

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2316

H.P. 1653

House of Representatives, February 11, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Utilities suggested and ordered printed.

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

EDWIN H. PERT, Clerk

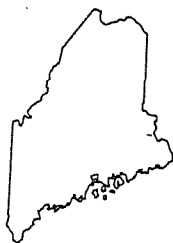
Presented by Representative KONTOS of Windham.

Cosponsored by Representative KUTASI of Bridgton, Senator RICH of Cumberland and Senator TITCOMB of Cumberland.

STATE OF MAINE

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

An Act to Establish a Watershed District for Sebago Lake.



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

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Sec. 1. Territorial limits; name; purposes. Notwithstanding the Maine Revised Statutes, Title 38, chapter 23, the territory and inhabitants of the towns and cities of Bethel, Greenwood, Albany, Stoneham, Lovell, Waterford, Norway, Sweden, Bridgton, Harrison, Denmark, Otisfield, Poland, Naples, Sebago, Hiram, Baldwin, Standish, Casco, Raymond, Gray, Windham and Gorham are created a body corporate and politic under the name of Sebago Lake Watershed District, in this Act called the "district," for the purpose of protecting, improving and conserving the lakes, ponds and other waterways within the territory of the district that comprise the Sebago Lake watershed, so called, for the public health, welfare and benefit of the residents and of the property on, adjacent to or near the watershed, in the manner and with the rights, duties and immunities set forth in this Act.

Sec. 2. Authority to contract and maintain. Within the territory outlined in section 1, the district is authorized to acquire, construct, reconstruct, operate and repair dams and facilities in connection with the dam; to control the level of the water and to collect, hold and discharge the water; to improve the quality and purity of the water; and to do anything incidental to accomplish the purposes of this Act.

Sec. 3. Trustees; appointment; tenure; vacancies; organization; annual report. All of the affairs of the district must be managed by a board not exceeding 24 trustees who must be residents of the district and chosen as provided in this section.

As soon as possible after the acceptance of this Act, the trustees of the Portland Water District and the municipal officers of each municipality listed in section 1 shall appoint a trustee to hold office. Those appointed by Bethel, Greenwood, Albany, Stoneham, Lovell, Waterford, Norway, Sweden, Bridgton, Harrison and Denmark are appointed for a 3-year term, those appointed by Otisfield, Poland, Naples, Sebago, Hiram, Baldwin, Standish, Casco, Raymond, Gray, Windham and Gorham are appointed for a 2-year term and those appointed by the water district are appointed for a one-year term. At the expiration of the original terms, all subsequent appointments are for 3-year terms. The trustee appointed by the water district serves without vote until a majority of the other trustees determines that the water district is contributing a fair share of the costs of this district. At each annual meeting of the district, the trustees shall choose a chair, a clerk and a treasurer to serve until the next annual meeting of the district and until their successors are elected and qualified. Whenever any trustee

2 ceases to be a resident of the district, the trustee vacates the
office of trustee. A vacancy in the office of trustee must be
4 filled for the unexpired term by appointment by the municipal
officers or trustees that trustee represents.

6 As soon as convenient after their appointment, the first
board of trustees shall hold a meeting at some convenient place
8 in the district to be called by any member in writing,
designating the time and place and delivered in hand to the other
10 members not less than 2 full days before the meeting; however,
they may meet by agreement without notice. They shall elect a
12 chair and a clerk from their own number. They shall choose a
treasurer, adopt a corporate seal and bylaws and perform any
14 other acts within the powers delegated to them by law. They may
choose and fix the compensation of any other necessary officers
16 and agents, who shall serve at their pleasure. The treasurer
shall furnish bond in such a sum and with such sureties as the
18 trustees approve, the cost of which must be paid by the
district. Members of the board of trustees are eligible to any
20 office under the board. The trustees, as such, receive \$50 per
year compensation; the treasurer is allowed such compensation as
22 the trustees determine.

