

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1706

H.P. 1227

House of Representatives, May 25, 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.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative FARREN of Cherryfield.

Cosponsored by Senator RANDALL of Washington.

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STATE OF MAINE

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

---

An Act to Create the Quantabacook Water District.

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(AFTER DEADLINE)

(EMERGENCY)



1           **Emergency preamble.** Whereas, Acts of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted  
3 as emergencies; and

5           **Whereas,** the Town of Harrington wishes to establish a water  
6 district and to purchase the assets of the Quantabacook Water  
7 Company; and

9           **Whereas,** the Town of Harrington must act immediately to  
10 purchase the Quantabacook Water Company; and

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

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

19           **Sec. 1. Territorial limits; corporate name; purposes.** The  
20 inhabitants and territory of the Town of Harrington in the County  
21 of Washington shall constitute a body politic and corporate under  
22 the name of "Quantabacook Water District" for the purpose of  
23 supplying the town and the inhabitants and others of the district  
24 with pure water for domestic, sanitary, commercial, industrial,  
25 agricultural and municipal purposes.

27           **Sec. 2. Powers of Quantabacook Water District.** The Quantabacook  
28 Water District, for the purposes of its incorporation, may take,  
29 collect, store, flow, use, divert, distribute and convey to the  
30 district, or any part of the district, water from any source  
31 approved by the Department of Human Services, natural or  
32 artificial, within the area of the district or within the area of  
33 the Town of Harrington and from any other source from which the  
34 Quantabacook Water Company may take water. It may also locate,  
35 construct and maintain aqueducts, pipes, conduits, dams, wells,  
36 reservoirs, standpipes, hydrants, pumping stations and other  
37 necessary structures and equipment therefor, and do anything  
38 necessary to furnish water for public purposes and for the public  
39 health, comfort and convenience of the inhabitants and others of  
40 the district, or to contract to do any and all of the foregoing  
41 things.

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

47           The district may not take, withdraw or divert water from any  
48 source for the above enumerated purposes, unless it has filed a  
49 written petition and obtained the approval of the Public  
50 Utilities Commission. The petition shall include a plan for the  
51 taking, withdrawal or diversion. The petition and plan shall set

1 forth adequate information upon which findings may be made  
3 regarding the nature, capacity, safe yield and the ability of the  
5 source to be recharged, the amount of water to be taken over time  
7 and other existing and projected uses and demands on the source.  
9 The commission may by rule or order prescribe other information  
11 to be contained in the petition and plan. The commission may not  
13 approve a petition unless it finds that the plan ensures that  
adequate water remains in the source to meet the reasonable needs  
of existing and projected demands on the source. The commission  
may impose reasonable terms, conditions or other requirements on  
the plan. The commission shall issue its order approving or  
disapproving the plan within 9 months after it determines the  
petition to be complete.

15 **Sec. 3. Authorized to lay mains, pipes, conduits and other water**  
17 **conveyances through public ways and across private lands.** The district  
19 may lay in and through the streets, roads, ways, highways and  
21 bridges in the Town of Harrington and across private lands in the  
23 Town of Harrington and maintain, repair and replace all such  
25 pipes, mains, conduits, aqueducts and fixtures and appurtenances  
27 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 the same to be done with as little  
obstruction as practicable to the public travel and, at its own  
expense, without unnecessary delay, shall cause the earth and  
pavement removed by it to be replaced in proper condition.

29 **Sec. 4. Authorized to erect dams and reservoirs; to cross navigable**  
31 **waters; to supply water to utilities.** The water district, for the  
33 purposes of its incorporation, may erect and maintain all dams,  
35 reservoirs and structures necessary and convenient for its  
37 corporate purposes. The water district may lay, construct and  
39 maintain its pipes and fixtures in, over and under navigable  
waters and build and maintain structures therefor, subject to the  
laws of the United States. The water district may supply water  
to any public utility now supplying water in the County of  
Washington, subject to the consent of the Public Utilities  
Commission.

41 **Sec. 5. Rights of eminent domain.** The district, for the  
43 purposes of its incorporation, may take and hold, as for public  
45 uses, real estate and personal estate and any interest therein  
47 necessary or convenient for those purposes, by purchase, lease or  
49 otherwise and may exercise the right of eminent domain as  
51 provided in this Act, to acquire for those purposes any land or  
interest in land or water rights necessary for erecting and  
maintaining dams, plants and works, for flowage, power, pumping,  
supplying water through its mains; for reservoirs, preserving the  
purity of the water and watershed; for laying and maintaining  
aqueducts and

1 other structures; for taking, distributing, discharging and  
3 disposing of water; and for rights-of-way or roadways to its  
sources of supply, dams, power stations, reservoirs, mains,  
aqueducts, structures and lands.

