

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2374

S.P. 939

In Senate, March 1, 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.

Handwritten signature of Joy J. O'Brien in cursive.

JOY J. O'BRIEN
Secretary of the Senate

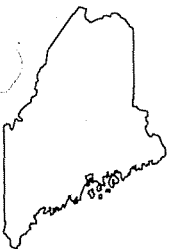
Presented by Senator RANDALL of Washington.
Cosponsored by Representative LOOK of Jonesboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Create the Columbia Falls Water District.

(EMERGENCY)
(AFTER DEADLINE)



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 Town of Columbia Falls wishes to establish a
6 water district and purchase the assets of the Allen Water
Company; and

8 Whereas, the Town of Columbia Falls must act immediately to
10 purchase the Allen Water Company; and

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

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

20 **Sec. 1. Territorial limits; corporate name; purposes.** The owners
of real estate in that part of Washington County composed of the
22 area beginning at a point 2,500 feet south of the intersection of
Main Street and Point Street; thence westerly 250 feet; thence
24 northerly to the center line of Main Street; thence northeasterly
along the center line of Main Street to the brook; thence
26 northerly along the brook to Pleasant River; thence following the
Pleasant River to a point due east of the point of beginning;
28 thence due west to the point of beginning, may form a
quasi-municipal corporation under the name of "Columbia Falls
30 Water District" for the purpose of supplying the members of the
utility with pure water for domestic, sanitary, commercial,
32 industrial, agricultural and municipal purposes. Membership is
open to any owner of real estate in the area defined in this
34 section. The utility is subject to the provisions of the Maine
Revised Statutes, Title 35-A, sections 6101, 6102, 6104 to 6107,
36 and other applicable laws and commission rules.

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

2 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.

4
6 **Sec. 3. Authorized to lay mains, pipes, conduits and other water
conveyances through public ways and across private lands.** The district
8 may lay in and through the streets, roads, ways, highways and
bridges in the Town of Columbia Falls and across private lands in
10 the Town of Columbia Falls and maintain, repair and replace, all
such pipes, mains, conduits, aqueducts and fixtures and
12 appurtenances necessary and convenient for its corporate purposes
and, whenever the district lays any pipes, mains, conduits,
14 aqueducts and fixtures or appurtenances in any street, road, way
or highway, it shall cause the same to be done with as little
16 obstruction as practicable to the public travel and, at its own
expense, without unnecessary delay, shall cause the earth and
18 pavement removed by it to be replaced in proper condition.

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

32 **Sec. 5. Rights of eminent domain.** The district, for the
purposes of its incorporation, may take and hold, for public
34 uses, real estate and personal estate and any interest therein
necessary or convenient for those purposes, by purchase, lease or
36 otherwise and may exercise the right of eminent domain as
provided in this Act, to acquire for those purposes any land or
interest in land or water rights necessary for erecting and
38 maintaining dams, plants and works: for flowage, power, pumping,
supplying water through its mains; for reservoirs, preserving the
40 purity of the water and watershed; for laying and maintaining
aqueducts and other structures; for taking, distributing,
42 discharging and disposing of water; and for rights-of-way or
roadways to its sources of supply, dams, power stations,
44 reservoirs, mains, aqueducts, structures and lands.

46 Nothing contained in this section may be construed as
authorizing the district to take by right of eminent domain any
48 of the property or facilities of any other public utility used,
or acquired for future use, by the owner of that property or
50 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 7.

Sec. 6. Crossing of public utility. When crossing any public utility, unless consent is given by the company owning and operating the public utility as to place, manner and conditions of the crossing within 30 days after consent is requested by the district, the Public Utilities Commission, upon petition by the district, shall determine the place, manner and conditions of the crossing. All work on the property of the public utility must be done under the supervision and to the satisfaction of the public utility or as prescribed by the Public Utilities Commission, but at the expense of the district.

