

MAINE STATE LEGISLATURE

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L.D. 1723

(Filing No. S-319)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A" to S.P. 629, L.D. 1723, Bill, "An Act to Create the Deer Isle Water District"

Amend the bill by striking out all of the Title and inserting in its place the following:

'An Act to Create the Deer Isle Consumer-owned Water Utility'

Further amend the bill in the emergency preamble in the fourth paragraph in the first line (page 1, line 13 in L.D.) by striking out the following: "public district" and inserting in its place the following: 'consumer-owned water utility'

Further amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

'Sec. 1. Territorial limits; corporate name; purposes. Subject to section 14 of this Act, the owners of real estate in that part of the Town of Deer Isle in Hancock County comprised of the area beginning at a point at the western edge of Route 15 and 70 feet due north of the center of the intersection of Route 15 and Route 15-A; from this beginning point following the western edge of Route 15 south a distance of 450 feet; thence due west to the Mill Pond shore; thence northwesterly along the Mill Pond shore to the causeway, thence directly across the causeway and following the coast in an easterly and northerly direction to a point intersecting a line bearing 40 degrees due west of north from the starting point; and thence from this point on the shore easterly to the starting point may form a quasi-municipal corporation under the name of the "Deer Isle Consumer-owned Water Utility" for the purpose of supplying the members of the utility with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes. Membership shall be open to any owner of real estate in the area defined in this section.

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1 The utility shall be subject to the provisions of the Maine
2 Revised Statutes, Title 35-A, sections 6101, 6102 and 6104 to
3 6107 and other applicable laws and commission rules.

5 **Sec. 2. Powers of Deer Isle Consumer-owned Water Utility.** The
6 Deer Isle Consumer-owned Water Utility is authorized, for the
7 purposes of its incorporation, to take, collect, store, flow,
8 use, divert, distribute and convey to the members of the utility,
9 water from any source, natural or artificial, within the area of
10 the Town of Deer Isle. It is also authorized to locate,
11 construct and maintain aqueducts, pipes, conduits, dams, wells,
12 reservoirs, standpipes, hydrants, pumping stations and other
13 necessary structures and equipment, and do anything necessary to
14 furnish water for public purposes and for the public health,
15 comfort and convenience of the members of the utility, or to
16 contract to do any and all of the foregoing things.

17 All incidental powers, rights and privileges necessary to
18 the accomplishment of the main objectives set forth in this Act
19 are granted to the utility created by this Act.

21 **Sec. 3. Authorization to lay mains, pipes, conduits, aqueducts, fixtures
22 and appurtenances through public ways and across private lands.** The
23 utility is authorized to lay in and through the streets, roads,
24 ways, highways and bridges in the area delineated in section 1
25 and across private lands in the area delineated in section 1, and
26 to maintain, repair and replace all pipes, mains, conduits,
27 aqueducts and fixtures and appurtenances as may be necessary and
28 convenient for its corporate purposes and, whenever the utility
29 shall lay any pipes, mains, conduits, aqueducts and fixtures or
30 appurtenances in any street, road, way or highway, it shall cause
31 the same to be done with as little obstruction as practicable to
32 the public travel and shall, at its own expense, without
33 unnecessary delay, cause the earth and pavement removed by it to
34 be replaced in proper condition.

37 **Sec. 4. Authorization to erect dams and reservoirs; to cross navigable
38 waters; to supply water to utilities.** The utility is authorized, for
39 the purposes of its incorporation, to erect and maintain all
40 dams, reservoirs and structures necessary and convenient for its
41 corporate purposes. The water utility is also authorized to lay,
42 construct and maintain its pipes and fixtures in, over and under
43 navigable waters and to build and maintain structures.

45 **Sec. 5. Rights of eminent domain.** The utility, for the purposes
46 of its incorporation, is authorized to petition the Public
47 Utilities Commission to take and hold, as for public uses, real
48 estate and personal property, and any interest therein, located
49 in the area delineated in section 1 of this Act, necessary or
50 convenient for those purposes, by purchase, lease or otherwise
51 and is expressly authorized to exercise the right of

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1 eminent domain, as provided in this Act and subject to the
 3 provisions of the Maine Revised Statutes, Title 35-A, chapters 65
 and 67, to acquire for those purposes any land or interest in
 5 land or water rights necessary for erecting and maintaining dams,
 plants and works; for flowage, power, pumping and supplying water
 7 through its mains; for reservoirs; for preserving the purity of
 the water and watershed; for laying and maintaining aqueducts and
 9 other structures for taking, distributing, discharging and
 disposing of water; and for rights-of-way or roadways to its
 11 sources of supply, dams, power stations, reservoirs, mains,
 aqueducts, structures and lands.

13 The utility is authorized, for the purposes of its
 incorporation, to erect and maintain all dams, reservoirs and
 15 structures necessary and convenient for its corporate purposes.
 Nothing contained in this section may be construed as authorizing
 17 the utility to take by right of eminent domain any of the
 property or facilities of any other public utility used, or
 19 acquired for future use, by the owner of that property or
 facilities in the performance of a public duty, unless expressly
 21 authorized to do so by this section, by subsequent act of the
 Legislature or as provided in section 6.

23 **Sec. 6. Procedure if public utility crossed.** In case of crossing of
 25 any public utility, unless consent is given by the company owning
 and operating the public utility as to place, manner and
 27 conditions of the crossing within 30 days after consent is
 requested by the utility, the Public Utilities Commission, upon
 29 petition by the utility, shall determine the place, manner and
 conditions of the crossing, and all work on the property of the
 31 public utility shall be done under the supervision and to the
 satisfaction of the public utility, or as prescribed by the
 33 Public Utilities Commission, but at the expense of the utility.

