

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1667

H.P. 1200

House of Representatives, May 16, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Utilities suggested and ordered printed.

*Ed Pert*

EDWIN H. PERT, Clerk

Presented by Speaker MARTIN of Eagle Lake.

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STATE OF MAINE

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

---

An Act Creating the St. Francis Water District.

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(AFTER DEADLINE)



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

3               **Sec. 1. Territorial limits; corporate name; purposes.** Subject to  
5 section 13, the inhabitants and territory within the Town of St.  
7 Francis in Aroostook County shall be and hereby are constituted a  
9 public municipal corporation under the name of "St. Francis Water  
District" for the purpose of supplying the inhabitants of the  
district with pure water for domestic, sanitary, manufacturing  
and municipal purposes.

11               **Sec. 2. Source of supply.** The water district, for the purposes  
13 of its incorporation, is authorized to take, collect, store,  
15 hold, divert, use, flow, detain and distribute water from any  
17 lake, pond, stream or river and from any surface or underground  
brook, spring or vein of water in the Town of St. Francis and  
from any other source from which the town is now authorized to  
take any water, including sources outside of the town.

19               **Sec. 3. Right of eminent domain conferred.** The district, for  
21 the purposes of its incorporation, is authorized to take and  
23 hold, as for public uses, by purchase, gift or by exercise of the  
25 right of eminent domain, which right is expressly delegated to  
27 the water district for those purposes, any lands or interests  
29 therein or water rights necessary for erecting and maintaining  
31 dams, for flowage, for power, for pumping its water supply  
33 through its mains, for reservoirs and standpipes, for preserving  
35 the purity of the water and watershed, for laying and maintaining  
37 aqueducts, mains and other structures for taking, distributing,  
purifying, discharging and disposing of water and for  
rights-of-way or roadways to its sources of supply, dams, power  
stations, reservoirs, standpipes, mains, aqueducts, structures  
and lands. Nothing contained in this Act shall be construed as  
authorizing the water district to take by right of eminent domain  
any of the property or facilities of any other public service  
corporation or district used or acquired for future use by the  
owner thereof in the performance of a public duty, unless  
expressly authorized in this Act or by subsequent Act of the  
Legislature, or as provided in section 7.

39               **Sec. 4. Authorized to lay mains, pipes, conduits, etc., through public  
41 ways and across private lands.** The district is authorized to lay in  
43 and through the streets, roads, ways, highways and bridges in the  
45 Town of St. Francis and across private lands in the Town of St.  
47 Francis, and to maintain, repair and replace all such pipes,  
49 mains, conduits, aqueducts and fixtures and appurtenances as may  
be necessary and convenient for its corporate purposes, and  
whenever the district shall lay any pipes, mains, conduits,  
aqueducts and fixtures or appurtenances in any street, road, way  
or highway, it shall cause

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

5  
6 **Sec. 5. Authorized to erect and maintain dams, reservoirs, etc.** The  
7 district is authorized, for the purposes of its incorporation, to  
8 erect and maintain all dams, pumping stations, with all necessary  
9 appliances required therefor, reservoirs, standpipes and  
10 structures necessary and convenient for its corporate purposes.

11  
12 **Sec. 6. Procedure in exercising rights of eminent domain; assessment  
13 of damages; appeal procedure.** The water district is liable for all  
14 damage that is sustained to property by the taking of any land or  
15 interest therein whatsoever, for water, or by flowage, or by  
16 excavating through any land for the purpose of laying pipes,  
17 aqueducts or mains, building dams or constructing reservoirs or  
18 any other construction necessary to the taking, distributing,  
19 purifying, discharging and disposing of water for its users.

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

44  
45 If any person or corporation sustains damages by any taking  
46 and the water district does not mutually agree upon the sum to be  
47 paid therefor, either party, upon petition to the county  
48 commissioners of Aroostook County, may have those damages  
49 assessed by them; and the procedure and all subsequent  
50 proceedings and right of appeal shall be had under the same  
51 restrictions, conditions and limitations as are or may be by law  
prescribed in the case of damages by the laying out of town ways.

