

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

Legislative Document

No. 1900

H.P. 1314

House of Representatives, May 22, 1991

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.

EDWIN H. PERT, Clerk

Presented by Representative TARDY of Palmyra.  
Cosponsored by Senator EMERSON of Penobscot.

STATE OF MAINE

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

An Act to Create the Plymouth Water District.

(AFTER DEADLINE)

(EMERGENCY)



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

4  
Whereas, wells in the Plymouth area have become contaminated  
6 with hazardous waste and pose a serious threat to the health and  
well-being of residents of that area; and

8  
Whereas, an adequate supply of pure water is essential to  
10 the health and well-being of the inhabitants of Plymouth; and

12  
Whereas, it is desirable that a public district be formed in  
Plymouth to supply water to the people of the area; and

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

20  
Be it enacted by the People of the State of Maine as follows:

22  
**Sec. 1. Territorial limits; corporate name; purposes.** Subject to  
24 section 16, the inhabitants and territory of that part of the  
Town of Plymouth in Penobscot County comprised of the area  
26 starting at the most southerly point of the Plymouth Pond  
Causeway, Route 7, proceeding due south to the Dixmont/Plymouth  
28 town line; thence easterly along the Dixmont/Plymouth town line  
to the western shore of Martin Stream; thence northwesterly along  
30 the western shore to the intersection of Martin Stream and the  
Etna town line; thence west and north along the Etna town line to  
32 the intersection of the town line and the southern shore of  
Plymouth Pond; thence westerly and northerly along the southern  
34 shore to the point of beginning constitute a quasi-municipal  
corporation under the name of "Plymouth Water District" for the  
36 purpose of supplying the town and the inhabitants and others of  
the district with pure water for domestic, sanitary, commercial,  
38 industrial, agricultural and municipal purposes.

40  
**Sec. 2. Powers of Plymouth Water District.** The Plymouth Water  
District, for the purposes of its incorporation, may take,  
42 collect, store, flow, use, divert, distribute and convey to the  
district, or any part of the district, water from any source  
44 approved by the Department of Human Services, natural or  
artificial, within the area of the Town of Plymouth or any  
46 adjacent town in Penobscot County, if the approval of that  
adjacent town where water may be taken is given at a special town  
48 meeting held for the purpose of approving the taking of that  
water. It may also locate, construct and maintain aqueducts,  
50 pipes, conduits, dams, wells, reservoirs, standpipes, hydrants,  
pumping stations and other necessary structures and equipment  
52 therefor, and do anything necessary to furnish water for public

2 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.

4  
6 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.

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

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

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

48  
50 This section may not be construed as authorizing the  
district to take by right of eminent domain any  
of the property or facilities of any other public utility used,

1 or acquired for future use, by the owner of that property or  
2 those facilities in the performance of a public duty, unless  
3 expressly authorized to do so by this section or by subsequent  
4 act of the Legislature or as provided in section 6.

6 **Sec. 6. Procedure if public utility must be crossed.** In case of  
7 crossing of any public utility, unless consent is given by the  
8 company owning and operating the public utility as to place,  
9 manner and conditions of the crossing within 30 days after  
10 consent is requested by the district, the Public Utilities  
11 Commission, upon petition by the district, shall determine the  
12 place, manner and conditions of the crossing, and all work on the  
13 property of the public utility must be done under the supervision  
14 and to the satisfaction of the public utility or as prescribed by  
15 the Public Utilities Commission, but at the expense of the  
16 district.