24 The trustees must be sworn to the faithful performance of
their duties as trustees, which include the duties of any member
26 who serves as clerk or clerk pro tem. They shall make and
publish an annual report, including a report of the treasurer.
28

Sec. 4. Right of eminent domain conferred. The Sebago Lake
30 Watershed District is expressly granted the right of eminent
domain and for the purposes of this Act is authorized to take and
32 hold, either by exercising its right of eminent domain or by
purchase, gift, lease or otherwise, as for public uses, any land,
34 easement, dams, water rights or interests therein and rights
necessary for accomplishing its purposes. The district does not
36 have the right of eminent domain to take the dams and water
rights at Weir Dam. The district shall work in concert with the
38 licensee of Weir Dam and the Federal Energy Regulatory Commission
regarding the setting of the water level on affected lakes and
40 ponds.

Sec. 5. Procedure under eminent domain. In exercising from
42 time to time the right of eminent domain, the district, by its
board of trustees, shall file in the office of the county
44 commissioners of Cumberland, Oxford or Androscoggin County,
depending on the county in which the property is located, and
46 cause to be recorded in the registry of deeds in that county
plans of the location of all lands or interests in the land or
48 rights in that county to be taken, with an appropriate
description and the names of the
50

2 owners of the land or interests, if known. When, for any reason,
the district fails to acquire property that it is authorized to
4 take and that is described in that location or if the location
recorded is defective and uncertain, it may, at any time, correct
6 and perfect that location and file a new description; in that
case the district is liable in damages only for property for
8 which the owner had not previously been paid, to be assessed as
of the time of the original taking, and the district is not
10 liable for any acts that would have been justified if the
original taking had been lawful. No entry may be made on any
12 private lands, except to make surveys, until the expiration of 10
days from the filing, at which time possession may be had of all
14 lands or interests in the land or property or rights to be taken,
but title to the land or interest does not vest in the district
until payment.

16
Sec. 6. Assessment of damage by county commissioners; procedure
18 **on appeals.** If a person sustaining damages by a taking pursuant
to section 5 does not agree with the district on the sum to be
20 paid for the land or interest, either party, on petition to the
county commissioners of the county in which the property is
22 located, may have damages assessed by them; the procedure and all
subsequent proceedings and rights of appeal are governed by the
24 same restrictions, conditions and limitations as are or may be by
law prescribed in the case of damages by the laying out of
26 highways.

28 Instead of having the damages assessed by the county
commissioners, a person sustaining damages by any taking pursuant
30 to section 5 may have damages determined as follows. The person
must notify the district in writing, within 15 days of being
32 informed by the district of the filing in the registry of deeds,
of the person's intent to have the damages determined as set
34 forth in this paragraph. The district shall then file a petition
in the clerk's office of the Superior Court for the county where
36 the property is located addressed to any justice of the court,
who, after notice to the defendant, after hearing and within 60
38 days after the filing of the petition, shall appoint 3
disinterested appraisers to determine the damages. The court may
40 order under proper terms the production for inspection by the
trustees or the appraisers of all books and papers pertaining to
42 the issue on petition by the petitioner, unless they are
voluntarily produced. The appraisers have the power to
44 administer oaths. The appraisers, after due notice and hearing,
shall fix the damages as of the date of filing the petition. The
46 report of the appraisers or of a majority of them, together with
the report of a stenographer certified by the appraisers as
48 correct, must be filed in the clerk's office within 6 months
after their appointment and any Justice of the Superior Court,
50 after notice and hearing, may confirm or reject the report or
recommit it. Upon the confirmation of the report, the court

2 shall make final decree on the entire matter including the
3 application of the purchase money and transfer of the property,
4 jurisdiction over which is conferred, and with the power to
5 enforce the decree as in equity cases. All findings of fact by
6 the court and the appraisers are final but any party aggrieved
7 may take exceptions as to any matters of law. The exceptions
8 must be accompanied by as much of the case as is necessary to a
9 clear understanding of the question raised. These exceptions
10 must be claimed on the docket within 10 days after the final
11 decree has been signed, entered and filed and notice of the
12 decree given by the clerk to the parties. The exceptions claimed
13 must be drawn up, allowed and filed within this time unless
14 further time is granted by the court or by agreement of the
15 parties. The exceptions must be entered and heard at the next
16 term of the Law Court held after the filing unless otherwise
17 agreed or unless the Law Court for good cause orders further time
18 for hearing.