1           **Sec. 7. Procedures in crossing of railroads or utility rights-of-way.**  
2           In case of any crossing of a railroad or the right-of-way  
3           occupied by the transmission or distribution lines of an electric  
4           company or telephone company, unless consent is given by the  
5           company owning or operating that railroad or transmission line,  
6           as to place, manner and conditions of the crossing, within 30  
7           days after that consent is requested by the district, the Public  
8           Utilities Commission shall, upon petition setting forth a  
9           description of the premises and the reasons for the crossing,  
10          after notice given as the commission may prescribe, determine the  
11          place, manner and conditions of that crossing; and all work  
12          within the limits of that railroad location or right-of-way shall  
13          be done under the supervision and to the satisfaction of the  
14          railroad company, telephone company or electric company, as the  
15          case may be, but at the expense of the district, unless otherwise  
16          ordered by the Public Utilities Commission, which shall award to  
17          the railroad, telephone company or electric company any damage  
18          suffered by it occasioned by the crossing.

19           **Sec. 8. Board of trustees; election; compensation.** All the affairs  
20          of the district shall be managed by an elected board of trustees  
21          composed of 3 members of the legal voters of the district.  
22          Except for the initial trustees, the trustees shall be elected at  
23          the annual town meeting in March for 3-year terms. The initial  
24          trustees shall be elected at a special district meeting called by  
25          the municipal officers of the town after approval of the  
26          referendum pursuant to section 19. The voters of the district  
27          from the Town of St. Francis shall elect 3 initial trustees: one  
28          for a term expiring at the following March town meeting, one for  
29          a term expiring a year later and one for a term expiring 2 years  
30          later. Elections shall be held in accordance with the  
31          requirements for municipal elections. In case any other vacancy  
32          arises, it shall be filled by an interim appointment ending at  
33          the following March town meeting by the appropriate municipal  
34          officers, followed by election to fill the unexpired term, if  
35          any. When any trustee ceases to be a resident of the  
36          municipality from which elected or appointed, that trustee  
37          vacates the office.

38           The trustees shall hold a meeting at the town office in St.  
39          Francis and organize by the election of a president and clerk,  
40          adopt a corporate seal, and when necessary may choose a treasurer  
41          and all other needful officers and agents for the proper conduct  
42          and management of the affairs of the district. The trustees may  
43          also ordain and establish such bylaws as are necessary for their  
44          own convenience and the proper management of the affairs of the  
45          district. The trustees may procure an office and incur such  
46          expenses as may be necessary. The treasurer shall furnish bond  
47          in such sum and with such sureties as the trustees may approve.  
48          The trustees, as such, shall receive as compensation for their

1 services \$30 for each meeting attended, and reimbursement for  
2 travel and expenses each year up to a maximum of \$600 each, and  
3 the treasurer may be allowed such compensation as the trustees  
4 shall determine, but the treasurer shall not vote for the  
5 treasurer's own salary. A quorum of the board of trustees shall  
6 be 2 trustees. All decisions of the board of trustees shall be  
7 by a majority of those present and voting. The trustees shall be  
8 sworn to the faithful performance of their duties as such, which  
9 shall include the duties of any member who shall serve as clerk  
10 or clerk pro tem.

