

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1901

H.P. 1315

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.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative WHITCOMB of Waldo.  
Cosponsored by Senator BRAUN of Knox.

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STATE OF MAINE

---

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

---

An Act to Create the Morrill Village Water District.

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(AFTER DEADLINE)

(EMERGENCY)



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

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

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

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

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

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

24           **Sec. 1. Territorial limits; corporate name; purposes.** Subject to  
26 section 17, the inhabitants and territory of that part of the  
Town of Morrill in Waldo County comprised of that part of the  
28 area starting at the intersection of Rowe Hill Road and Main Street; thence  
northerly .4 of a mile northwesterly of the intersection of Main  
30 Street and Route 131; thence due east to a point .3 of a mile  
north of the intersection of Poor's Hill Road and Route 131;  
32 thence due south to a point .2 of a mile east of the intersection  
of Poor's Hill Road and Route 131; thence in a southwesterly  
34 direction to the most eastern point of the Smith's Mill Pond;  
thence following the pond in a north and west direction to the  
36 inlet of Simmon's Brook; thence westerly to the point of  
beginning constitute a quasi-municipal corporation under the name  
38 of "Morrill Village Water District" for the purpose of supplying  
the town and the inhabitants and others of the district with pure  
40 water for domestic, sanitary, commercial, industrial,  
agricultural and municipal purposes. The area within the  
42 territorial limits is defined, for the purpose of this Act, as  
Morrill Village.

44           **Sec. 2. Powers of Morrill Village Water District.** The Morrill  
46 Village Water District, for the purposes of its incorporation,  
may take, collect, store, flow, use, divert, distribute and  
48 convey to the district, or any part of the district, water from  
any source approved by the Department of Human Services, natural  
50 or artificial, within the area of Morrill Village and from any  
other source from which the Morrill Water Company may take  
52 water. It may also locate, construct and maintain aqueducts,  
pipes,

2 conduits, dams, wells, reservoirs, standpipes, hydrants, pumping  
stations and other necessary structures and equipment therefor,  
4 and do anything necessary to furnish water for public purposes  
and for the public health, comfort and convenience of the  
6 inhabitants and others of the district, or to contract to do any  
and all of the foregoing things.

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

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

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

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

2 This section may not be construed as authorizing the  
3 district to take by right of eminent domain any of the property  
4 or facilities of any other public utility used, or acquired for  
5 future use, by the owner of that property or those facilities in  
6 the performance of a public duty, unless expressly authorized to  
7 do so by this section or by subsequent act of the Legislature or  
8 as provided in section 6.

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

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

45  
46 **Sec. 8. Adjustment of damages; procedure as in laying out of**  
47 **highways.** If any person sustaining damages by any taking  
48 pursuant to the right of eminent domain does not agree with the  
49 district upon the sum to be paid for the taking, either party,  
50 upon petition to the county commissioners of Waldo County, may  
51 have the damages assessed by them. The procedure and all  
52 subsequent proceedings and right of

2 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.

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

10  
12 **1. First board.** The municipal officers of the Town of  
Morrill shall appoint the first board of trustees. One trustee  
serves for a term of one year, one trustee serves for a term of 2  
14 years and one trustee serves for a term of 3 years. At the first  
meeting the initial trustees shall determine by agreement, or  
16 failing to agree they shall determine by lot, the term of office  
of each trustee. Vacancies are filled pursuant to subsection 4.

18  
20 **2. Organization; conduct of business.** Organization and  
powers of the board of trustees must be in accordance with the  
Maine Revised Statutes, Title 35-A, chapter 63.

22  
24 All decisions of the board of trustees must be by a majority  
of those present and voting. A quorum of the board of trustees  
is 2 trustees.

26  
28 Trustees are entitled to compensation in accordance with the  
Maine Revised Statutes, Title 35-A, chapter 63.

30  
32 **3. Bylaws.** The trustees may adopt and establish such  
bylaws as are necessary for the proper management of the affairs  
of the district.

34  
36 **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  
38 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  
40 with the powers of municipal officers of towns. The trustee so  
elected shall serve the full term of 3 years. If any vacancy  
42 arises in the membership of the board of trustees, it must be  
filled in like manner for the unexpired term by a special  
44 election to be called by the trustees of the district. When any  
trustee ceases to be a resident of the district, the trustee  
46 shall vacate the office of trustee and the vacancy must be filled  
as provided in this section. All trustees are eligible for  
48 reelection, but a person who is a municipal officer in the Town  
50 of Morrill is not eligible for nomination or election as trustee.

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

2 The trustees shall appoint a registrar of voters for the  
district, who may also be the registrar of voters for the Town of  
4 Morrill, and fix the registrar's salary. It is the registrar's  
duty to make and keep a complete list of all the eligible voters  
6 of the district. The list prepared by the registrar, as provided  
by the laws of the State, governs the eligibility of any voter.  
8 In determining the eligible voters of the district, the registrar  
of voters shall exclude from that list and from all checklists  
10 the legal voters who are resident outside the territorial limits  
of the district as defined in this Act. All warrants issued for  
12 elections by the trustees must be varied accordingly to show that  
only the voters resident within the territorial limits of the  
14 district are entitled to vote.