5  
7 Nothing contained in this section may be construed as  
authorizing the district to take by right of eminent domain any  
9 of the property or facilities of any other public utility used,  
or acquired for future use, by the owner of that property or  
11 those facilities in the performance of a public duty, unless  
expressly authorized to do so by this section or by subsequent  
Act of the Legislature or as provided in section 6.

13  
15 **Sec. 6. Procedure if public utility must be crossed.** In case of  
crossing of any public utility, unless consent is given by the  
17 company owning and operating the public utility as to place,  
manner and conditions of the crossing within 30 days after  
19 consent is requested by the district, the Public Utilities  
Commission, upon petition by the district, shall determine the  
21 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  
23 prescribed by the Public Utilities Commission, but at the expense  
of the district.

25  
27 **Sec. 7. Procedure in exercising of eminent domain.** After the  
original acquisition for which provision is made in section 12 of  
29 this Act, the district, in exercising, from time to time, any  
right of eminent domain in the taking of land, interests therein  
or water rights, shall file in the office of the county  
31 commissioners of Washington County and record in the Washington  
County registry of deeds plans of the location of all property to  
33 be taken, with an appropriate description and the names of the  
owners, if known. Notice of the filing shall be sent by mail to  
35 the owners at the address appearing on the tax records of the  
municipality in which the land is located. When for any reason  
37 the district fails to acquire the property which it is authorized  
to take, and which is described in that location, or if the  
39 location recorded is defective or uncertain, it may, at any time,  
correct and perfect that location and file a new description, and  
41 in such case the district is liable for damages only for property  
for which the owner had not previously been paid, to be assessed  
43 as of the time of the original taking, and the district is not  
liable for any acts which would have been justified if the  
45 original taking had been lawful. No entry may be made on any  
private lands, except to make surveys, until the expiration of 10  
47 days from that filing, at which time possession may be had of all  
lands, interests therein or water rights so taken, but title  
49 shall not vest in the district until payment therefor.

51 **Sec. 8. Adjustment of damages; procedure as in laying out of**  
**highways.** If any person sustaining damages by any taking  
53 pursuant to the right of

1 eminent domain does not agree with the district upon the sum to  
2 be paid, either party, on petition to the county commissioners of  
3 Washington County, may have the damages assessed by them. The  
4 procedure and all subsequent proceedings and right of appeal  
5 shall be had under the same restrictions, conditions and  
6 limitations as are or may be by law prescribed in the case of  
7 damages by the laying out of highways.

9 **Sec. 9. Trustees; how elected; first board; meeting; officers.** All of  
10 the affairs of the district shall be managed by a board of  
11 trustees composed of 3 members, all of whom shall be residents of  
12 the district and, after selection of the first board, elected as  
13 provided in the Maine Revised Statutes, Title 35-A, chapter 63.

15 **1. First board.** Within 14 days after the acceptance of  
16 this Act, the municipal officers of the Town of Harrington, who  
17 are especially appointed for this purpose, shall give notice of a  
18 special election of the Quantabacook Water District, for the  
19 purpose of selecting the first board of trustees, by posting a  
20 notice at least 30 days prior to the date set for election. The  
21 notice shall be published in one public and conspicuous place in  
22 the Town of Harrington. The candidates for office shall obtain  
23 nomination papers from the clerk of the Town of Harrington, who  
24 is appointed especially to act as clerk in this particular  
25 instance. The form of the nomination papers and the form of the  
26 ballot shall be as provided in this Act. After the selection of  
27 the first board, the only requirements for eligibility for the  
28 office of trustee of the district shall be residence within the  
29 district and eligibility to vote.

31 As soon as convenient after their appointment, the first  
32 board of trustees shall hold a meeting at a convenient place in  
33 the district, to be called by any member of the board in writing  
34 designating the time and place, and the notice shall be delivered  
35 in hand to the other 2 members not less than 2 full days before  
36 the meeting; provided that the trustees elected may meet by  
37 agreement without the notice and upon appropriate waiver. The  
38 terms of office of the members of the first board of trustees  
39 shall be established as follows: The member receiving the  
40 greatest number of votes shall serve for a term of 3 years; the  
41 member receiving the next highest number of votes shall serve for  
42 a term of 2 years; and the 3rd member shall serve for a term of  
43 one year. In the event of a tie vote, the terms of office of the  
44 members affected shall be determined by lot. Thereafter,  
45 trustees shall be elected to serve for 3-year terms.

47 **2. Organization; conduct of business.** Organization and  
48 powers of the board of trustees shall be in accordance with the  
49 Maine Revised Statutes, Title 35-A, chapter 63.

1 All decisions of the board of trustees shall be by a  
majority of those present and voting. A quorum of the board of  
3 trustees shall be 2 trustees.

