

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1224

H.P. 858

House of Representatives, March 21, 1991

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 TOWNSEND of Eastport.
Cosponsored by Senator VOSE of Washington.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Amend the Charter of the Lubec Water and Electric District.

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

2
4 Sec. 1. P&SL 1951, c. 92, §§1 to 5 are amended to read:

6 Sec. 1. Territorial limits, corporate name, powers and
8 purposes. The inhabitants and territory within the town Town of
10 Lubec, in the county County of Washington (hereinafter referred
12 to as Lubec), shall be and hereby are constituted a body politic
14 and corporate under the name of Lubec Water and Electric District
16 (hereinafter referred to as district), with the purpose, right
18 and power to take and use water for domestic, commercial,
20 sanitary and municipal purposes including extinguishment of fire,
22 ~~and to make, buy, generate, sell and distribute electricity;~~ and,
24 also, so far as applicable to said these purposes, with the
26 rights and powers conferred upon said Lubec by section 1 of
28 chapter 489 of the private and special laws of 1901, ~~as amended~~
30 ~~by section 1 of chapter 47 of the private and special laws of~~
32 ~~1919, and by section 1 of chapter 91 of the private and special~~
34 ~~laws of the special session of 1933.~~

36 Sec. 2. Title of utility properties of Lubec to vest in
38 district. ~~At the time this act takes effect, the~~ The title of
40 Lubec to the entire plant, lands, property and franchises, rights
42 and privileges, including all rents, water rights, dams,
44 reservoirs, pipes, machinery, fixtures, hydrants, tools,
46 apparatus and appliances used in connection with its water
48 business, ~~and also the property, franchises, property rights,~~
50 ~~privileges and assets, including land, poles, wiring, fixtures,~~
52 ~~machinery, apparatus and appliances used or capable of being used~~
 in connection with maintaining its electrical business, together
 with all unexpended funds credited to said the water and electric
 department and all bills receivable for water and electric
 services, shall become remain the property of and vest in said
 the district in. In consideration of the said the district
 assuming all of the prior obligations of Lubec in connection with
 said the water and electric business and of said, the district
 paying shall pay the Town of Lubec ~~for a term of 99 years~~ the sum
 of \$10,000 annually in quarterly payments of \$2,500 each, each
 year until and including the year 2051.

42 Sec. 3. Powers of district. Said The district is hereby
44 authorized, in addition to all the powers and rights conferred
46 under section 1 hereof, to take, collect, store, flow, use,
48 detain, distribute and convey to the town Town of Lubec or any
50 part thereof water from any lake, pond, stream, or river or from
52 any surface or underground brook, spring or vein of water in said
 town the Town of Lubec and in the town Town of Trescott and from
 the Orange river River in Whiting, and is also authorized to
 locate, construct and maintain aqueducts, pipes, conduits,
 standpipes, hydrants, pumping stations and other necessary
 structures and equipment therefor; and ~~erect poles and lines and~~
 do all things necessary to furnish water, ~~light and power~~ for

2 public purposes and for public health, comfort and convenience of
the inhabitants of said the district, ~~and to supply electric~~
4 ~~light and power to the inhabitants of the town of Lubec and to~~
~~the town of Treseott and that part of Whiting known as Whiting~~
6 Village.

8 **Sec. 4. Right of eminent domain conferred.** The said
district, for the purposes of its incorporation, is hereby
10 authorized to take and hold, as for public uses, by purchase,
eminent domain, or otherwise, any land or interest therein, or
12 water rights necessary for pumping its water supply through its
mains, for reservoirs, for preserving the purity of the water and
14 watershed, for laying and maintaining aqueducts and other
structures, for taking, distributing and disposing of water and
for rights of way and roadways to its sources of supply, power
16 stations, reservoirs, mains aqueducts, structures and lands, also
all things necessary for supplying water as aforesaid, ~~and for~~
18 ~~supplying electric lighting and power.~~ Provided, however,
nothing herein contained shall may be construed as authorizing
20 said the district to take by right of eminent domain any of the
property or facilities of any other public service corporation or
22 district used or required for future use by the owner thereof in
performance of a public duty, unless expressly authorized herein
24 or by subsequent act of the legislature Legislature.

26 **Sec. 5. Authorized to lay mains, pipes, conduits, etc.,**
through and upon public ways and across private lands. The said
28 district is hereby authorized to lay in and through and to erect
upon the streets, roads, ways and highways of the town Town of
30 Lubec and other towns served by it and across private lands
therein, and to maintain, repair and replace all such pipes,
32 mains, conduits, aqueducts, ~~poles and wires,~~ and fixtures as may
be necessary and convenient for its corporate purposes, and
34 whenever said the district shall lay any pipes, aqueducts, or
conduits ~~or erect pole lines~~ in any street, roadway or highway,
36 it shall cause the same to be done with as little obstruction as
practicable to the public travel, and shall at its own expense,
38 without unnecessary delay, cause the earth and pavement removed
by it to be replaced in proper condition.

40 **Sec. 2. P&SL 1951, c. 92, §6, first sentence is amended to read:**

42 ~~After the original acquisition for which provision is made in~~
44 ~~section 2 of this act, the said The district in exercising, from~~
time to time, any right of eminent domain conferred upon it by
46 law or through or under the franchise of Lubec acquired by the
district shall file written application with the ~~public utilities~~
48 ~~commission~~ Public Utilities Commission requesting its approval of
the proposed taking.

