

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1675

H.P. 1205

House of Representatives, May 18, 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 Representative WHITCOMB of Waldo.

STATE OF MAINE

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

An Act to Protect the Megunticook Watershed for the People of
Lincolnville by Creating the Lincolnville Water District.

(AFTER DEADLINE)



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

3 **Sec. 1. Territorial limits; name; purposes.** Subject to
5 referendum, the inhabitants and territory within the Town of
7 Lincolnville shall constitute a public municipal corporation
9 under the name of "Lincolnville Water District" for the purpose
11 of supplying the inhabitants of the district with pure water for
13 domestic, drinking, sanitary, manufacturing and municipal
15 purposes; controlling the watersheds encompassed by that town;
17 and to be in a position, with the inhabitants' consent, to
oversee the distribution of water supply resources on an
equitable basis in accordance with need. All incidents, rights,
powers and privileges necessary to the accomplishment of the main
objectives set forth in this Act are granted to the Lincolnville
Water District, including a grant of the right to take, hold,
divert, use, detain, store and appropriate water from any source
within the district.

19 **Sec. 2. Source of supply.** The water district for the purposes
21 of its incorporation may take, hold, divert, use, detain, store,
23 appropriate and distribute water from any source in the Town of
25 Lincolnville including, but not limited to, Brooks-Miservey
27 Brook; Minnow Brook; Brackett Brook; the brook off Megunticook
Mountain through Winslow's gravel pit; Baird Brook; Wiley's
29 Brook; Marriner's Brook; Kendall Brook; Black Brook; Duck Trap
River; Levenseller Pond; Coleman Pond; Norton's Pond; Moody Pond;
Pitcher Pond; and Megunticook Lake and all surface water sources
that ultimately terminate in Megunticook Lake.

31 **Sec. 3. Eminent domain.** The district may acquire and hold,
33 as for the public use, lands, interest therein and water rights.
35 These may be acquired by purchase, gift or exercise of the right
37 of eminent domain, which right is expressly delegated to the
water district for use within the district. Nothing contained in
this Act may be construed as authorizing the water district to
take by right of eminent domain any of the property of 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 by subsequent Act
of the Legislature or as provided in section 11.

41 **Sec. 4. Authorized to lay pipes and other fixtures through public ways
43 and across private lands.** Provided that the necessary easements or
45 rights-of-way are acquired, the district may lay pipes,
47 aqueducts, mains and fixtures, as may be necessary, in and
through the streets, roads, ways, highways and private lands in
the district and maintain and replace the same. The water
district may excavate through any lands when necessary and
49 convenient for its corporate purposes. Whenever the district
lays any pipes, aqueducts or mains in any street, road, way or
51 highway, it shall do so with as little obstruction as practicable

1 to the public travel and shall at its own expense without
unnecessary delay replace in proper condition the earth and
3 pavement removed.

5 **Sec. 5. Authorized to erect and maintain dams, reservoirs and other**
6 **structures, provided that the necessary property rights are acquired.** The
7 district may erect and maintain all dams, pumping stations,
8 reservoirs, standpipes, treatment facilities and structures
9 necessary and convenient for its corporate purposes.

11 **Sec. 6. Procedure in exercising rights of eminent domain; assessment**
12 **of damages; appeal procedure.** In exercising the right of eminent
13 domain in the taking of lands, interests in land or water rights,
14 the district shall file in the office of the county commissioners
15 of Waldo County and Knox County and record in the Waldo County
16 and Knox County registries of deeds plans of the location of all
17 such property to be taken, with an appropriate description and
18 the names of the owners, if known. Notice of the filing shall be
19 sent by mail to the owners at the address appearing on the tax
20 records of the municipality in which the land is located. When
21 for any reason the district fails to acquire the property which
22 it is authorized to take and which is described in that location
23 or if the location recorded is defective or uncertain, it may, at
24 any time, correct and perfect that location and file a new
25 description and in that case the district is liable in damages
26 only for property for which the owner had not previously been
27 paid, to be assessed as of the time of the original taking and
28 the district is not liable for any acts which would have been
29 justified if the original taking had been lawful. No entry may
30 be made on any private lands except to make surveys, until the
31 expiration of 10 days from that filing, at which time possession
32 may be had of all lands, interests therein or water rights so
33 taken, but title shall not vest in the district until payment
34 therefor.