19
20 **Sec. 7. Limitations on crossing a public utility.** Unless a company
21 owning or operating a public utility consents to the place,
22 manner and conditions of any crossing within 30 days after
23 consent is requested by the district, the Public Utilities
24 Commission shall determine the place, manner and conditions of
25 that crossing. All work on the property of the public utility
26 must be done under the supervision and to the satisfaction of the
27 public utility but at the expense of the district. Nothing in
28 this section may be construed as authorizing the district to take
29 by right of eminent domain any of the property or facilities of
30 any other public service corporation or district used, or
31 acquired for future use, by the owner in the performance of a
32 public duty unless expressly authorized in this Act or by
33 subsequent act of the Legislature.

34 **Sec. 8. Contracts authorized.** The district is authorized to
35 contract with persons and corporations, including municipal and
36 quasi-municipal corporations, and they in turn are authorized to
37 contract with the district for controlling the level of the
38 water, for collecting, holding and discharging water, for
39 improving the quality and purity of the water and for other
40 connected and related purposes. The district is authorized to
41 accept grants or loans from any municipality, state or federal
42 agency and any municipality is authorized to make those grants or
43 loans.

44 **Sec. 9. Excavation or repair work; closing of ways.** Whenever the
45 district enters, digs up or excavates any public way, the work
46 must be expeditiously done with the least possible interruption
47 of travel on that way and, on completion of the work, the
48 district shall restore the way or land to the condition it was in
49 prior to that work or to an equally good condition.
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2 Whenever the character of the work endangers travel on any
public way, the municipal officers controlling the way may order
4 a temporary closing of that way and any intersecting way on
request of the district, and the way must remain closed to public
6 travel until the municipal officers determine that it is restored
to a condition safe for traffic.

8
10 **Sec. 10. Property tax exempt.** The property, rights and
franchises of the district are exempt from taxation.

12 **Sec. 11. Budget meeting.** An annual district budget meeting
must be called to approve the operating budget, a reserve fund
14 for a capital outlay purpose or a capital outlay appropriation by
the trustees as follows.

16
18 1. Each district meeting must be called by a warrant signed
by a majority of the trustees.

20 2. The warrant for calling the district meeting must
specify the time and place of the meeting and set forth the
22 proposed budget, may include other items of business and must be
directed to any resident of the district by name ordering that
24 resident to notify all voters within the district to assemble at
the time and place appointed. An attested copy of the warrant
26 must be posted by the person to whom it is directed in some
conspicuous public place in each of the municipalities within the
28 district at least 7 days before the meeting. The person who
gives notice of the meeting must make the return on the warrant,
30 stating the manner of notice in each municipality and the time
when it was given.

32 3. The following provisions apply to the district meeting.

34 A. Each person whose name appears on the district voting
36 list may attend and vote at a district budget meeting.
Twenty-five voters constitute a quorum.

38 B. The chair of the trustees shall open the meeting by
40 calling for the election of a moderator, receiving and
counting votes for moderator and swearing in the moderator.

42 C. As soon as the moderator has been elected and sworn, the
44 moderator shall preside at the meeting.

46 D. The clerk of the district shall record all the votes of
the district meeting.

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50 4. The trustees shall appoint a resident of the district to
make and keep a voting list of all residents in the district

2 eligible to vote. This person is known as the registration
3 clerk. The registration clerk shall compile the voting list from
4 the voting list of all the municipalities in the district. At
5 least 14 days before any budget meeting the registration clerk
6 shall bring the voting list up to date by comparing the list with
7 those voting lists found in the municipalities within the
8 district and by making such additions and deletions as the
9 registration clerk finds necessary. No additions or deletions
10 may be made in the 14-day period prior to the meeting.

