

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2247

H.P. 1593

House of Representatives, January 28, 1992

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 LORD of Waterboro.

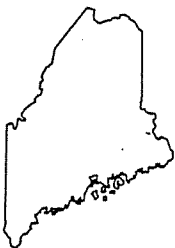
STATE OF MAINE

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

An Act to Create the Waterboro Water District.

(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 Whereas, wells in the Waterboro area have become
6 contaminated with petroleum 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 Waterboro; and

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

16 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
18 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
20 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
section 15, the inhabitants and territory of that part of the
26 Town of Waterboro in York County comprised of the area beginning
at the Waterboro, Lyman and Alfred town line; thence running
28 northwest along the Waterboro and Alfred town line to a point 500
feet beyond Federal Street; thence turning north and running
30 parallel to Federal Street to the West Road; thence crossing West
Road to a point 500 feet from the intersection of West Road and
32 Ossipee Hill Road; thence turning northeast and running parallel
to the Ossipee Hill Road to a point 500 feet from the McLucas
34 Road; thence turning northwest and running parallel to the
McLucas Road to the southeastern shore of Little Ossipee Pond;
36 thence turning northeast and running along the southeastern shore
of Little Ossipee Pond to a point 500 feet beyond the outlet
38 stream of the Big Rock Trout Pond; thence turning east and
running parallel to the outlet stream of the Big Rock Trout Pond
40 to a point 500 feet from the Townhouse Road; thence turning
northeast and running parallel to the Townhouse Road to the
42 Waterboro and Hollis town line; thence turning south and running
along the Waterboro and Hollis town line to the Waterboro and
44 Lyman town line; thence turning southwest and running along the
Waterboro and Lyman town line to the point of beginning
46 constitutes a body politic and corporate under the name of
"Waterboro Water District" for the purposes of supplying the
48 inhabitants and others of the district with pure water for
domestic, sanitary, commercial, industrial, agricultural and
50 municipal purposes.

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

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

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

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

48 **Sec. 5. Rights of eminent domain.** The district, for the
purposes of its incorporation, may take and hold, as for public
50 uses, real estate and personal estate and any interest in real

2 estate and personal estate necessary or convenient for those
3 purposes, by purchase, lease or otherwise and may exercise the
4 right of eminent domain as provided in this Act, to acquire for
5 those purposes any land or interest in land or water rights
6 necessary for erecting and maintaining dams, plants and works,
7 for flowage, power, pumping, supplying water through its mains;
8 for reservoirs, preserving the purity of the water and watershed;
9 for laying and maintaining aqueducts and other structures; for
10 taking, distributing, discharging and disposing of water; and for
11 rights-of-way or roadways to its sources of supply, dams, power
12 stations, reservoirs, mains, aqueducts, structures and lands.

13 This section may not be construed as authorizing the
14 district to take by right of eminent domain any of the property
15 or facilities of any other public utility used, or acquired for
16 future use, by the owner of that property or those facilities in
17 the performance of a public duty, unless expressly authorized to
18 do so by this section or by subsequent act of the Legislature or
19 as provided in section 6.

20 The right of eminent domain granted in this section is
21 subject to the Maine Revised Statutes, Title 35-A, chapter 67.

22 **Sec. 6. Procedure if public utility must be crossed.** In case of
23 crossing of any public utility, unless consent is given by the
24 company owning and operating the public utility as to place,
25 manner and conditions of the crossing within 30 days after
26 consent is requested by the district, the Public Utilities
27 Commission, upon petition by the district, shall determine the
28 place, manner and conditions of the crossing, and all work on the
29 property of the public utility must be done under the supervision
30 and to the satisfaction of the public utility or as prescribed by
31 the Public Utilities Commission, but at the expense of the
32 district.

33 **Sec. 7. Procedure in exercising of eminent domain.** The district,
34 in exercising, from time to time, any right of eminent domain in
35 the taking of land, interests in the land or water rights, shall
36 file in the office of the county commissioners of York County and
37 record in the York County Registry of Deeds plans of the location
38 of all property to be taken, with an appropriate description and
39 the names of the owners, if known. Notice of the filing must be
40 sent by mail to the owners at the address appearing on the tax
41 records of the municipality in which the land is located. When
42 for any reason the district fails to acquire the property it is
43 authorized to take, and which is described in that location, or
44 if the location recorded is defective or uncertain, it may, at
45 any time, correct and perfect that location and file a new
46 description, and in that case the district is liable for damages
47
48

2 only for property for which the owner had not previously been
paid, to be assessed as of the time of the original taking, and
4 the district is not liable for any acts
that would have been justified if the original taking had been
6 lawful. Entry may not be made on any private lands, except to
make surveys, until the expiration of 10 days from that filing,
8 at which time possession may be had of all lands, interests in
the lands or water rights so taken, but title does not vest in
the district until payment has been made.

10
12 **Sec. 8. Adjustment of damages; procedure as in laying out of**
highways. If any person sustaining damages by any taking
14 pursuant to the right of eminent domain does not agree with the
district upon the sum to be paid for the taking, either party,
16 upon petition to the county commissioners of York County, may
have the damages assessed by them. The procedure and all
18 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.