11  
12 **Sec. 9. Temporary loans negotiated; issue of bonds.** For  
13 accomplishing the purposes of this Act, the water district,  
14 through its trustees, may borrow money temporarily and issue  
15 therefor the negotiable notes of the district, and for the  
16 purpose of refunding the indebtedness so created, for paying any  
17 necessary expenses and liabilities incurred under the provisions  
18 of this Act, including the expenses incurred in the creation of a  
19 district, in securing sources of supply, taking water and land,  
20 paying damages, taking rights-of-way or other interests in real  
21 estate, by purchase or otherwise, laying pipes, aqueducts and  
22 mains, constructing, installing, maintaining and operating  
23 reservoirs, standpipes, dams, pumping stations and whatever  
24 equipment may be necessary or incidental to the construction and  
25 installation of that system of waterworks and making renewals of  
26 or extensions, additions and improvements to the same, the  
27 district by votes of its board of trustees, without district vote  
28 except as provided in this Act, is also authorized to issue, from  
29 time to time bonds, notes or other evidences of indebtedness of  
30 the district in the amount or amounts, not exceeding the sum of  
31 \$1,500,000 outstanding at any one time, bearing interest at such  
32 rate or rates, and having such terms and provisions as the  
33 trustees determine; provided that in the case of a vote by the  
34 trustees to authorize bonds or notes to pay for the acquisition  
35 of property, for the cost of a water system or part thereof, for  
36 renewal or additions or for other improvements in the nature of  
37 capital costs, or for renewing or refunding existing  
38 indebtedness, notice of the proposed debt and of the general  
39 purpose or purposes for which it was authorized shall be given by  
40 the clerk by publication at least once in a newspaper having a  
41 general circulation in the town. No debt may be incurred under  
42 the vote of the trustees until the expiration of 7 full days  
43 following the date on which the notice was first published.  
44 Prior to the expiration of the period, the trustees may call a  
45 special district meeting for the purpose of permitting the voters  
46 of the district to express approval or disapproval of the amount  
47 of debt so authorized, and the trustees shall call a special  
48 district meeting if, within 7 days following the publication of  
49 the notice, there is filed with the clerk of the district a  
50 petition or petitions signed by not less than 20 qualified voters  
51 of the district requesting that a special

1 meeting be called. If, at the district meeting, a majority of  
2 voters present and voting thereon express disapproval of the  
3 amount of debt authorized by the trustees, the debt may not be  
4 incurred and the vote of the trustees authorizing the same shall  
5 be void and of no effect. The bonds, notes and evidences of  
6 indebtedness may be issued to mature serially in annual  
7 installments of not less than 1% of the face amount of the issue  
8 and beginning not later than 2 years from the date thereof, or  
9 may be issued with equal annual payments, applied first to  
10 interest and the balance to principal, or made to run for such  
11 periods as the trustees may determine, but no issue shall run for  
12 a longer period than 40 years from the date of original issue.  
13 Bonds, notes or evidences of indebtedness may be issued with or  
14 without provision for calling the same prior to maturity and, if  
15 callable, may be made callable at par or at such premium as the  
16 trustees may determine. All bonds, notes or other evidences of  
17 indebtedness shall have inscribed upon their faces the words "St.  
18 Francis Water District," shall be signed by the treasurer and  
19 countersigned by the chair of the board of trustees of the  
20 district and, if coupon bonds are issued, the interest coupons  
21 attached thereto shall bear the facsimile of the signature of the  
22 treasurer. All bonds, notes and evidences of indebtedness so  
23 issued by the district shall be legal obligations of the  
24 district, which is declared to be a quasi-municipal corporation  
25 within the meaning of the Maine Revised Statutes, Title 30-A,  
26 chapter 223, subchapter III, and as amended, and all provisions  
27 of this section shall be applicable thereto.

29 The district may, from time to time, issue its bonds, notes  
30 and other evidences of indebtedness for the purpose of paying,  
31 redeeming or refunding outstanding bonds, notes or evidences of  
32 indebtedness and each authorized issue shall constitute a  
33 separate loan. All bonds, notes and evidences of indebtedness  
34 issued by the district shall be legal investments for savings  
35 banks in the State and shall be tax exempt. The district is  
36 authorized and empowered to enter into agreements with the State  
37 or Federal Government, or any agency of either or any  
38 corporation, commission or board authorized by the State or  
39 Federal Government to grant or loan money to or otherwise assist  
40 in the financing of projects, such as the district is authorized  
41 to carry out, and to accept grants and borrow money from any  
42 government agency, corporation, commission or board as may be  
43 necessary or desirable to enforce this Act. All notes and bonds  
44 with the maturity of more than one year in connection with the  
45 water system shall first be approved by the Public Utilities  
46 Commission.

47  
48 **Sec. 10. Sinking fund provided for.** In case any of the bonds or  
49 notes are made to run for a period of years, a sinking fund shall  
50 be established by the trustees of the district for the purpose of  
51 redeeming the bonds or notes when they become due and a sum equal  
to not less than 1% and not more than 5% of the

1 aggregate principal of the outstanding bonds or notes, except for  
2 serial bonds issued on account of or in behalf of the district,  
3 shall be turned into the sinking fund each year to provide for  
4 the final extinguishment of the district funded debt.