11 **Sec. 12. Power to borrow money.** To procure funds for
12 authorized purposes of the district, the trustees of the district
13 are authorized to borrow funds to pay current operating expenses
14 of the district, but the loans must be repaid within one year.
15 To procure funds for capital outlay purposes, the trustees of the
16 district are authorized to issue bonds and notes of the district
17 not to exceed in the aggregate outstanding at any one time a
18 limit of indebtedness of 2% of the total of the last preceding
19 state valuation of all the participating municipalities. The
20 general purpose and maximum amount of bonds or notes of the
21 district for capital outlay purposes must be approved by a
22 majority of those qualified voters of the district voting at a
23 meeting called by the trustees under the procedure set forth in
24 section 11. For purposes of this Act "capital outlay purposes"
25 means and includes the cost of acquiring, constructing and
26 reconstructing dams and related facilities; related
27 architectural, engineering and legal charges, including surveys,
28 estimates, plans and specifications and preliminary
29 investigation; the cost of equipment; interest during the period
30 of construction and for not more than 6 months thereafter; and
31 any sums required to reimburse a municipality or district for any
32 of those items that are properly chargeable to the district.
33 Each bond or note must have inscribed upon its face the official
34 name of the district, be dated at such time or times, be in such
35 denomination, bear such rate of interest payable semiannually, be
36 in such form subject to this section and be sold in such manner
37 at public or private sale as the trustees determine. No bonds
38 may be sold for less than par. Each issue of the bonds must
39 mature in substantially equal annual installments so that the
40 first installment is payable not later than 2 years after the
41 date of issue and the last installment not later than 25 years
42 from the date of issue. When an issue of capital outlay bonds or
43 notes has been properly authorized, the trustees prior to the
44 issuance of the bonds or notes may borrow in anticipation of
45 their sale by issuing temporary notes and renewal notes, the
46 total face amount of which that is outstanding at any one time
47 may not exceed the authorized amount of the capital outlay bonds
48 or notes. If the proceeds of an issue of bonds are used in whole
49 or in part to fund temporary notes of the district or renewals of
50 temporary notes, the period during which the issue of bonds is

2 outstanding plus the period of the loan represented by temporary
3 notes or renewal notes may not exceed 25 years. All notes or
4 bonds issued by the trustees on behalf of the district must be
5 signed by the treasurer and countersigned by the chair of the
6 board of trustees. If coupons are issued, each coupon must be
7 attested by a facsimile signature of the treasurer printed on the
8 coupon. The notes and bonds and loans to pay current operating
9 expenses are legal obligations of the district, which is declared
10 to be a quasi-municipal corporation within the meaning of the
11 Maine Revised Statutes, Title 30-A, section 5701 and all
12 provisions of that section are applicable.

13 **Sec. 13. Financing.** Before May 1st of each year the trustees
14 of the district shall determine the sum required to meet the
15 bonds falling due and any further sum necessary to meet the
16 interest on the bonds or other obligations and all other expenses
17 necessary for the operation of the district, including temporary
18 loans. Before June 1st of each year the trustees shall hold a
19 district budget meeting. At this meeting the budget must be
20 thoroughly explained and the voters of the district must be given
21 an opportunity to be heard. A budget must be approved by the
22 voters of the district at the district budget meeting. At the
23 district budget meeting, only those items dealing with the
24 expenses necessary to operate the district, appropriations for a
25 reserve fund and capital outlay appropriations are subject to
26 change by the voters. If a budget for the operation of the
27 district is not approved prior to July 1st in any given year, the
28 budget as submitted by the trustees for operational expenses,
29 reserve fund and capital outlay purposes is automatically
30 considered the budget approved for operational expenses in the
31 ensuing year and the other amounts submitted for payment of bonds
32 falling due and interest on those bonds, including temporary
33 loans for capital purposes, must be added together and the total
34 amount assessed as follows. The trustees issue their warrants,
35 in substantially the same form as the warrant of the Treasurer of
36 State for taxes, to each municipality in the district requiring
37 it to pay its proportionate share of the budgeted expenses of the
38 district. The proportionate share of each municipality is that
39 proportion that the valuation of the area of land and buildings
40 in the municipality located within 600 feet of the shore of the
41 major lakes, ponds and waterways of the watershed within the
42 municipality bears to the total valuation of the area in all the
43 municipalities in the district as determined by the trustees.
44 Each municipality shall pay its proportionate share of the
45 budgeted expenses based on the ratio. In the year in which the
46 assessment is levied, the treasurer of each municipality shall
47 pay the amount of the assessment levied in 3 equal installments
48 to the treasurer of the district. The first installment must be
49 paid on or before August 1st, the 2nd installment on or before
50 December 1st and the 3rd installment on or before March 31st.

