

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2322

S.P. 916

In Senate, February 16, 1990

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, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

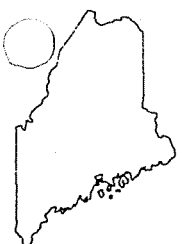
Presented by Senator PERKINS of Hancock.
Cosponsored by Representative FARREN of Cherryfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act Creating the Long Pond Water District.

(After Deadline)



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

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Sec. 1. Territorial limits; corporate name; purposes. The owners of real estate in that part of Hancock County composed of the area beginning at a point on the shore of Long Pond 1,500 feet south of the intake point on the transmission line; from this beginning point, moving in a northerly direction at a distance of 1,500 feet west of the transmission line to the northern shore of Flanders Bay; thence following this shoreline in a northerly and a northeasterly direction; thence southerly around Waukeag Neck to a point 90° due east of the intersection of Britton Point Road and Route 185; thence due west to a point 750 feet east of the transmission line; thence southerly at a distance of 750 feet from the transmission line to the shore of Long Pond and along the shore to the point of the beginning may form a quasi-municipal corporation under the name of "Long Pond Water District" for the purpose of supplying the members of the utility with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes. Membership is open to any owner of real estate in the area defined in this section. The utility is subject to the provisions of the Maine Revised Statutes, Title 35-A, sections 6101, 6102 and 6104 to 6107, and other applicable laws and commission rules.

Sec. 2. Powers of Long Pond Water District. The Long Pond Water District, for the purposes of its incorporation, may take, collect, store, flow, use, divert, distribute and convey to the district, or any part of the district, water from any source approved by the Department of Human Services, natural or artificial, within the area of the district and from any other source from which the Long Pond Water Company may take water. The company may also locate, construct and maintain aqueducts, pipes, conduits, dams, wells, reservoirs, standpipes, hydrants, pumping stations and other necessary structures and equipment therefor, and do anything necessary to furnish water for public purposes and for the public health, comfort and convenience of the inhabitants and others of the district, or to contract to do any and all of the foregoing things.

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

Sec. 3. Authorized to lay mains, pipes, conduits and other water conveyances through public ways and across private lands. The district may lay in and through the streets, roads, ways, highways and bridges in the district and across private lands in the district and maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures and appurtenances as may be necessary and convenient for its corporate purposes and, whenever the district lays any pipes, mains, conduits, aqueducts and fixtures or

2 appurtenances in any street, road, way or highway, the district
3 shall cause the same to be done with as little obstruction as
4 practicable to the public travel and, at its own expense, without
5 unnecessary delay, shall cause the earth and pavement removed by
6 the district to be replaced in proper condition.

8 **Sec. 4. Authorized to erect dams and reservoirs; to cross navigable
9 waters; to supply water to utilities.** The water district, for the
10 purposes of its incorporation, may erect and maintain all dams,
11 reservoirs and structures necessary and convenient for its
12 corporate purposes. The water district may lay, construct and
13 maintain its pipes and fixtures in, over and under navigable
14 waters and build and maintain structures therefor, subject to the
15 laws of the United States. The water district may supply water
16 to any public utility now supplying water in Hancock County,
subject to the consent of the Public Utilities Commission.

18 **Sec. 5. Rights of eminent domain.** The district, for the
19 purposes of its incorporation, may take and hold, as for public
20 uses, real estate and personal estate and any interest therein
21 necessary or convenient for those purposes, by purchase, lease or
22 otherwise and may exercise the right of eminent domain as
23 provided in this Act, to acquire for those purposes any land or
24 interest in land or water rights necessary for erecting and
25 maintaining dams, plants and works, for flowage, power, pumping,
26 supplying water through its mains; for reservoirs, preserving the
27 purity of the water and watershed; for laying and maintaining
28 aqueducts and other structures; for taking, distributing,
29 discharging and disposing of water; and for rights-of-way or
30 roadways to its sources of supply, dams, power stations,
31 reservoirs, mains, aqueducts, structures and lands.

32
33 This section may not be construed as authorizing the
34 district to take by right of eminent domain any of the property
35 or facilities of any other public utility used, or acquired for
36 future use, by the owner of that property or those facilities in
37 the performance of a public duty, unless expressly authorized to
38 do so by this section or by subsequent Act of the Legislature or
39 as provided in section 6.