35
36 If any person or corporation sustains damages by any taking
37 and does not agree with the water district on the sum to be paid
38 therefor, either party, upon petition to the county commissioners
39 of Waldo County and Knox County, may have those damages assessed
40 by them and the procedure and right of appeal shall be the same
41 as prescribed in the case of damages by the laying out of town
42 ways.

43
44 **Sec. 7. Procedures for crossing of public utility lines.** In case of
45 any crossing of a public utility line or right-of-way, unless
46 consent is given by the public utility as to place, manner and
47 conditions of the crossing, within 30 days after that consent is
48 requested by the district, the Public Utilities Commission, upon
49 petition by the district, shall determine the place, manner and
50 conditions of that crossing. All work on the property of the
51 public utility shall be done under the supervision and to the

1 satisfaction of the public utility or as prescribed by the Public
Utilities Commission, but at the expense of the district.

3
5 **Sec. 8. Board of trustees.** All of the affairs of the district
6 shall be managed by a board of trustees composed of 5 members of
7 the district from the Town of Lincolnville. The board may, by
8 majority vote, allow a representative of any Watershed
9 Association within the district to serve as a nonvoting member of
10 the board of trustees for a term of 3 years. None of the time or
11 residency limitations stated in this Act shall apply to such
12 nonvoting members. The town shall also designate 5 alternate
13 trustees to serve with the full powers of trustees in the absence
14 of trustees. Each trustee and the trustee's alternate shall
15 serve for a term of 3 years, except that the initial appointed
16 trustees and their alternates shall serve only until the first
17 elected trustees and their alternates are qualified and of the
18 first elected trustees and alternates, one trustee and alternate
19 shall serve for a term of one year, 2 trustees and alternates
20 shall serve for terms of 2 years and the other 2 trustees and
21 alternates shall serve for terms of 3 years. The first elected
22 trustees shall make the determination among themselves as to
23 which trustees and their alternates shall serve the one-year,
24 2-year and 3-year terms. The initial trustees and their
25 alternates shall be appointed by their respective municipal
26 officers. The terms of office of the trustees and alternates
27 shall end on April 30th or until their successors are qualified.
28 Whenever the term of office of a trustee and alternate expires
29 within the year, a successor trustee and alternate shall be
30 elected by secret ballot at the regular yearly municipal
31 election. In case any other vacancy arises, it shall be
32 temporarily filled by appointment by the municipal officers and
33 shall be permanently filled for the unexpired term at the next
34 regular annual municipal election. When any trustee or alternate
35 ceases to be a resident of the Town of Lincolnville, the trustee
36 vacates the office of trustee or alternate. No employee of the
37 district may serve as trustee or alternate trustee or be a
38 candidate for that office while still an employee. No person may
39 be employed by the district in any other capacity while holding
40 the office of trustee or alternate trustee. Organization of the
41 board of trustees shall be in accordance with the Maine Revised
42 Statutes, Title 35-A, chapter 63. The trustees and alternates
43 serving as trustees shall have the powers specified in the Maine
44 Revised Statutes, Title 35-A, chapter 63. All decisions of the
45 board of trustees shall be by a majority of those present and
46 voting. A quorum of the board of trustees shall be 5 trustees or
47 their alternates, except that the board may meet and discuss
48 business with a quorum of 3 or more trustees, or their
49 alternates, but may not finally act on any matter with less than
50 5 trustees, or their alternates. Trustees and their alternates
51 shall receive compensation for each meeting attended and
reimbursement for travel and expenses in accordance with the
Maine Revised Statutes, Title 35-A, chapter 63.

1 **Sec. 9. Authorized to receive governmental aid; borrow money; issue**
3 **bonds and notes.** For accomplishing the purposes of this Act, the
5 district, through its trustees, without vote of the inhabitants,
7 may receive municipal, state and federal aid grants. The
9 district may reimburse the towns for any expense incurred for the
11 benefit of the district. The district, through its trustees,
13 without the vote of its voters, may borrow money temporarily and
15 issue therefor its negotiable notes, for the purpose of renewing
17 and refunding the indebtedness so created for paying any
19 necessary expenses and liabilities incurred under this Act,
21 including organizational and other necessary expenses and
23 liabilities, whether incurred by the district or the towns.
25 Where water is needed in one town and that town's own resources
27 are to supply its own water, that town is to finance its own
29 expenses and not bind the credit of the remaining participants of
31 this Act. A joint venture would entail financing from all those
33 towns involved. Limit to exposure is by setting limits for each
35 town. The district through its trustees without the vote of its
voters, except as provided in this Act, may issue bonds, notes or
other evidences of indebtedness of the district, in such amounts,
bearing such interest and having such terms as the trustees shall
determine provided that, except for the purposes specified in
sections 10 and 11, issuance of bonds and notes shall be in
accordance with this section. In the event the trustees vote to
authorize bonds or notes, the estimated cost which singly or in
the aggregate included in any one financing is \$150,000, or more
adjusted, relative to 1981 as the base year according to the
annual Consumer Price Index, as defined in the Maine Revised
Statutes, Title 5, section 17001, subsection 9, the trustees
shall provide notice to the general public of the proposed bond
or note issue and the purposes for which the debt is being
issued. The notice shall be published at least once in a
newspaper having general circulation in the district. The
trustees shall give notice to each ratepayer by mail.