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

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

26 **Sec. 12. Authorized to receive government aid; borrow money; issue  
bonds and notes.** For accomplishing the purposes of this Act and  
28 for such other expenses as may be necessary for the carrying out  
of these purposes, the district, through its trustees, without  
30 vote of the inhabitants, may receive state and federal aid  
grants, borrow money temporarily and issue for the money its  
32 negotiable notes for the purpose of renewing and refunding the  
indebtedness so created, for paying any necessary expenses and  
34 liabilities incurred under this Act, including organizational and  
other necessary expenses and liabilities, whether incurred by the  
36 district or the Town of Morrill, the district being authorized to  
reimburse the Town of Morrill for any such expense incurred by  
38 the town and in acquiring properties, paying damages, laying  
pipes, mains, aqueducts and conduits, constructing, maintaining  
40 and operating a water plant or system and making renewals,  
additions, extensions and improvements to the water plant or  
42 system and to cover interest payments during the period of  
construction. The district, through its trustees, without the  
44 vote of its inhabitants, may also issue, from time to time, in  
accordance with the Maine Revised Statutes, Title 35-A, chapter  
46 63, bonds, notes or other evidences of indebtedness of the  
district in such amount or amounts bearing interest at such rate  
48 or rates, selling at par or at a discount or a premium and having  
such other terms and provisions as the trustees determine, except  
50 that loans running for one year or less do not require the Public  
Utilities Commission's approval.  
52

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

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

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

28           **Sec. 13. Authorized to acquire property and franchises of Morrill**  
30           **Water Company.** The district, through its trustees, may acquire  
32           by purchase the entire plant, properties, franchises, rights and  
34           privileges owned by the Morrill Water Company located with the  
36           Town of Morrill, including all lands, waters, water rights,  
38           reservoirs, pipes, machinery, fixtures, hydrants, tools and all  
40           apparatus and appliances used or usable in supplying water in the  
42           area of the district. The district may acquire by the exercise  
44           of the right of eminent domain, a right expressly delegated to  
46           the district for that purpose, the entire plant, properties,  
            franchises, rights and privileges except cash assets and accounts  
            receivable, owned by the Morrill Water Company, including all  
            lands, waters, water rights, dam structures, reservoirs, pipes,  
            machinery, fixtures, hydrants, tools and all apparatus and  
            appliances used or usable in supplying water in the area of the  
            district, and if and when so acquired, the district, 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  
            Morrill Water Company.

48           In exercising the right of eminent domain under this Act,  
50           the trustees shall file with the district clerk a condemnation  
52           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



2 amount of damages determined by the trustees to be just  
3 compensation for the property or interest therein taken. The  
4 trustees shall then serve upon the owner or owners of record a  
5 copy of the condemnation order and a check in the amount of the  
6 damages awarded and record a certified copy of the condemnation  
7 order in the Waldo County Registry of Deeds. In the event of  
8 multiple ownership, the check may be served on any one of the  
9 owners. This title passes to the district upon service of the  
10 order of condemnation and check or upon recordation in accordance  
11 with this Act, whichever occurs first. Acceptance and  
12 negotiation of the check do not bar an appeal under this Act.

13  
14 Any person aggrieved by the determination of the damages  
15 awarded to owners of property or interests therein under this Act  
16 may, within 60 days after service of the condemnation order and  
17 check, appeal to the Superior Court of Waldo County. The court  
18 shall determine damages by a verdict of its jury or, if all  
19 parties agree, by the court without a jury or by a referee or  
20 referees, and shall render judgment for just compensation, with  
21 interest when such is due, and for costs in favor of the party  
22 entitled thereto. Appeal from the decision of the Superior Court  
23 may be had to the Law Court, as in other civil actions.

24 **Sec. 14. Rates.** The rates established pursuant to this  
25 section must be sufficient to provide revenue for the purposes of  
26 this Act and for all other purposes of the district, without the  
27 need for any financial assistance from the Town of Morrill, other  
28 than the normal payment of water charges for services rendered  
29 and the loan or loans for initial funds as set forth in section  
30 12. Individuals, firms and corporations, whether private, public  
31 or municipal, shall pay to the treasurer or other designated  
32 officer of the district the rates established by the board of  
33 trustees for the water used by them. The rates must be  
34 established in accordance with the Maine Revised Statutes, Title  
35-A, chapter 61, to provide for the purposes set forth therein.  
36

37 **Sec. 15. Existing laws not affected; rights conferred subject to**  
38 **provisions of law.** Nothing contained in this Act is intended to  
39 repeal, or may be construed as repealing, the whole or any part  
40 of any existing law, and all the rights and duties mentioned in  
41 this Act must be exercised and performed in accordance with all  
42 the applicable provisions of and amendatory acts to the Maine  
43 Revised Statutes, Title 35-A to the extent that that Title and  
44 its amendments affect the operations of the district.

45 **Sec. 16. Separability clause.** If any section or part of a  
46 section of this Act is held invalid by a court of competent  
47 jurisdiction, the holding does not affect the remainder of this  
48 Act, it being the intention that the remaining portions of this  
49 Act stand, notwithstanding the unconstitutionality or invalidity  
50 of any section, sentence, clause or phrase.

2           **Sec. 17. Acceptance subject to referendum.** This Act must be  
3 submitted to the legal voters within the district at an election  
4 called for that purpose and held by December 31, 1992. The  
5 election must be called, advertised and conducted according to  
6 the law relating to municipal elections, except that the  
7 registrar of voters is not required to prepare or the clerk to  
8 post a new list of voters and, for this purpose, the registrar of  
9 voters must be in session the 3 secular days preceding the  
10 election, of which the first 2 days must be devoted to  
11 registration of the voters and the last day to verification of  
12 the list and completion of the records of these sessions by the  
13 registrar. The subject matter of this Act is reduced to the  
14 following question:

16           "Shall the Morrill Village Water District be created?"

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

20

21           The results must be declared by the municipal officers of  
22 the Town of Morrill and the due certificate of the results filed  
23 by the clerk with the Secretary of State.

24

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

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

34

36

#### STATEMENT OF FACT

38

This bill creates the Morrill Village Water District.