35 **Sec. 7. Utility meetings; quorum.** The utility shall hold an
 annual meeting on the first Saturday in August. It may call a
 37 special meeting on the majority vote of the trustees or on a
 petition of 50% of its members. A quorum shall consist of 50% of
 39 the membership of the utility. For the purpose of obtaining a
 quorum, members may give their proxy to the board or any other
 41 member of the utility.

43 **Sec. 8. Bylaws.** By a two-thirds vote of any annual meeting,
 the members of the utility may establish bylaws determining the
 45 manner of electing trustees, date of an annual meeting,
 establishment of a quorum at an annual or special meeting of the
 47 utility and establishing membership dues. The bylaws of the
 utility shall be placed on file with the Public Utilities
 49 Commission.

1 **Sec. 9. Trustees; election; first board; meeting; officers.** All of the
2 affairs of the utility shall be managed by a board of trustees
3 composed of 3 members, all of whom shall be members of the
4 utility and elected as provided in this section.

5
6 1. **First board.** Within one year after this Act takes
7 effect, the selectmen of the Town of Deer Isle, who are
8 especially appointed for this purpose, shall give notice of a
9 special meeting of the owners of real estate in the area
10 specified in section 1, for the purpose of establishing the Deer
11 Isle Consumer-owned Water Utility, including the determination of
12 the membership, selecting the first board of trustees, selecting
13 a president and clerk from those selected as trustees. The clerk
14 shall be a resident of the State. They may also select a
15 treasurer who need not be a member of the board. The selectmen
16 shall post a notice at least 30 days prior to the date set for
17 the meeting. The notice shall be published in one public and
18 conspicuous place in the Town of Deer Isle.

19
20 The first order of business of the board shall be to draw by
21 lot to fix the terms of the trustees. Of the original trustees,
22 one trustee shall serve for one year, one trustee for 2 years and
23 one trustee for 3 years. Thereafter, trustees shall be selected
24 to serve for 3-year terms.

25
26 2. **Subsequent selection of trustees.** After the first year,
27 trustees whose terms expire shall be elected at the utility's
28 annual meeting. Unexpired terms may be filled at the next annual
29 meeting of the utility or at a special meeting called by the
30 board of trustees.

31
32 3. **Decisions of the board.** All decisions of the board of
33 trustees shall be by a majority of those present and voting
34 subject to the approval of a majority of those present and voting
35 at the next annual or special meeting of the utility. A quorum
36 of the board of trustees shall be 2 trustees.

37
38 4. **Compensation.** Trustees shall serve without
39 compensation. The trustees may establish a policy to pay the
40 expenses of members resulting from the conduct of their duties as
41 trustees.

42
43 5. **Additional powers.** The trustees may procure an office
44 and incur such expenses as may be necessary.

45
46 **Sec. 10. Utility and town authorized to make and assume contracts.**
47 The utility, through its trustees, is authorized to contract with
48 persons and corporations, including the Town of Deer Isle, and
49 the Town of Deer Isle is authorized to contract with the utility
50 for the supply of water for municipal purposes.

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1 **Sec. 11. Authorization to receive governmental aid; borrow money;**
2 **issue bonds and notes.** For accomplishing the purposes of this Act
3 and for other expenses as may be necessary for the carrying out
4 of these purposes, the utility, through its trustees, with the
5 approval of a majority of the members of the utility present and
6 voting at the next annual or special meeting of the utility, is
7 authorized to receive both state and federal aid grants. It may
8 also borrow money temporarily and issue negotiable notes for the
9 purpose of renewing and refunding the indebtedness created for
10 paying any necessary expenses and liabilities incurred under this
11 Act, including organizational and other necessary expenses and
12 liabilities whether incurred by the utility or the Town of Deer
13 Isle, the utility being authorized to reimburse the Town of Deer
14 Isle for any such expense incurred and in acquiring properties,
15 paying damages, laying pipes, mains, aqueducts and conduits,
16 constructing, maintaining and operating a water plant or system
17 and making renewals, additions, extensions and improvements to
18 the same and to cover interest payments during the period of
19 construction. The utility through its trustees, and with the
20 approval of a majority of those present and voting at an annual
21 or special meeting of the utility, is authorized to issue bonds,
22 notes or other evidence of indebtedness of the utility, not to
23 exceed \$500,000 in amount or amounts bearing interest at rate or
24 rates, selling at par, discount or premium, and other terms and
25 provisions, as the trustees shall determine, except that loans
26 running for one year or less do not require the Public Utilities
27 Commission's approval.

28 The bonds, notes and evidences of indebtedness may be issued
29 to mature serially or made to run for periods as the trustees
30 determine. Bonds, notes or evidences of indebtedness may be
31 issued with or without provisions for calling the same prior to
32 maturity and, if callable, may be made callable at par or at a
33 premium as the trustees determine. All bonds, notes or other
34 evidences of indebtedness shall have inscribed upon their face
35 the words "Deer Isle Consumer-owned Water Utility," shall be
36 signed by the treasurer and countersigned by the president of the
37 board of trustees of the utility and, if coupon bonds are issued,
38 the interest coupon attached to the coupon bonds shall bear the
39 facsimile signature of the treasurer.

40 The bonds, notes and evidences of indebtedness so issued by
41 the utility shall be legal obligations of the utility, which is
42 declared to be a quasi-municipal corporation.

43 The utility may refund and reissue, from time to time, in
44 one or in separate series, its bonds, notes and other evidences
45 of indebtedness, and each authorized issue shall constitute a
46 separate loan. All bonds, notes and evidences of indebtedness
47 issued by the utility shall be legal investments for savings
48 banks in the State and shall be free from taxation.
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