37 No debt may be incurred by vote of the trustees until the
39 expiration of 7 full days following the date on which the notice
41 was first published and mailed. Prior to the expiration of that
43 period, the trustees shall call a special district meeting for
the purpose of permitting the collection of testimony from the
public concerning the amount of debt so authorized.

45 Except for indebtedness to fund projects specifically
47 mandated by the State Government and Federal Government, for
49 debts in excess of the amount specified in this section, if
51 requested by petition of not less than 50 voters of the district
or 5% of the voters, whichever is greater, filed with the clerk
of the district on or before the date of the meeting, the meeting
shall express approval or disapproval of the amount of debt
authorized by the trustees. If a majority of voters present and
voting expresses disapproval of the amount of debt authorized by

1 the trustees, the debt shall not be incurred and the vote of the
trustees authorizing it shall be void.

3

5 The bonds, notes and evidences of indebtedness may be issued
to mature serially or may run for such periods as the trustees
7 may determine. Bonds, notes or evidences of indebtedness may be
issued with or without provisions for calling the same prior to
maturity and, if callable, may be made callable at par or at such
9 premium as the trustees may determine. All bonds, notes or other
evidences of indebtedness shall have inscribed upon their faces
11 the words "Lincolnvillev Water District" and shall be signed by
the treasurer, if any, and countersigned by the president of the
13 district and, if coupon bonds are issued, the interest coupons
attached thereto shall bear the fascimile signature of the
15 treasurer or president.

17 All bonds, notes and evidences of indebtedness issued by the
district shall be legal obligations of the district, which is
19 declared to be a quasi-municipal corporation within the meaning
of the Maine Revised Statutes, Title 30-A, section 5701, and all
21 provisions of that section shall be applicable to the district.

23 The district may refund and reissue, in one or in separate
series, its bonds, notes and other evidences of indebtedness and
25 each authorized issue shall constitute a separate loan. All
bonds, notes and evidences of indebtedness issued by the district
27 shall be legal investments for savings banks in this State and
shall be free from taxation.

29

31 The total debt of the district outstanding at any one time
shall not exceed \$1,000,000.

33 **Sec. 10. Existing laws not affected; rights conferred subject to**
provisions of law. Nothing in this Act is intended to repeal or may
35 be construed as repealing any existing law and all the rights and
duties mentioned in this Act shall be exercised and performed in
37 accordance with all the applicable provisions of the laws of this
State.

39

41 **Sec. 11. Acceptance subject to referendum.** This Act shall take
effect 90 days after adjournment of the First Regular Session of
the 114th Legislature for the sole purpose of permitting its
43 submission to the legal voters within the district at a special
election to be called for that purpose and to be held within 6
45 months of the effective date of this Act. The election shall be
called, advertised and conducted according to the law relating to
47 municipal elections, provided that the registrar of voters in the
municipality shall not be required to prepare or the clerks to
49 post a new list of voters and for this purpose the registrar of
voters shall be in session the 3 secular days preceding the
51 election, of which the first 2 days shall be devoted to
registration of the voters and the last day to enable

1 the registrar to verify the lists and to complete the records of
these sessions. The subject matter of this Act shall be reduced
3 to the following question:

5 "Shall the Lincolnville Water District be created?"

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

9
11 The results shall be declared by the municipal officers of
the Town of Lincolnville and due certificate thereof filed by the
clerk with the Secretary of State.

13
15 This Act shall take effect for all its purposes immediately
upon its acceptance by a majority vote of the legal voters in the
Town of Lincolnville. Failure of the approval by the necessary
17 majority at any such election shall not prevent a subsequent
election to be held for that purpose.

19

21

STATEMENT OF FACT

23

25 This bill allows the establishment of the Lincolnville Water
District.