Sec. 7. Exercising of eminent domain. After the original acquisition for which provision is made in section 12, the district, in exercising from time to time any right of eminent domain in the taking of land, interests in that land or water rights, shall file in the office of the county commissioners of Washington County and record in the Washington County Registry of Deeds plans of the location of all property to be taken, with an appropriate description and the names of the owners, if known. Notice of the filing must be sent by mail to the owners at the address appearing on the tax records of the municipality in which the land is located. When for any reason the district fails to acquire the property that it is authorized to take and that is described in that location, or if the location recorded is defective or uncertain, the district may, at any time, correct and perfect that location and file a new description. In such case the district is liable for damages only for property for which the owner had not previously been paid, assessed as of the time of the original taking, and the district is not liable for any acts that would have been justified if the original taking had been lawful. Entry may not 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 in those lands or water rights so taken, but title does not vest in the district until payment is made.

Sec. 8. Adjustment of damages; laying out of highways. If any person sustaining damages by any taking pursuant to the right of eminent domain does not agree with the district on the sum to be paid, either party, on petition to the county commissioners of Washington County, may have the damages assessed by them. The procedure and all subsequent proceedings and right of appeal are had 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.

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

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

24 As soon as convenient after its appointment, the first board
26 of trustees shall hold a meeting at a convenient place in the
28 district, called by any member of the board in writing,
30 designating the time and place, and the notice must be delivered
32 in hand to the other 2 members not less than 2 full days before
34 the meeting, except that the trustees elected may meet by
36 agreement without the notice and upon appropriate waiver. The
38 terms of office of the members of the first board of trustees are
established as follows: The member receiving the greatest number
of votes serves for a term of 3 years; the member receiving the
next highest number of votes serves for a term of 2 years; and
the 3rd member serves for a term of one year. In the event of a
tie vote, the terms of office of the members affected are
determined by lot. Thereafter, trustees are elected to serve for
3-year terms.

40 **2. Organization; conduct of business.** Organization and
42 powers of the board of trustees must be in accordance with the
Maine Revised Statutes, Title 35-A, chapter 63.

44 All decisions of the board of trustees are by a majority of
46 those present and voting. A quorum of the board of trustees is 2
trustees.

48 Trustees are entitled to compensation in accordance with the
50 Maine Revised Statutes, Title 35-A, chapter 63.

52 **3. Bylaws.** The trustees may adopt and establish bylaws
54 necessary for the proper management of the affairs of the
district.

2 **4. Vacancy.** Whenever the term of office of a trustee
4 expires, the trustee's successor shall be elected by a plurality
6 vote by the inhabitants of the district and upon nomination made
8 as provided in this section for the election of trustees. For
10 the purpose of election, a special election is called and held on
12 the same date as the annual municipal election. The election is
14 called by the trustees of the district in the same manner as town
16 meetings are called and for this purpose the trustees are vested
18 with the powers of selectmen of towns. The trustee so elected
serves the full term of 3 years. If any vacancy arises in the
membership of the board of trustees, it is filled in like manner
for the unexpired term by a special election called by the
trustees of the district. When any trustee ceases to be a
resident of the district, the trustee shall vacate the office of
trustee and the vacancy is filled as provided in this section.
All trustees are eligible for reelection, but a person who is a
member of the town council in the Town of Columbia Falls is not
eligible for nomination or election as trustee.

20 The trustees may procure an office and incur any expenses
22 necessary.

24 The trustees shall appoint a registrar of voters for the
26 district, who may also be the registrar of voters for the Town of
28 Columbia Falls, and fix the registrar's salary. The registrar
30 shall make and keep a complete list of all the eligible voters of
32 the district. The list prepared by the registrar, as provided by
34 the laws of the State, governs the eligibility of any voter. In
determining the eligible voters of the district, the registrar of
voters shall exclude from those lists and from all checklists the
legal voters who are resident outside the territorial limits of
the water district as defined in this Act. All warrants issued
for elections by the trustees must be varied accordingly to show
that only the voters resident within the territorial limits of
the water district are entitled to vote.