40
41 **Sec. 6. Procedure if public utility must be crossed.** In case of
42 crossing of any public utility, unless consent is given by the
43 company owning and operating the public utility as to place,
44 manner and conditions of the crossing within 30 days after
45 consent is requested by the district, the Public Utilities
46 Commission, upon petition by the district, shall determine the
47 place, manner and conditions of the crossing, and all work on the
48 property of the public utility must be done under the supervision
49 and to the satisfaction of the public utility or as prescribed by
50 the Public Utilities Commission, but at the expense of the
district.

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

28 **Sec. 8. Adjustment of damages; procedures as in laying out of**
30 **highways.** If any person sustaining damages by any taking
32 pursuant to the right of eminent domain does not agree with the
34 district upon the sum to be paid therefor, either party, upon
36 petition to the county commissioners of Hancock County, may have
the damages assessed by them. The procedure and all subsequent
proceedings and right of appeal are under the same restrictions,
conditions and limitations as are or may be by law prescribed in
the case of damages by the laying out of highways.

38 **Sec. 9. Trustees; how elected; first board; meeting; officers.** All of
40 the affairs of the district must be managed by a board of
42 trustees composed of 5 members, 4 of whom are residents of
Sorrento and one of whom is a resident of Sullivan and, after
selection of the first board, elected as provided in the Maine
Revised Statutes, Title 35-A, chapter 63.

44 **1. First board.** Within 14 days after the acceptance of
46 this Act, the municipal officers of the Town of Sorrento and the
48 Town of Sullivan, who are especially appointed for this purpose,
shall give notice of a special election of the Long Pond Water
50 District, for the purpose of selecting the first board of
52 trustees, by posting a notice at least 30 days prior to the date
set for election. The notice must be published in one public and
conspicuous place in the Town of Sorrento and the Town of
Sullivan. The candidates for office shall obtain nomination

2 papers from the clerk of the Town of Sorrento and the Town of
3 Sullivan, who is appointed especially to act as clerk in this
4 particular instance. The form of the nomination papers and the
5 form of the ballot must be as provided in this Act. After the
6 selection of the first board, the only requirements for
7 eligibility for the office of trustee of the district are
8 residence within the district and eligibility to vote.

9
10 As soon as convenient after their appointment, the first
11 board of trustees shall hold a meeting at a convenient place in
12 the district, to be called by any member of the board in writing
13 designating the time and place, and the notice shall be delivered
14 in hand to the other 4 members not less than 2 full days before
15 the meeting; provided that the trustees elected may meet by
16 agreement without the notice and upon appropriate waiver. The
17 terms of office of the members of the first board of trustees are
18 established as follows: The 2 members receiving the greatest
19 number of votes shall serve for terms of 3 years; the 2 members
20 receiving the next highest numbers of votes shall serve for terms
21 of 2 years; and the 5th member shall serve for a term of one
22 year. In the event of a tie vote, the terms of office of the
23 members affected must be determined by lot. Thereafter, trustees
24 shall be elected to serve for 3-year terms.

25
26 **2. Organization; conduct of business.** Organization and
27 powers of the board of trustees are in accordance with Title
28 35-A, chapter 63.

29
30 All decisions of the board of trustees must be by a majority
31 of those present and voting. A quorum of the board of trustees
32 shall be 3 trustees.

33
34 Trustees' compensation is set in accordance with the Maine
35 Revised Statutes, Title 35-A, chapter 63.

36
37 **3. Bylaws.** The trustees may adopt and establish such
38 bylaws as are necessary for their own convenience and the proper
39 management of the affairs of the district.

40
41 **4. Vacancy.** Whenever the term of office of a trustee
42 expires, the trustee's successor shall be elected by a plurality
43 vote by the inhabitants of the district, and upon nomination made
44 as provided in this section for the election of trustees. For
45 the purpose of election, a special election must be called and
46 held on the annual municipal election in each year, the election
47 to be called by the trustees of the district in the same manner
48 as town meetings are called and for this purpose the trustees are
49 vested with the powers of selectmen of towns. The trustee so
50 elected shall serve the full term of 3 years. If any vacancy
51 arises in the membership of the board of trustees, the vacancy
52 must be filled in like manner for the unexpired term by a special
election to be called by the trustees of the district. When any

2 trustee ceases to be a resident of the district, the trustee
3 shall vacate the office of trustee and the vacancy must be filled
4 as provided in this section. All trustees shall be eligible for
5 reelection, but no person who is a member of the town council in
6 the Town of Sorrento or the Town of Sullivan may be eligible for
7 nomination or election as trustee.