5 Trustees' compensation shall be set in accordance with the  
Maine Revised Statutes, Title 35-A, chapter 63.

7  
9 **3. Bylaws.** The trustees may adopt and establish such  
bylaws as are necessary for their own convenience and the proper  
management of the affairs of the district.

11  
13 **4. Vacancy.** Whenever the term of office of a trustee  
expires, the trustee's successor shall be elected by a plurality  
vote by the inhabitants of the district, and upon nomination made  
15 as provided in this section for the election of trustees. For  
the purpose of election, a special election shall be called and  
17 held on the annual municipal election in each year, the election  
to be called by the trustees of the district in the same manner  
19 as town meetings are called and for this purpose the trustees are  
vested with the powers of selectmen of towns. The trustee so  
21 elected shall serve the full term of 3 years. If any vacancy  
arises in the membership of the board of trustees, it shall be  
23 filled in like manner for the unexpired term by a special  
election to be called by the trustees of the district. When any  
25 trustee ceases to be a resident of the district, the trustee  
shall vacate the office of trustee and the vacancy shall be  
27 filled as provided in this section. All trustees shall be  
eligible for reelection, but no person who is a member of the  
29 town council in the Town of Harrington may be eligible for  
nomination or election as trustee.

31  
33 The trustees may procure an office and incur any expenses as  
may be necessary.

35 The trustees shall appoint a registrar of voters for the  
district, who may also be the registrar of voters for the Town of  
37 Harrington, and fix the registrar's salary. It shall be the  
registrar's duty to make and keep a complete list of all the  
39 eligible voters of the district. The list prepared by the  
registrar, as provided by the laws of the State, shall govern the  
41 eligibility of any voter. In determining the eligible voters of  
the district, the registrar of voters shall exclude from those  
43 lists and from all checklists the legal voters who are resident  
outside the territorial limits of the water district as defined  
45 in this Act. All warrants issued for elections by the trustees  
shall be varied accordingly to show that only the voters resident  
47 within the territorial limits of the water district are entitled  
to vote.

49  
51 **Sec. 10. Annual report.** The trustees shall make and publish  
an annual report, including a report of the treasurer. The  
report may be included in and published as part of the annual  
53 town report of the Town of Harrington.

1  
3       **Sec. 11. District and towns authorized to make and assume**  
5       **contracts.** The district, through its trustees, may contract with  
7       persons and corporations, including the Town of Harrington, and  
      the Town of Harrington may contract with the district for the  
      supply of water for municipal purposes.

9       **Sec. 12. Authorized to acquire property and franchises of**  
11       **Quantabacook Water Company.** This district, through its  
13       trustees, may acquire by purchase the entire plant, properties,  
15       franchises, rights and privileges owned by the Quantabacook Water  
17       Company, located within the Town of Harrington, including all  
19       lands, waters, water rights, reservoirs, pipes, machinery,  
21       fixtures, hydrants, tools and all apparatus and appliances used  
23       or usable in supplying water in the area of the district. The  
25       water district may acquire by the exercise of the right of  
27       eminent domain, which right is expressly delegated to the  
      district for that purpose, the entire plant, properties,  
      franchises, rights and privileges, except cash assets and  
      accounts receivable, owned by the Quantabacook Water Company,  
      including all lands, waters, water rights, dam structures,  
      reservoirs, pipes, machinery, fixtures, hydrants, tools and all  
      apparatus and appliances used or usable in supplying water in the  
      area of the district, and if and when so acquired, the district,  
      in addition to the powers conferred by this Act, shall have and  
      enjoy and be entitled to exercise all rights, privileges and  
      franchises of the Quantabacook Water Company.

29       In exercising the right of eminent domain under this Act,  
31       the trustees shall file with the district clerk a condemnation  
33       order that includes a detailed description of the property  
35       interests to be taken, the name or names of the owner or owners  
37       of record so far as they can be reasonably determined and the  
39       amount of damages determined by the trustees to be just  
41       compensation for the property or interest taken. The trustees  
43       shall then serve on the owner or owners of record a copy of the  
45       condemnation order and a check in the amount of the damages  
      awarded and record a certified copy of the condemnation order in  
      the Washington County Registry of Deeds. In the event of  
      multiple ownership, the check may be served on any one of the  
      owners. This title shall pass to the district on service of the  
      order of condemnation and check or on recordation in accordance  
      with this Act, whichever occurs first. Acceptance and  
      negotiation of the check shall not bar an appeal under this Act.

47       Any person aggrieved by the determination of the damages  
49       awarded to owners of property or interests under this Act may,  
51       within 60 days after service of the condemnation order and check,  
      appeal to the Superior Court of Washington County. The court  
      shall determine damages by a verdict of its jury or, if all  
      parties agree, by the court without a jury or by a referee or  
      referees and shall render judgment for just compensation, with



1 interest when due, and for costs in favor of the party entitled  
2 to just compensation. Appeal from the decision of the Superior  
3 Court may be had to the Law Court, as in other civil actions.