36 **Sec. 10. Annual report.** The trustees shall make and publish
38 an annual report, including a report of the treasurer. The
40 report may be included in and published as part of the annual
town report of the Town of Columbia Falls.

42 **Sec. 11. District and towns authorized to make and assume**
44 **contracts.** The district, through its trustees, may contract with
46 persons and corporations, including the Town of Columbia Falls,
and the Town of Columbia Falls may contract with the district for
the supply of water for municipal purposes.

48 **Sec. 12. Authorized to acquire property and franchises of Allen**
50 **Water Company.** The district, through its trustees, may acquire
by purchase the entire plant, properties, franchises, rights and
privileges owned

2 by the Allen Water Company, located within the Town of Columbia
3 Falls, including all lands, waters, water rights, reservoirs,
4 pipes, machinery, fixtures, hydrants, tools and all apparatus and
5 appliances used or usable in supplying water in the area of the
6 district. The district may acquire by the exercise of the right
7 of eminent domain, a right expressly delegated to the district
8 for that purpose, the entire plant, properties, franchises,
9 rights and privileges, except cash assets and accounts
10 receivable, owned by the Allen Water Company, including all
11 lands, waters, water rights, dam structures, reservoirs, pipes,
12 machinery, fixtures, hydrants, tools and all apparatus and
13 appliances used or usable in supplying water in the area of the
14 district, and if and when so acquired, the district, in addition
15 to the powers conferred by this Act, is entitled to exercise all
16 rights, privileges and franchises of the Allen Water Company.

17 In exercising the right of eminent domain under this Act,
18 the trustees shall file with the district clerk a condemnation
19 order that includes a detailed description of the property
20 interests to be taken, the name or names of the owner or owners
21 of record as far as can be reasonably determined and the amount
22 of damages determined by the trustees to be just compensation for
23 the property or interest taken. The trustees shall then serve on
24 the owner or owners of record a copy of the condemnation order
25 and a check in the amount of the damages awarded and record a
26 certified copy of the condemnation order in the Washington County
27 Registry of Deeds. In the event of multiple ownership, the check
28 may be served on any one of the owners. The title passes to the
29 district upon service of the order of condemnation and check, or
30 upon recordation in accordance with this Act, whichever occurs
31 first. Acceptance and negotiation of the check do not bar an
32 appeal under this Act.

33 Any person aggrieved by the determination of the damages
34 awarded to owners of property or interests under this Act may,
35 within 60 days after service of the condemnation order and check,
36 appeal to the Superior Court of Washington County. The court
37 shall determine damages by a verdict of its jury or, if all
38 parties agree, by the court without a jury or by a referee or
39 referees, and shall render judgment for just compensation, with
40 interest when due, and for costs in favor of the party entitled
41 to just compensation. Appeal from the decision of the Superior
42 Court may be had to the Law Court, as in other civil actions.
43

44
45 **Sec. 13. Authorized to receive government aid; borrow money; issue**
46 **bonds and notes.** For accomplishing the purposes of this Act and
47 for any other expenses necessary to carry out these purposes, the
48 district, through its trustees, without vote of the inhabitants,
49 may receive state and federal aid grants, borrow money
50 temporarily and issue negotiable notes for renewing and refunding
51 the indebtedness so created, for paying any necessary expenses
52 and liabilities incurred under this Act, including

2 organizational and other necessary expenses and liabilities,
3 whether incurred by the district or the Town of Columbia Falls,
4 the district being authorized to reimburse the Town of Columbia
5 Falls for any expense incurred by the town, and for acquiring
6 properties, paying damages, laying pipes, mains, aqueducts and
7 conduits, constructing, maintaining and operating a water plant
8 or system and making renewals, additions, extensions and
9 improvements to the water plant or system and for covering
10 interest payments during the period of construction. The
11 district, through its trustees, without the vote of its
12 inhabitants, may also issue, from time to time, in accordance
13 with the Maine Revised Statutes, Title 35-A, chapter 63, bonds,
14 notes or other evidences of indebtedness of the district, in an
15 amount or amounts bearing interest at a rate or rates, selling at
16 par or at a discount or a premium and having such other terms and
17 provisions as the trustees determine, except that loans running
18 for one year or less do not require the Public Utilities
19 Commission's approval.