8 The trustees may procure an office and incur such expenses
9 as may be necessary.

10 The trustees shall appoint registrars of voters for the
11 district, who may also be the registrars of voters for the Town
12 of Sorrento and the Town of Sullivan and fix the registrars'
13 salary. It is the registrars' duty to make and keep a complete
14 list of all the eligible voters of the district. The lists
15 prepared by the registrars, as provided by the laws of the State,
16 are used to determine the eligibility of any voter. In
17 determining the eligible voters of the district, the registrars
18 of voters shall exclude from those lists and from all checklists
19 the legal voters who are resident outside the territorial limits
20 of the water district as defined in this Act. All warrants
21 issued for elections by the trustees must be varied accordingly
22 to show that only the voters resident within the territorial
23 limits of the water district are entitled to vote.

24
25 **Sec. 10. Annual report.** The trustees shall make and publish
26 an annual report, including a report of the treasurer. The
27 report may be included in and published as part of the annual
28 town report of the Town of Sorrento and the Town of Sullivan.

29
30 **Sec. 11. District and towns authorized to make and assume
31 contracts.** The district, through its trustees, may contract with
32 persons and corporations, including the Town of Sorrento and the
33 Town of Sullivan and those towns may contract with the district
34 for the supply of water for municipal purposes.

35
36 **Sec. 12. Authorized to acquire property and franchises of Long Pond
37 Water Company.** This district, through its trustees, may acquire
38 by purchase the entire plant, properties, franchises, rights and
39 privileges owned by the Long Pond Water Company, including all
40 lands, waters, water rights, reservoirs, pipes, machinery,
41 fixtures, hydrants, tools and all apparatus and appliances used
42 or usable in supplying water in the area of the district. The
43 water district may acquire by the exercise of the right of
44 eminent domain, which right is expressly delegated to the
45 district for that purpose, the entire plant, properties,
46 franchises, rights and privileges, except cash assets and
47 accounts receivable owned by the Long Pond Water Company,
48 including all lands, waters, water rights, dam structures,
49 reservoirs, pipes, machinery, fixtures, hydrants, tools and all
50 apparatus and appliances used or usable in supplying water in the
51 area of the district, and if and when so acquired, the district,

2 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 Long Pond Water Company.

4
6 In exercising the right of eminent domain under this Act,
the trustees shall file with the district clerk a condemnation
8 order that includes a detailed description of the property
interests to be taken, the name or names of the owner or owners
of record so far as they can be reasonably determined and the
10 amount of damages determined by the trustees to be just
compensation for the property or interest therein taken. The
12 trustees shall then serve upon the owner or owners of record a
copy of the condemnation order and a check in the amount of the
14 damages awarded and record a certified copy of the condemnation
order in the Hancock County Registry of Deeds. In the event of
16 multiple ownership, the check may be served on any one of the
owners. This title must pass to the district upon service of the
18 order of condemnation and check or upon recordation in accordance
with this Act, whichever occurs first. Acceptance and
20 negotiation of the check may not bar an appeal under this Act.

22 Any person aggrieved by the determination of the damages
awarded to owners of property or interests therein under this Act
24 may, within 60 days after service of the condemnation order and
check, appeal to the Superior Court, Hancock County. The court
26 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
28 referees and shall render judgment for just compensation, with
interest when such is due, and for costs in favor of the party
30 entitled to damages. Appeal from the decision of the Superior
Court may be made to the Law Court, as in other civil actions.