2 The trustees of the district shall initially and from time to
time, but at least every 10 years, ascertain the valuation
4 assigned to each municipality by determining the fair value of
the land and buildings in the designated areas of each
6 municipality in the district. In making that determination, the
trustees may consider the local assessed valuation of those
8 properties affected by the factor used to determine equalized
valuation for the purposes of the Maine Revised Statutes, Title
10 36, section 381 and any other information they consider
relevant. They shall then publish a notice that the
12 determination has been made and is available at the office of the
clerk of the district. Any person aggrieved may appeal within 30
14 days of the publication of the notice or the issue of the
district's warrant, whichever occurs first, to the Superior Court
for review.

16
18 Any water district benefiting from the services of this
district has the right to contribute funds to this district as a
utility operating expense.

20
22 **Sec. 14. Incidental powers and rights.** All incidental powers,
rights and privileges necessary to the accomplishment of the main
objectives of this Act are granted to the district, including the
24 right of the trustees to determine when and where facilities are
most needed and the power to make rules.

26
28 **Sec. 15. Existing laws not affected; rights conferred subject to
provisions of law.** Nothing in this Act is intended to repeal or
may be construed as repealing the whole or any part of any
30 existing statute.

32 **Sec. 16. Effective date; referendum, certificate to Secretary of State.**
This Act takes effect 90 days after adjournment of the
34 Legislature only for the purpose of permitting its submission to
the legal voters of the towns and cities of Bethel, Greenwood,
36 Albany, Stoneham, Lovell, Waterford, Norway, Sweden, Bridgton,
Harrison, Denmark, Otisfield, Poland, Naples, Sebago, Hiram,
38 Baldwin, Standish, Casco, Raymond, Gray, Windham and Gorham at
meetings called and held for the purpose. These meetings must be
40 called, advertised and conducted according to the laws governing
municipal elections, provided that the registrars of voters are
42 not required to prepare, nor the clerks to post, a new list of
voters. The registrars of voters must be in session on the
44 secular day next preceding the meeting for the purpose of
registration of voters.

46
48 The municipal clerks shall reduce the subject matter of this
Act to the following question:

2 "Do you favor passage of the Act Creating the Sebago Lake
Watershed District passed by the 115th Legislature?"

4 The voters shall indicate their opinion of the question by a
cross or check mark placed against the word "Yes" or "No."

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8 This Act takes effect for all purposes immediately on
acceptance by a majority of the municipalities voting at these
meetings only if the total number of votes cast for and against
10 the acceptance of this Act at any meeting of that majority of the
municipalities equalled or exceeded 20% of the total vote for all
12 candidates for Governor cast in the town at the next preceding
gubernatorial election. Failure of approval at these meetings
14 does not prevent a subsequent meeting or meetings for the same
purpose on or before April 1, 1993. If a town or city does not
16 accept this Act, the district may not include the territory and
inhabitants of that municipality and the municipality pays no
18 assessments and has no right to be represented by a trustee on
the board. If it does accept this Act at any subsequent date, a
20 town or city has all the rights as though it had originally
accepted this Act. The result of the votes must be declared by
22 the municipal officers of the town or city and due certificate
must be filed by the clerk with the Secretary of State.

24
26 **STATEMENT OF FACT**

28 This bill establishes the Sebago Lake Watershed District.