20 The bonds, notes and evidences of indebtedness may be issued
21 to mature serially or made to run for such periods as the
22 trustees determine. Bonds, notes or evidences of indebtedness
23 may be issued with or without provisions for calling the bonds,
24 notes or evidences of indebtedness prior to maturity and, if
25 callable, may be made callable at par or at any premium the
26 trustees determine. All bonds, notes or other evidences of
27 indebtedness must have inscribed on their face the words
28 "Columbia Falls Water District," and be signed by the treasurer
29 and countersigned by the president of the board of trustees of
30 the district. If coupon bonds are issued, the interest coupon
31 attached to the coupon bonds must bear the facsimile signature of
32 the treasurer.

34 All bonds, notes and evidences of indebtedness so issued by
35 the district, which is declared to be a quasi-municipal
36 corporation, are legal obligations of the district within the
37 meaning of the Maine Revised Statutes, Title 30-A, section 5701,
38 and all provisions of that section are applicable to the district.

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

46 **Sec. 14. Rates.** The rates established pursuant to this
47 section must be sufficient to provide revenue for the purposes of
48 this Act and for all other purposes of the district, without the
49 need for any financial assistance from the Town of Columbia
50 Falls, other than the normal payment of water charges for
51 services rendered and the loan or loans for initial funds as set
52

2 forth in section 13. Individuals, firms and corporations,
3 whether private, public or municipal, shall pay to the treasurer
4 or other designated officer of the district the rates established
5 by the board of trustees for the water used by them. The rates
6 must be established in accordance with the Maine Revised
7 Statutes, Title 35-A, chapter 61, to provide for the purposes set
8 forth in that chapter.

9
10 **Sec. 15. Existing laws not affected; rights conferred subject to**
11 **provisions of law.** Nothing contained in this Act is intended to
12 repeal, or may be construed as repealing, the whole or any part
13 of any existing law, and all the rights and duties mentioned in
14 this Act must be exercised and performed in accordance with all
15 the applicable provisions and amendatory Acts of the Maine
16 Revised Statutes, Title 35-A to the extent that this Title and
17 its amendments affect the operations of the district.

18 **Sec. 16. Separability clause.** If any section or part of a
19 section of this Act is held invalid by a court of competent
20 jurisdiction, the holding does not affect the remainder of this
21 Act, as it is the intention that the remaining portions of this
22 Act stand, notwithstanding the unconstitutionality or invalidity
23 of any section, sentence, clause or phrase.

24 **Sec. 17. Acceptance subject to referendum.** This Act must be
25 submitted to the legal voters within the district at an election
26 called for that purpose and held by December 31, 1991. The
27 election must be called, advertised and conducted according to
28 the law relating to municipal elections, provided that the
29 registrar of voters is not required to prepare or the clerk to
30 post a new list of voters and, for this purpose, the registrar of
31 voters shall be in session the 3 secular days preceding the
32 election, of which the first 2 days must be devoted to
33 registration of the voters and the last day to verification of
34 the lists and completion of the records of these sessions by the
35 registrar. The subject matter of this Act is reduced to the
36 following question:

37
38 "Shall the Columbia Falls Water District be created?"

39
40 The voters shall indicate by a cross [x] or check mark [✓]
41 placed against the words "Yes" or "No" their opinion of the same.

42
43 The municipal officers of the Town of Columbia Falls shall
44 declare the results and the clerk shall file the due certificate
45 of the results with the Secretary of State.

46
47 This Act takes effect immediately upon its acceptance by a
48 majority of the legal voters within the district voting at the
49 special election. Failure of the approval by the necessary
50 majority of voters at any such election does not prevent the
51 holding of a subsequent election or elections for that purpose.
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Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

STATEMENT OF FACT

This bill creates the Columbia Falls Water District.