18 **Sec. 7. Procedure in exercising of eminent domain.** The district,  
19 in exercising, from time to time, any right of eminent domain in  
20 the taking of land, interests in the land or water rights, shall  
21 file in the office of the county commissioners of Penobscot  
22 County and record in the Penobscot County Registry of Deeds plans  
23 of the location of all such property to be taken, with an  
24 appropriate description and the names of the owners, if known.  
25 Notice of the filing must be sent by mail to the owners at the  
26 address appearing on the tax records of the municipality in which  
27 the land is located. When for any reason the district fails to  
28 acquire the property it is authorized to take, and which is  
29 described in that location, or if the location recorded is  
30 defective or uncertain, it may, at any time, correct and perfect  
31 that location and file a new description, and in such case the  
32 district is liable for damages only for property for which the  
33 owner had not previously been paid, to be assessed as of the time  
34 of the original taking, and the district is not liable for any  
35 acts that would have been justified if the original taking had  
36 been lawful. Entry may not be made on any private lands, except  
37 to make surveys, until the expiration of 10 days from that  
38 filing, at which time possession may be had of all lands,  
39 interests in the lands or water rights so taken, but title does  
40 not vest in the district until payment has been made.

42 **Sec. 8. Adjustment of damages; procedure as in laying out of**  
43 **highways.** If any person sustaining damages by any taking  
44 pursuant to the right of eminent domain does not agree with the  
45 district upon the sum to be paid for the taking, either party,  
46 upon petition to the county commissioners of Penobscot County,  
47 may have the damages assessed by them. The procedure and all  
48 subsequent proceedings and right of appeal are under the same  
49 restrictions, conditions and limitations as are or may be by law  
50 prescribed in the case of damages by the laying out of highways.

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

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

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

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

40           All decisions of the board of trustees must be by a majority  
41 of those present and voting. A quorum of the board of trustees  
42 is 2 trustees.

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

3. **Bylaws.** The trustees may adopt and establish such bylaws as are necessary for the proper management of the affairs of the district.

4. **Vacancy.** Whenever the term of office of a trustee expires, the trustee's successor must be elected by a plurality vote by the inhabitants of the district. For the purpose of election, a special election must be called and held on the same date as the annual municipal election, the election to be called by the trustees of the district in the same manner as town meetings are called and for this purpose the trustees are vested with the powers of municipal officers of towns. The trustee so elected shall serve the full term of 3 years. If any vacancy arises in the membership of the board of trustees, it 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 trustee ceases to be a resident of the district, the trustee shall vacate the office of trustee and the vacancy must be 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 Plymouth is not eligible for nomination or election as trustee.

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

The trustees shall appoint a registrar of voters for the district, who may also be the registrar of voters for the Town of Plymouth, and fix the registrar's salary. It is the registrar's duty to make and keep a complete list of all the eligible voters of the district. The list prepared by the registrar, as provided by 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 that list and from all checklists the legal voters who are resident outside the territorial limits of the 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 district are entitled to vote.

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

**Sec. 11. District and town authorized to make and assume contracts.** The district, through its trustees, may contract with persons and corporations, including the Town of Plymouth, and that town may contract with the district for the supply of water for municipal purposes.

2           **Sec. 12. Authorized to receive government aid; borrow money; issue**  
3           **bonds and notes.** For accomplishing the purposes of this Act and  
4           for such other expenses as may be necessary for the carrying out  
5           of these purposes, the district, through its trustees, without  
6           vote of the inhabitants, may receive state and federal aid  
7           grants, borrow money temporarily and issue for the money its  
8           negotiable notes for the purpose of renewing and refunding the  
9           indebtedness so created, for paying any necessary expenses and  
10          liabilities incurred under this Act, including organizational and  
11          other necessary expenses and liabilities, whether incurred by the  
12          district or the Town of Plymouth, the district being authorized  
13          to reimburse the Town of Plymouth for any such expense incurred  
14          by the town and in acquiring properties, paying damages, laying  
15          pipes, mains, aqueducts and conduits, constructing, maintaining  
16          and operating a water plant or system and making renewals,  
17          additions, extensions and improvements to the water plant or  
18          system and to cover interest payments during the period of  
19          construction. The district, through its trustees, without the  
20          vote of its inhabitants, may also issue, from time to time, in  
21          accordance with the Maine Revised Statutes, Title 35-A, chapter  
22          63, bonds, notes or other evidences of indebtedness of the  
23          district in such amount or amounts bearing interest at such rate  
24          or rates, selling at par or at a discount or a premium and having  
25          such other terms and provisions as the trustees determine, except  
26          that loans running for one year or less do not require the Public  
27          Utilities Commission's approval.