5 **Sec. 13. Authorized to receive government aid; borrow money; issue**  
6 **bonds and notes.** For accomplishing the purposes of this Act and  
7 for any other expenses as may be necessary for the carrying out  
8 of these purposes, the district, through its trustees, without  
9 vote of the inhabitants, may receive state and federal aid  
10 grants, borrow money temporarily and issue therefor its  
11 negotiable notes for the purpose of renewing and refunding the  
12 indebtedness so created, for paying any necessary expenses and  
13 liabilities incurred under this Act, including organizational and  
14 other necessary expenses and liabilities, whether incurred by the  
15 district or the Town of Harrington, the district being authorized  
16 to reimburse the Town of Harrington for any expense incurred by  
17 the town and in acquiring properties, paying damages, laying  
18 pipes, mains, aqueducts and conduits, constructing, maintaining  
19 and operating a water plant or system and making renewals,  
20 additions, extensions and improvements to the water plant or  
21 system and to cover interest payments during the period of  
22 construction. The district, through its trustees, without the  
23 vote of its inhabitants, may also issue, from time to time, in  
24 accordance with the Maine Revised Statutes, Title 35-A, chapter  
25 63, bonds, notes or other evidence of indebtedness of the  
26 district in an amount or amounts bearing interest at a rate or  
27 rates, selling at par or at a discount or a premium and having  
28 other terms and provisions as the trustees shall determine,  
29 except that loans running for one year or less will not require  
30 the Public Utilities Commission's approval.

31  
32 The bonds, notes and evidences of indebtedness may be issued  
33 to mature serially or made to run for periods as the trustees may  
34 determine. Bonds, notes or evidences of indebtedness may be  
35 issued with or without provisions for calling the bonds, notes or  
36 evidences of indebtedness prior to maturity, and if callable, may  
37 be made callable at par or at any premium as the trustees may  
38 determine. All bonds, notes or other evidences of indebtedness  
39 shall have inscribed on their face the words "Quantabacook Water  
40 District," shall be signed by the treasurer and countersigned by  
41 the president of the board of trustees of the district, and if  
42 coupon bonds are issued, the interest coupon attached to the  
43 coupon bonds shall bear the facsimile signature of the treasurer.

44 All bonds, notes and evidences of indebtedness so issued by  
45 the district shall be legal obligations of the district, which is  
46 declared to be a quasi-municipal corporation within the meaning  
47 of the Maine Revised Statutes, Title 30-A, section 5701, and all  
48 provisions of that section shall be applicable to the district.  
49

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

9           **Sec. 14. Rates.** The rates established pursuant to this  
11 section shall be sufficient to provide revenue for the purposes  
13 of this Act and for all other purposes of the district, without  
15 the need for any financial assistance from the Town of  
17 Harrington, other than the normal payment of water charges for  
19 services rendered and the loan or loans for initial funds as set  
21 forth in section 13. Individuals, firms and corporations,  
whether private, public or municipal, shall pay to the treasurer  
or other designated officer of the district the rates established  
by the board of trustees for the water used by them. The rates  
shall be established in accordance with the Maine Revised  
Statutes, Title 35-A, chapter 61, so as to provide for the  
purposes set forth in that chapter.

23           **Sec. 15. Existing laws not affected; rights conferred subject to**  
25 **provisions of law.** Nothing contained in this Act is intended to  
27 repeal, or may be construed as repealing, the whole or any part  
29 of any existing law, and all the rights and duties mentioned in  
this Act shall be exercised and performed in accordance with all  
the applicable provisions and amendatory Acts of the Maine  
Revised Statutes, Title 35-A to the extent that this Title and  
its amendments affect the operations of the district.

31           **Sec. 16. Separability clause.** If any section or part of a  
33 section of this Act shall be held invalid by a court of competent  
35 jurisdiction, the holding shall not affect the remainder of this  
37 Act, it being the intention that the remaining portions of this  
Act shall stand, notwithstanding the unconstitutionality or  
invalidity of any section, sentence, clause or phrase.

39           **Sec. 17. Acceptance subject to referendum.** This Act shall be  
41 submitted to the legal voters within the district at an election  
43 to be called for that purpose and held by December 31, 1989. The  
45 election shall be called, advertised and conducted according to  
47 the law relating to municipal elections, provided that the  
49 registrar of voters shall not be required to prepare or the clerk  
of voters shall be in session the 3 secular days preceding the  
election, of which the first 2 days will be devoted to  
registration of the voters and the last day to verification of  
the lists and completion of the records of these sessions by the  
registrar. The subject matter of this Act shall be reduced to  
the following question:

51           "Shall the Quantabacook Water District be created?"

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3  
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23

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

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

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

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

**STATEMENT OF FACT**

This bill creates the Quantabacook Water District.