50 **Sec. 3. P&SL 1951, c. 92, §§9 and 10 are amended to read:**

2 **Sec. 9. Board of trustees.** All of the affairs of said the
3 district shall must be managed by a board of trustees composed of
4 3 members who shall must be bona fide residents of the town Town
5 of Lubec; provided, however, that none of the members of the
6 Lubec board of selectmen or holders of other town office shall be
7 are eligible for such office as trustee, and whenever said a
8 trustee becomes a member of said the board of selectmen or is
9 elected or appointed to and accepts other town office, he shall
10 the trustee automatically cease ceases to be such a trustee. The
11 1st present board of trustees shall ~~be the commissioners new in~~
12 ~~office, who shall~~ hold office as such trustees for the terms for
13 which they were elected, and as their terms expire ± one trustee
14 shall must be elected by ballot at the annual town meeting of
15 Lubec ~~in the month of March~~ to serve for a term of 3 years. As
16 ~~seen as this act takes effect, said~~ The trustees (~~being the~~
17 ~~former water commissioners of Lubec~~) shall hold a ~~meeting~~
18 meetings in the town Town of Lubec and may organize by the
19 election of a president and a clerk, adopt a corporate seal and
20 choose a treasurer, and when necessary all other needful officers
21 and agents, including a general manager, who with the treasurer,
22 shall serve at their pleasure and whose compensation shall be is
23 fixed by such trustees. The said trustees shall receive such
24 compensation for their services as may be fixed by said Lubec at
25 a town meeting at which a trustee is elected, ~~provided, however,~~
26 ~~until so fixed they shall receive such compensation as is now~~
27 ~~paid the water commissioners of Lubec.~~ Whenever a vacancy occurs
28 in the office of president, clerk, general manager or treasurer,
29 it shall must be filled promptly by said the board of trustees.
30 If a vacancy occurs in said the board of trustees, said the
31 vacancy may be temporarily filled by the remaining trustees until
32 the next March regular meeting of the town Town of Lubec, at
33 which said meeting a trustee shall must be elected for the
34 regular term and one to fill out the term occasioned by said the
35 vacancy. Whenever any trustee ceases to be a resident of the
36 town Town of Lubec, he the trustee vacates the office of
37 trustee. Said The trustees may also ordain and establish such
38 ~~by-laws~~ bylaws as are necessary for their own convenience and the
39 proper management of the affairs of the district, and may procure
40 an office and incur such expenses as may be necessary. The
41 treasurer and general manager shall furnish bond in such form and
42 with such sureties as the trustees may approve.

44 **Sec. 10. Valid contracts of present companies to be assumed**
45 **by district.** All valid contracts now existing between Lubec the
46 district and any persons or corporations for supplying water,
47 ~~light and power,~~ in the town Town of Lubec or elsewhere shall
48 must be assumed and carried out by said the district.

50 **Sec. 4. P&SL 1951, c. 92, §14, sub-§I is amended to read:**

2 I. To pay the current expenses for operating and
maintaining the water, ~~light and power~~ system.

4 Sec. 5. P&SL 1951, c. 92, §14, sub-§V is enacted to read:

6 V. Notwithstanding any other provisions in this section,
8 the district is authorized to hold all money received from
10 the sale of the former electric district and to continue to
12 use these funds or any part of these funds as the trustees
14 determine advisable, for the extension or improvement of
16 water service or as a means of delaying increases in rates
18 for water service. The fund must be separately accounted
for and its application must be overseen by the Public
Utilities Commission. The district may, with consent of the
Public Utilities Commission, set aside some portion as a
reserve with which to make the annual payment to the Town of
Lubec required by Section 2 of this Charter.

20 Sec. 6. P&SL 1951, c. 92, §16 is repealed and the following
enacted in its place:

22 Sec. 16. Local referendum for Town of Lubec; meeting, how
24 called; form of ballot; certificate to Secretary of State. This
26 Act takes effect for all purposes when approved by a majority of
28 the legal voters of the Town of Lubec present and voting for or
30 against the acceptance of the revision to the charter at the next
32 annual town meeting after this Act becomes a law, but if and only
34 if the total number of votes cast for and against the acceptance
36 of this Act in that election equals or exceeds 20% of the total
38 vote for all candidates for Governor cast in Lubec at the
40 previous gubernatorial election. The election must be called,
42 advertised and conducted according to law relating to municipal
elections, provided, however, that the board of registration in
the Town of Lubec is not required to prepare for posting nor the
town clerk to post a new list of voters and, for the purpose of
registration of voters, the board shall be in session the 3
secular days preceding such election, the first 2 days thereof to
be devoted to registration of voters and the last day to enable
the board to verify the corrections of the lists and to complete
and close up their records of those sessions. The town clerk
shall reduce the subject of this Act to the following question:

44 "Shall the Lubec Water and Electric District Charter be
amended to delete references to electric service?"

46 The voters shall indicate by a cross or a check mark placed
48 against the words "Yes" or "No" their opinion of the same. A
50 check list must be used at the election. The result shall be
declared by the municipal officers and due certificate thereof
filed with the Secretary of State by the clerk of the town.

52

STATEMENT OF FACT

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4 This bill amends the Charter of the Lubec Water and Electric
6 District to take into account the sale of the district's electric
 business on August 1, 1990. The bill is subject to approval of
 the voters at referendum.