28                 The bonds, notes and evidences of indebtedness may be issued  
29                 to mature serially or made to run for such periods as the  
30                 trustees determine. Bonds, notes or evidences of indebtedness  
31                 may be issued with or without provisions for calling the bonds,  
32                 notes or evidences of indebtedness prior to maturity and, if  
33                 callable, may be made callable at par or at such premium as the  
34                 trustees determine. All bonds, notes or other evidences of  
35                 indebtedness must have inscribed upon their face the words  
36                 "Plymouth Water District," and be signed by the treasurer and  
37                 countersigned by the president of the board of trustees of the  
38                 district. If coupon bonds are issued, the interest coupon  
39                 attached to the coupon bonds must bear the facsimile signature of  
40                 the treasurer.

41                 All bonds, notes and evidences of indebtedness so issued by  
42                 the district, which is declared to be a quasi-municipal  
43                 corporation, are legal obligations of the district within the  
44                 meaning of the Maine Revised Statutes, Title 30-A, section 5701.

45                 The district may refund and reissue, from time to time, in  
46                 one or in separate series, its bonds, notes and other evidences  
47                 of indebtedness, and each authorized issue constitutes a separate  
48                 loan. All bonds, notes and evidences of indebtedness issued by  
49                 the district, which is declared to be a quasi-municipal  
50                 corporation, are legal obligations of the district within the  
51                 meaning of the Maine Revised Statutes, Title 30-A, section 5701.



2 the district are legal investments for savings banks in the State  
and are free from taxation.

4 **Sec. 13. Rates.** The rates established pursuant to this  
6 section must be sufficient to provide revenue for the purposes of  
this Act and for all other purposes of the district, without the  
8 need for any financial assistance from the Town of Plymouth,  
other than the normal payment of water charges for services  
10 rendered and the loan or loans for initial funds as set forth in  
section 12. Individuals, firms and corporations, whether  
12 private, public or municipal, shall pay to the treasurer or other  
designated officer of the district the rates established by the  
14 board of trustees for the water used by them. The rates must be  
established in accordance with the Maine Revised Statutes, Title  
35-A, chapter 61, to provide for the purposes set forth therein.

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

26 **Sec. 15. Separability clause.** If any section or part of a  
section of this Act is held invalid by a court of competent  
28 jurisdiction, the holding does not affect the remainder of this  
Act, it being the intention that the remaining portions of this  
30 Act stand, notwithstanding the unconstitutionality or invalidity  
of any section, sentence, clause or phrase.

32 **Sec. 16. Acceptance subject to referendum.** This Act must be  
34 submitted to the legal voters within the district at an election  
called for that purpose and held by December 31, 1992. The  
36 election must be called, advertised and conducted according to  
the law relating to municipal elections, except that the  
38 registrar of voters is not required to prepare or the clerk to  
post a new list of voters and, for this purpose, the registrar of  
40 voters must be in session the 3 secular days preceding the  
election, of which the first 2 days must be devoted to  
42 registration of the voters and the last day to verification of  
the list and completion of the records of these sessions by the  
44 registrar. The subject matter of this Act is reduced to the  
following question:

46 "Shall the Plymouth Water District be created?"

48 The voters shall indicate by a cross or check mark placed  
50 against the words "Yes" or "No" their opinion of the same.

2 The results must be declared by the municipal officers of  
the Town of Plymouth and the due certificate of the results filed  
4 by the clerk with the Secretary of State.

6 This Act takes effect for all purposes immediately upon its  
acceptance by a majority of the legal voters within the district  
8 voting at the special election. Failure of the approval by the  
necessary majority of voters at any such election does not  
10 prevent a subsequent election or elections from being held for  
that purpose.

12 **Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.  
14

16 **STATEMENT OF FACT**

18 This bill creates the Plymouth Water District.