authority and power to
48 collect the rates, assessments and other charges established by
49 the district and the same shall be committed to the treasurer.
50 The treasurer may, after demand for payment, sue in the name of
51 the district in a civil action for any rate, assessment or other

1 charge remaining unpaid in any court of competent jurisdiction.
2 Except as provided in section 706, no water district may include
3 in its charter any provision providing a lien against the
4 property for nonpayment of assessments or rates. The district
5 may seek judgment, including a lien in court in the same manner
6 as any other creditor.

7
8
9 **STATEMENT OF FACT**

10
11 This bill provides a procedure through the Public Utilities
12 Commission for the establishment of new water districts and the
13 reestablishment within 2 years of existing water districts. The
14 purpose of the bill is to provide local control of water district
15 affairs, within established guidelines, and eliminate the need
16 for legislative enactment and amendment of private and special
17 laws relating to water districts.