

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

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Legislative Document

No. 2305

H.P. 1665

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 FOSS of Yarmouth.

Cosponsored by Senator DILLENBACK of Cumberland, Senator CLARK of Cumberland and Representative BUTLAND of Cumberland.

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STATE OF MAINE

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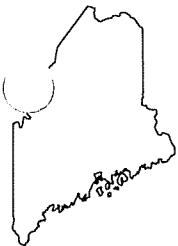
IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

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**An Act Allowing the Yarmouth Water District to Acquire the Assets  
and Liabilities of the North Yarmouth Water District.**

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(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 North Yarmouth Water District presently  
6 provides water service to the North Yarmouth area residents; and

8           Whereas, because of its size the North Yarmouth Water  
District is unable to afford the services of a full-time manager  
10 or to hire full-time maintenance personnel; and

12           Whereas, this problem would be solved by combining the  
functions and assets of the North Yarmouth Water District with  
14 the Yarmouth Water District; 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           **Sec. 1.** P&SL 1923, c. 72, §1, as amended by P&SL 1957, c. 205,  
§1, is further amended to read:

26           **Sec. 1. Territorial limits, corporate name and purposes.**  
28 The territory and the people constituting the Towns of  
Yarmouth and North Yarmouth in the County of Cumberland and State  
30 of Maine are hereby constituted a body politic and corporate  
under the name of the Yarmouth Water District, subject to  
32 adoption by the people of said the territory as hereinafter  
provided. The purpose of said the district is the supplying of  
34 the inhabitants thereof with pure water for domestic,  
agricultural, commercial, industrial, sanitary and municipal  
36 purposes.

38           **Sec. 2.** P&SL 1923, c. 72, §7 is amended to read:

40           **Sec. 7. Board of trustees provided for.** All the affairs of  
said the Yarmouth Water District shall be managed by the board of  
42 trustees composed of ~~three~~ 5 members ~~to be,~~ 4 of whom are elected  
by the lawful voters of said the district who ~~shall be such as~~  
44 are qualified to vote at any regular meeting of the town Town of  
Yarmouth and one of whom is elected by the lawful voters of the  
46 district who are qualified to vote at any regular meeting of the  
Town of North Yarmouth. The number of trustees must be adjusted  
48 after each federal census is completed and apportioned between  
Yarmouth and North Yarmouth trustees to correspond to the percent  
50 of metered services in each town, except that each town shall  
have at least one trustee.

52           **Sec. 3.** P&SL 1923, c. 72, §8, 4th, 5th and 6th sentences are  
54 repealed and the following enacted in their place:

2 There must be 5 trustees from the Town of Yarmouth and from the  
3 Town of North Yarmouth, apportioned as provided in section 7.  
4 The trustees shall serve for terms of 3 years.

6 **Sec. 4. P&SL 1957, c. 131, as amended, is repealed.**

8 **Sec. 5. Yarmouth Water District required to acquire property of**  
9 **North Yarmouth Water District.** The Yarmouth Water District  
10 acquires, under the terms contained in this Act, all, but not  
11 less than all, of the plant, properties, assets, franchises,  
12 rights and privileges owned by the North Yarmouth Water District  
13 including, without limitation, all lands, buildings, waters,  
14 water rights, springs, wells, reservoirs, tanks, standpipes,  
15 mains, pumps, pipes, machinery, fixtures, hydrants, meters,  
16 services, tools, equipment and appliances used or useful in  
17 supplying water for domestic, sanitary, commercial, industrial  
18 and municipal purposes. The consideration paid for them is the  
19 assumption by the Yarmouth Water District of all of the  
20 outstanding debts, obligations and liabilities of the North  
21 Yarmouth Water District including, without limitation, the  
22 assumption by the Yarmouth Water District of any outstanding  
23 notes or bonds of the North Yarmouth Water District that are due  
24 on or after the date of transfer.

26 **Sec. 6. North Yarmouth Water District required to sell property to**  
27 **the Yarmouth Water District.** The North Yarmouth Water District, a  
28 quasi-municipal corporation organized and existing under Private  
29 and Special Law 1957, chapter 131, under the terms contained in  
30 this Act, sells, transfers and conveys to the Yarmouth Water  
31 District by appropriate instruments of conveyance all, but not  
32 less than all, of its plant, properties, assets, franchises,  
33 rights and privileges including, without limitation, all lands,  
34 buildings, waters, water rights, springs, wells, reservoirs,  
35 tanks, standpipes, mains, pumps, pipes, machinery, fixtures,  
36 hydrants, meters, services, tools, equipment and appliances used  
37 or useful in supplying water for domestic, commercial, industrial  
38 and municipal purposes, in consideration of the assumption by the  
39 Yarmouth Water District of all of the outstanding debts,  
40 obligations and liabilities of the North Yarmouth Water District  
41 including, without limitation, the assumption of any outstanding  
42 notes or bonds of the North Yarmouth Water District that are due  
43 on or after the date of transfer.

