

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2303

H.P. 1663

House of Representatives, February 9, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

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 BURKE of Vassalboro.

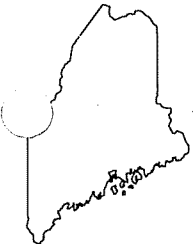
Cosponsored by Senator BUSTIN of Kennebec and Representative HOGLUND of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Regulate the Process by which Water Utilities Take Land.

(EMERGENCY)



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

4 Whereas, the completion of a proceeding to take land by
6 eminent domain results in a final transfer of the property; and

8 Whereas, this legislation alters the procedures for water
utilities to take property for the construction of water
10 treatment facilities; and

12 Whereas, these new procedures must be applicable as soon as
possible to pertinent condemnation proceedings before properties
14 are finally transferred; and

16 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
18 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
20 safety; now, therefore,

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

24 35-A MRS §6704-A is enacted to read:

26 §6704-A. Showing of necessity required; treatment facility;
28 other property available

30 A water utility shall petition the commission to determine
the necessity of a taking when the utility is seeking to take the
property for the construction of a water treatment facility. The
32 proceedings on the petition are to be the same as section 6704,
except that:

34 1. Public notice. At the time the commissioners give
36 notice of the hearing on the petition to the owner of the
property subject to condemnation, the commissioners shall give
38 notice to the public by publishing the petition and hearing
notice in a newspaper that is published in the county where the
40 property is located; and

42 2. Necessity. The water utility meets its burden under
section 6703, subsection 2, only when the water utility shows
44 that there is no other property offered for sale at fair market
value, located between the utility's water source and users, that
46 is reasonably suitable for the construction of the proposed water
treatment facility. If the utility makes the showing required by
48 this subsection, the commissioners are not precluded from
finding, on some other basis, that the proposed taking is not
50 necessary.

2 Notwithstanding Title 1, section 302, the provisions of this
3 section apply to condemnation proceedings pending on the
4 effective date of this section.

5 **Emergency clause.** In view of the emergency cited in the
6 preamble, this Act takes effect when approved.

8
9 **STATEMENT OF FACT**

10
11 The purpose of this bill is to ensure that a water utility
12 resorts to taking property for the purpose of constructing a
13 water treatment facility only when no other suitable property is
14 available for sale.

15 The bill requires a water utility to petition the Public
16 Utilities Commission to determine if a taking is necessary when
17 the taking is proposed for the construction of a water treatment
18 facility. Before the taking may proceed, the water utility must
19 show the commission that no other property, located between the
20 water source and users, is for sale and available for this
21 purpose.

22 The commission must give notice to the public, through
23 newspaper publication, of a petition required by this bill.

24 This bill applies not only to condemnation proceedings by
25 water utilities begun after the bill's effective date, but also
26 to such proceedings pending on the effective date.
27
28