5  
6 The money set aside for the sinking fund shall be devoted to  
7 the retirement of the notes and bonds, and shall be used for no  
8 other purposes, and shall be invested in such securities as  
9 savings banks are allowed to hold.

11 Whenever any bonds of the district become due or can be  
12 purchased by the trustees on favorable terms, the trustees may,  
13 if sufficient funds have accumulated in the sinking fund, redeem  
14 or purchase the bonds and cancel them. In no case may bonds so  
15 canceled or redeemed be reissued.

17 In case the amount in the sinking fund is not sufficient to  
18 pay the total amount of the bonds falling due at any one time,  
19 the trustees may issue new bonds sufficient to redeem as many of  
20 the bonds as cannot be redeemed from the sinking fund.

21 In the event that the district, with the approval of bond  
22 counsel or a bonding organization, establishes a payment schedule  
23 that does not require the use of a sinking fund, the provisions  
24 of this section shall not apply.

27 **Sec. 11. Authority to purchase property.** The St. Francis Water  
28 District may acquire by purchase the entire plant, property,  
29 franchises, rights and privileges for providing water, to the  
30 Town of St. Francis located in or serving the town, including all  
31 land, waters, water rights, dams, structures, reservoirs, pipes,  
32 machinery, fixtures, hydrants, tools and all apparatuses and  
33 appliances used or usable in supplying water to the residents,  
34 whether the record title thereto is or is not in the Town of St.  
35 Francis. The town may sell, transfer and convey its franchises  
36 and property to the water district, subject to Public Utilities  
37 Commission approval.

39 **Sec. 12. Procedure in case trustees and town fail to agree on terms of**  
40 **purchase.** In case the trustees fail to agree with the town upon  
41 the terms of purchase, then the district, through its trustees,  
42 may take the properties, interest and franchises of the town, as  
43 set forth in section 11, in the manner provided in this Act,  
44 wherein the town and its mortgagees, if any, or those having an  
45 interest in any realty which is of record, shall be the parties'  
46 defendant. The district, through its trustees, may file a  
47 petition in the clerk's office of the Superior Court for the  
48 County of Aroostook, addressed to any justice thereof who, after  
49 notice to the defendant, shall, after hearing and within 60 days  
50 after the filing of the petition, appoint 3 disinterested  
51 appraisers for the purpose of fixing the valuations of the plant,  
52 property and franchises of the town described in section 11. The  
53 court may order under proper terms the production for inspection



1 by the trustees or the appraisers of all books and papers  
3 pertaining to the issue, on petition by the petitioner, unless  
5 the same are voluntarily produced. The appraisers shall, after  
7 due notice and hearing, fix the valuation, as of the date of  
9 filing the petition, of the plants, properties and franchises at  
11 what they were fairly and equitably worth so that the town shall  
13 receive just compensation for the same. The report of the  
15 appraisers or of a majority of them, together with the report of  
17 a stenographer certified by the appraisers as correct, shall be  
19 filed in the clerk's office within 6 months after their  
21 appointment and any Justice of the Superior Court may, after  
23 notice and hearing, confirm or reject the same or recommit it if  
25 justice so requires. Upon the confirmation of the report, the  
27 court so sitting shall thereupon make final decree upon the  
29 entire matter, including the application of the purchase money  
31 and transfer of the property, jurisdiction over which is hereby  
33 conferred, and with the power to enforce the decree as in equity  
35 cases. All findings of fact by the court and the appraisers  
shall be final, but any party aggrieved may take exceptions as to  
any matters of law, the same to be accompanied by so much of the  
case as may be necessary to a clear understanding of the question  
raised. These exceptions shall be claimed on the docket within  
10 days after the final decree is signed, entered, filed and  
notice thereof has been given by the clerk to the parties and the  
exceptions so claimed shall be made up, allowed and filed within  
that time unless further time is granted by the court or by  
agreement of the parties. They shall be entered at the next term  
of the Law Court to be held after the filing of these exceptions  
and there heard, unless otherwise agreed, or the Law Court for  
good cause shall order further time for hearing thereon. On  
payment or tender by the district of the amount determined by the  
final decree and the performance of all other terms and  
conditions imposed by the court, the plant, properties and  
franchises of the town as described in section 11, shall become  
invested in this district.