20
22 **Sec. 9. Trustees; how elected; first board; meeting; officers.** All of
the affairs of the district must be managed by a board of
24 trustees composed of 3 members, all of whom must be residents of
the district and, after selection of the first board, elected as
26 provided in the Maine Revised Statutes, Title 35-A, chapter 63
and this section.

28 **1. First board.** Within 14 days after the acceptance of
this Act, the municipal officers of the Town of Waterboro, who
30 are especially appointed for this purpose, shall appoint 3
trustees. After the selection of the first board, the only
32 eligibility requirements for the office of trustee of the
district are residence within the district and eligibility to
34 vote, and all subsequent trustees are elected by the residents of
the district as provided in the Maine Revised Statutes, Title
36 35-A, chapter 63 in an annual election to be held the 2nd
Saturday of June in each year.

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

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

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

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

4
6 **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
8 election, a special election must be called and held on the same
date as the annual municipal election, the election to be called
10 by the trustees of the district in the same manner as town
meetings are called and for this purpose the trustees are vested
12 with the powers of municipal officers of towns. The trustee so
elected shall serve the full term of 3 years. If any vacancy
14 arises in the membership of the board of trustees, it must be
filled in like manner for the unexpired term by a special
16 election to be called by the trustees of the district. When any
trustee ceases to be a resident of the district, the trustee
18 shall vacate the office of trustee and the vacancy must be filled
as provided in this section. All trustees are eligible for
20 reelection, but a person who is a municipal officer in the Town
of Waterboro is not eligible for nomination or election as
22 trustee.

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

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

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

46 **Sec. 11. District and town authorized to make and assume**
contracts. The district, through its trustees, may contract with
48 persons and corporations, including the Town of Waterboro, and
that town may contract with the district for the supply of water
50 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 Waterboro, the district being authorized
13 to reimburse the Town of Waterboro 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
29 The bonds, notes and evidences of indebtedness may be issued
30 to mature serially or made to run for such periods as the
31 trustees determine. Bonds, notes or evidences of indebtedness
32 may be issued with or without provisions for calling the bonds,
33 notes or evidences of indebtedness prior to maturity and, if
34 callable, may be made callable at par or at such premium as the
35 trustees determine. All bonds, notes or other evidences of
36 indebtedness must have inscribed upon their face the words
37 "Waterboro Water District" and be signed by the treasurer and
38 countersigned by the president of the board of trustees of the
39 district. If coupon bonds are issued, the interest coupon
40 attached to the coupon bonds must bear the facsimile signature of
41 the treasurer.

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

47
48 The district may refund and reissue, from time to time, in
one or in separate series, its bonds, notes and other evidences

2 of indebtedness, and each authorized issue constitutes a separate
3 loan. All bonds, notes and evidences of indebtedness issued by
4 the district are legal investments for savings banks in the State
and are free from taxation.

6 **Sec. 13. Rates.** The rates established pursuant to this
7 section must be sufficient to provide revenue for the purposes of
8 this Act and for all other purposes of the district, without the
9 need for any financial assistance from the Town of Waterboro,
10 other than the normal payment of water charges for services
11 rendered and the loan or loans for initial funds as set forth in
12 section 12. Individuals, firms and corporations, whether
13 private, public or municipal, shall pay to the treasurer or other
14 designated officer of the district the rates established by the
15 board of trustees for the water used by them. The rates must be
16 established in accordance with the Maine Revised Statutes, Title
17 35-A, chapter 61, to provide for the purposes set forth therein.

18 The management and allocation of the Waterboro Water
19 District of a contribution of funds by the State under the Maine
20 Revised Statutes, Title 38, section 1364, subsection 5, and the
21 income from those funds, are not subject to investigation or
22 review by the Public Utilities Commission under Title 35-A,
23 section 310, 1302 or 1303, except upon request by the Department
24 of Environmental Protection.

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

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

42 **Sec. 16. Acceptance subject to referendum.** This Act must be
43 submitted to the legal voters within the district at an election
44 called for that purpose and held by December 31, 1994. The
45 election must be called, advertised and conducted according to
46 the law relating to municipal elections, except that the
47 registrar of voters is not required to prepare or the clerk to
48 post a new list of voters

2 and, for this purpose, the registrar of voters must be in session
the 3 secular days preceding the election, of which the first 2
4 days must be devoted to registration of the voters and the last
day to verification of the list and completion of the records of
6 these sessions by the registrar. The subject matter of this Act
is reduced to the following question:

8 "Shall the Waterboro Water District be created?"

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

12
14 The results must be declared by the municipal officers of
the Town of Waterboro and the due certificate of the results
filed by the clerk with the Secretary of State.

16
18 This Act takes effect upon its acceptance by a majority of
the legal voters within the district voting at the special
election. The total number of votes cast for and against the
20 acceptance of this Act in the special election must equal or
exceed 20% of the total number of names on the checklist of
22 voters of the town provided for in this Act, which checklist must
be used at such elections. Failure of the approval by the
24 necessary majority of voters at any such election does not
prevent a subsequent election or elections from being held for
26 that purpose.

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

30

32

STATEMENT OF FACT

34

This bill creates the Waterboro Water District.