32
34 **Sec. 13. Authorized to receive government aid; borrow money; issue
bonds and notes.** For accomplishing the purposes of this Act and
for such other expenses as may be necessary for the carrying out
36 of these purposes, the district, through its trustees, without
vote of the inhabitants, may receive state and federal aid
38 grants, borrow money temporarily and issue therefor its
negotiable notes for the purpose of renewing and refunding the
40 indebtedness so created, for paying any necessary expenses and
liabilities incurred under this Act, including organizational and
42 other necessary expenses and liabilities, whether incurred by the
district or the Town of Sorrento and the Town of Sullivan, the
44 district being authorized to reimburse those towns for any such
expense incurred by the town and in acquiring properties, paying
46 damages, laying pipes, mains, aqueducts and conduits,
constructing, maintaining and operating a water plant or system
48 and making renewals, additions, extensions and improvements to
the water plant or system and to cover interest payments during
50 the period of construction. The district, through its trustees,
without the vote of its inhabitants, may also issue, from time to

2 time, in accordance with the Maine Revised Statutes, Title 35-A,
chapter 63, bonds, notes or other evidence of indebtedness of the
4 district in such amount or amounts bearing interest at such rate
or rates, selling at par or at a discount or a premium and having
6 such other terms and provisions as the trustees shall determine,
except that loans running for one year or less will not require
the approval of the Public Utilities Commission.

8
10 The bonds, notes and evidences of indebtedness may be issued
to mature serially or made to run for such periods as the
12 trustees may determine. Bonds, notes or evidences of
indebtedness may be issued with or without provisions for calling
14 the bonds, notes or evidences of indebtedness prior to maturity,
and if callable, may be made callable at par or at such premium
16 as the trustees may determine. All bonds, notes or other
evidences of indebtedness must have inscribed upon their face the
18 words "Long Pond Water District," must be signed by the treasurer
and countersigned by the president of the board of trustees of
20 the district, and if coupon bonds are issued, the interest coupon
attached to the coupon bonds must bear the facsimile signature of
the treasurer.

22
24 All bonds, notes and evidences of indebtedness so issued by
the district must be legal obligations of the district, which is
26 declared to be a quasi-municipal corporation within the meaning
of the Maine Revised Statutes, Title 30-A, chapter 223,
subchapter III and all provisions of that section are applicable
28 to the district.

30 The district may refund and reissue, from time to time, in
one or in separate series, its bonds, notes and other evidences
32 of indebtedness, and each authorized issue constitutes a separate
loan. All bonds, notes and evidences of indebtedness issued by
34 the district are legal investments for savings banks in the State
and are free from taxation.

36
38 **Sec. 14. Rates.** The rates established pursuant to this
section must be sufficient to provide revenue for the purposes of
40 this Act and for all other purposes of the district, without the
need for any financial assistance from the Town of Sorrento and
42 the Town of Sullivan, other than the normal payment of water
charges for services rendered and the loan or loans for initial
44 funds as set forth in section 13. Individuals, firms and
corporations, whether private, public or municipal, shall pay to
46 the treasurer, or other designated officer, of the district the
rates established by the board of trustees for the water used by
48 them. The rates must be established in accordance with the Maine
Revised Statutes, Title 35-A, chapter 61.

50 **Sec. 15. Existing laws not affected; rights conferred subject to
provisions of law.** Nothing contained in this Act is intended to

2 repeal, or may be construed as repealing, the whole or any part
4 of any existing law, and all the rights and duties mentioned in
6 this Act must 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.

8 **Sec. 16. Separability clause.** If any section or part of a
10 section of this Act is held invalid by a court of competent
12 jurisdiction, the holding may not affect the remainder of this
14 Act, it being the intention that the remaining portions of this
Act stands, notwithstanding the unconstitutionality or invalidity
of any section, sentence, clause or phrase.

16 **Sec. 17. Acceptance subject to referendum.** This Act must be
18 submitted to the legal voters within the district at an election
20 to be called for that purpose and held by December 31, 1991. The
22 election must be called, advertised and conducted according to
24 the law relating to municipal elections, provided that the
26 registrar of voters in each town are not required to prepare or
the clerk in each town to post a new list of voters and, for this
purpose, each registrar 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:

28 "Shall the Long Pond Water District be created?"

30 The voters shall indicate by a cross (x) or check mark ()
32 placed against the words "Yes" or "No" their opinion of the same.

34 The results must be declared by the municipal officers of
36 the Town of Sorrento and the Town of Sullivan and the due
certificate of the results filed by the clerk with the Secretary
of State.

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

46
48 **STATEMENT OF FACT**

50 This bill creates the Long Pond Water District.