37 **Sec. 13. Water rates.** Individuals, firms and corporations,  
39 whether private, public or municipal, shall pay to the treasurer  
41 of the district the rates established by the board of trustees  
43 for the water used by them; and the rates for water so supplied  
45 shall be uniform within the territory supplied by the district  
47 whenever the installation and maintenance of mains and the cost  
49 of service is substantially uniform, but nothing in this Act  
precludes the district from establishing higher rates than the  
regular rates in sections where for any reason the cost of  
construction and maintenance or the cost of service exceeds the  
average, but these higher rates shall be uniform throughout the  
sections where they apply. The rates shall be so established as  
to provide revenue for the following purposes:

51 A. To pay the current expenses for operating and  
maintaining the water system;

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B. To provide for the payment of the interest on the indebtedness created or assumed by the district;

C. To provide each year a sum equal to not less than 1% and not more than 5% of the entire indebtedness created by the district, which sum shall be used to pay serial bonds or notes when due or be turned into a sinking fund and there kept to provide for extinguishment of the indebtedness. Money set aside for the sinking fund shall be devoted to the retirement of the obligations of the water district and invested in such securities as savings banks in this State are allowed to hold; and

D. If any surplus remains at the end of the year, it may be turned into the sinking fund or used for such other purposes of the district as the trustees may determine.

The water rates, tools, charges and rents shall be filed with and subject to the approval of the Public Utilities Commission as required or permitted by the applicable statutes.

**Sec. 14. District and town authorized to make contracts.** The district through its trustees may contract with persons and corporations, including the Town of St. Francis, and the Town of St. Francis may contract with it for the supply of water for municipal purposes.

**Sec. 15. Incidental rights and privileges.** All incidental rights, powers and privileges necessary to the accomplishment of the main object set forth in this Act are granted to the municipal corporation created by this Act.

**Sec. 16. Existing statutes not affected; rights conferred subject to provisions of law.** Nothing in this Act is intended to repeal, or shall be construed as repealing, the whole or any part of any existing statute and all the rights and duties mentioned in this Act shall be exercised and performed in accordance with all the applicable provisions of the Maine Revised Statutes, Title 35-A, and all acts amendatory thereof or additional thereto.

**Sec. 17. Certain sections inoperative on failure to acquire town plant.** If the water district fails to acquire the plant, property, franchises, rights and privileges owned by the town and used or usable in supplying water to the town now served or to be served by the town, or to file a petition pursuant to section 12 for taking the same within 2 years after approval of creation of the district, then this Act shall be inoperative.

**Sec. 18. Acceptance subject to referendum; effective date.** This Act shall take effect when approved by a majority vote of the legal voters within the district voting at an election to be

1 specially called and held for that purpose on or before December  
31, 1989. The special election shall be called, advertised and  
3 conducted according to the law relating to municipal elections,  
provided that the registrar of voters shall not be required to  
5 prepare or the clerks to post a new list of voters, and for this  
purpose the registrar of voters shall be in session the 3 secular  
7 days preceding the election, of which the first 2 days will be  
devoted to registration of voters and the last day to enable the  
9 registrar to verify the lists and to complete the records of  
these sessions. The subject matter of this Act shall be reduced  
11 to the following question:

13 "Shall the St. Francis Water District be created?"

15 The voters shall indicate by a cross or check mark placed  
against the words "Yes" or "No" their opinion of the same.

17

The results shall be declared by the municipal officers and  
19 due certificate thereof filed by the clerk with the Secretary of  
State.

21

This Act shall take effect for all the purposes thereof  
23 immediately upon its acceptance by a majority of the legal voters  
within the district voting at the special election held in the  
25 municipality. Failure of approval by the necessary majority of  
voters at any such election shall not prevent a subsequent  
27 election or elections to be held for that purpose within the time  
limitation of this section.

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#### STATEMENT OF FACT

33

This bill establishes the St. Francis Water District.