44 **Sec. 7. Approval of Public Utilities Commission.** The sale and  
45 transfer by the North Yarmouth Water District to the Yarmouth  
46 Water District of its plants, properties, assets, franchises,  
rights and privileges and the assumption by the Yarmouth Water

2 District of all the outstanding debts, obligations and  
3 liabilities of the North Yarmouth Water District, under sections  
4 5 and 6; and the subsequent use of the plants, properties,  
5 assets, franchises, rights and privileges by the Yarmouth Water  
6 District within the limits of the Town of North Yarmouth are  
7 subject to the approval of the Public Utilities Commission as  
8 required by the Maine Revised Statutes, Title 35-A, Part 1.

9  
10 **Sec. 8. Contracts of North Yarmouth Water District assumed by**  
11 **Yarmouth Water District.** All contracts between the North Yarmouth  
12 Water District and any person, firm or corporation relating to  
13 supplying water that are in effect on the date of the transfer by  
14 the North Yarmouth Water District to the Yarmouth Water District  
15 are assumed and carried out by the Yarmouth Water District.

16 **Sec. 9. Dissolution and termination of North Yarmouth Water**  
17 **District; pledge of revenues.** If and when all debts, obligations and  
18 other liabilities of the North Yarmouth Water District have been  
19 paid in full and discharged or the holders or owners of all such  
20 debts, obligations and other liabilities which have not been paid  
21 in full and discharged have assented to the assumption thereof by  
22 the Yarmouth Water District and to the novation and substitution  
23 of the Yarmouth Water District as obligor in respect thereto in  
24 place of the North Yarmouth Water District, and when the transfer  
25 of property pursuant to section 6 is completed, the clerk of the  
26 North Yarmouth Water District shall file a certificate to that  
27 effect with the Secretary of State and the corporate existence of  
28 the North Yarmouth Water District terminates. Until the  
29 corporate existence of the North Yarmouth Water District is  
30 terminated under this section, the gross revenues derived by the  
31 Yarmouth Water District from the sale of water within the area  
32 comprising the former limits of the district must be applied  
33 first to the payment of expenses and 2nd to payments of debts,  
34 obligations and other liabilities of the North Yarmouth Water  
35 District assumed by the Yarmouth Water District under this Act.

36  
37 **Sec. 10. Acts void, unless property of North Yarmouth Water District**  
38 **is acquired.** If the plant, properties, assets, franchises, rights  
39 and privileges owned by the North Yarmouth Water District have  
40 not been acquired by the Yarmouth Water District pursuant to this  
41 Act prior to December 31, 1990, this Act becomes void on that  
42 date.

43  
44 **Sec. 11. Transition.** Trustees serving in the Yarmouth Water  
45 District on the effective date of this Act shall continue to  
46 serve for the remainder of the terms for which they were elected.

47  
48 **Sec. 12. Referendum; effective date.** This Act shall be  
submitted to the legal voters of the Town of North Yarmouth,

2 voting at a regular or special election called and held within 6  
3 months after passage of this Act. This election shall be called,  
4 advertised and conducted according to the law relating to  
5 municipal elections, except that the selectmen of each town are  
6 not required to prepare nor the town clerk of each town to post a  
7 new list of voters, and for the purpose of registration of voters  
8 the registrar in each town be in session the 3 secular days next  
9 preceding the elections, the first 2 days to be devoted to  
10 registration of voters and the last day to enable the registrars  
11 to verify the corrections of the lists and to complete and close  
12 their records of the sessions. The town clerk of North Yarmouth  
13 shall reduce the subject matter of this Act to the following  
14 question:

15 "Shall the North Yarmouth Water District be dissolved and  
16 the Yarmouth Water District acquire the assets and  
17 liabilities of the North Yarmouth Water District?"

18 This Act shall also be submitted to the Trustees of the  
19 Yarmouth Water District for a ratification vote at any trustees  
20 meeting.

21 This Act shall take effect for all purposes immediately upon  
22 its acceptance by the Trustees of the Yarmouth Water District and  
23 by a majority of the legal voters of North Yarmouth voting at the  
24 election.

25 The results of the election shall be declared by the  
26 municipal officers of the Town of North Yarmouth and due  
27 certificate thereof shall be filed by the town clerk with the  
28 Secretary of State.

29 **Sec. 13. Effective date.** Section 4 of this Act takes effect when  
30 the Secretary of State receives valid notice of dissolution and  
31 termination pursuant to section 9.

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

#### 40 STATEMENT OF FACT

41 This bill terminates the North Yarmouth Water District and  
42 allows the Yarmouth Water District to acquire the assets and  
43 liabilities of the North Yarmouth Water District upon voter  
44 approval by the Town of North Yarmouth and a ratification vote by  
45 the trustees of the Yarmouth Water District.