

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2367

H.P. 1687

House of Representatives, February 20, 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 WHITCOMB of Waldo.

STATE OF MAINE

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

An Act to Create the Searsmont Village Water District.

(AFTER DEADLINE)



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

2
4 **Sec. 1. Territorial limits; corporate name; purposes.** Subject to
6 section 17, the inhabitants and territory within the Town of
8 Searsmont in Waldo County comprised of the area starting at the
10 intersection of Paul Road and Pond Road; thence northerly on Pond
12 Road 440 feet, more or less, to a point at the southwest corner
14 of Lot #15; thence 740 feet, more or less, in a northeasterly
16 direction to Quantabacook Stream; thence following the
18 Quantabacook Stream southerly 960 feet, more or less, to the
20 intersection of Quantabacook Stream and the St. George River;
22 thence continuing in a southerly direction along the St. George
24 River 320 feet, more or less, to a sharp bend; thence 260 feet,
26 more or less, in a southwesterly direction to the southerly edge
28 of Lot #269-6; thence 350 feet, more or less, to the
30 southeasterly line of Lot #34; thence in a westerly direction
32 along the southerly line of Lot #34, 240 feet, more or less, to
34 Route 131; thence 480 feet, more or less, in a northerly
direction on Route 131 to the bridge crossing the St. George
River; thence following the St. George River in a northerly
direction 680 feet, more or less, to the southwest corner of Lot
#269-5; thence 400 feet, more or less, in an easterly direction
to the Paul Road following the northern edge of Lot #269-5;
thence in a southerly direction 440 feet, more or less, to the
point of beginning. Reference to lot numbers are taken from
Property Map 10, Town of Searsmont, Waldo County, Maine and
prepared by Raynold R. Holmes, dated February, 1990; and also all
real properties of the Searsmont Water Company in the Town of
Searsmont in the County of Waldo constitutes a public municipal
corporation under the name of "Searsmont Village Water District"
for the purpose of supplying the inhabitants of the district with
pure water for domestic, sanitary, manufacturing and municipal
purposes.

34
36 **Sec. 2. Powers of Searsmont Village Water District.** The Searsmont
38 Village Water District, for the purposes of its incorporation,
40 may take, collect, store, flow, use, divert, distribute and
42 convey to the district, or any part of the district, water from
44 any source approved by the Department of Human Services, natural
46 or artificial, within the area of the Town of Searsmont and from
48 any other source from which the Searsmont Water Company may take
water. It may also locate, construct and maintain aqueducts,
pipes, conduits, dams, wells, reservoirs, standpipes, hydrants,
pumping stations and other necessary structures and equipment and
do anything necessary to furnish water for public 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.

2 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.

4
6 **Sec. 3. Authorized to lay mains, pipes, conduits and other water
conveyances through public ways and across private lands.** The district
may lay in and through the streets, roads, ways, highways and
8 bridges in the Town of Searsmont and across private lands in the
Town of Searsmont and maintain, repair and replace all such
10 pipes, mains, conduits, aqueducts and fixtures and appurtenances
as may be necessary and convenient for its corporate purposes
12 and, whenever the district lays any pipes, mains, conduits,
aqueducts and fixtures or appurtenances in any street, road, way
14 or highway, it shall cause the same to be done with as little
obstruction as practicable to the public travel and, at its own
16 expense, without unnecessary delay, shall cause the earth and
pavement removed by it to be replaced in proper condition.

18
20 **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
22 and structures necessary and convenient for its corporate
purposes. The district may lay, construct and maintain its pipes
24 and fixtures in, over and under navigable waters and build and
maintain structures for the pipes and fixtures, subject to the
26 laws of the United States. The district may supply water to any
public utility now supplying water in Waldo County, subject to
28 the consent of the Public Utilities Commission.

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

44
46 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, or acquired for
48 future use, by the owner of that property or those facilities in
the performance of a public duty, unless expressly authorized to

do so by this section or by subsequent act of the Legislature or
as provided in section 6.

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

Sec. 7. Procedure in exercising of eminent domain. The district, in exercising, from time to time, any right of eminent domain in the taking of land, interests in the land or water rights, shall file in the office of the county commissioners of Waldo County and record in the Waldo County Registry of Deeds plans of the location of all property to be taken, with an appropriate description and the names of the owners, if known. Notice of the filing must be sent by mail to the owners at the address appearing on the tax records of the municipality in which the land is located. When for any reason the district fails to acquire the property it is authorized to take, and which is described in that location, or if the location recorded is defective or uncertain, it may, at any time, correct and perfect that location and file a new description, and in that case the district is liable for damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district is not liable for any acts that would have been justified if the original taking had been lawful. Entry may not be made on any private lands, except to make surveys, until the expiration of 10 days from that filing, 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.

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

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 acceptance of this
8 Act, the municipal officers of the Town of Searsmont shall give
9 notice of a special election of the Searsmont Village Water
10 District, for the purpose of selecting the first board of
11 trustees, by posting a notice at least 30 days prior to the date
12 set for election. The notice must be posted, in a conspicuous
13 public place. The voters of the district shall elect 3 initial
14 trustees; one for a term expiring at the following town meeting,
15 one for a term expiring a year later and one for a term expiring
16 2 years later. The member receiving the greatest number of votes
17 serves for a term of 3 years; the member receiving the next
18 highest number of votes serves for a term of 2 years; and the 3rd
19 member serves for a term of one year. In the event of a tie
20 vote, the terms of office of the members affected must be
21 determined by lot. Thereafter, trustees are elected to serve for
22 3-year terms. Elections must be held in accordance with the
23 requirements for municipal elections. Vacancies are filled
24 pursuant to subsection 4.

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

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

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

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

36 **4. Vacancy.** Whenever the term of office of a trustee
37 expires, the trustee's successor must be elected by a plurality
38 vote by the inhabitants of the district. For the purpose of
39 election, a special election must be called and held on the same
40 date as the annual municipal election, the election to be called
41 by the trustees of the district in the same manner as town
42 meetings are called and for this purpose the trustees are vested
43 with the powers of municipal officers of towns. The trustee so
44 elected shall serve the full term of 3 years. If any vacancy
45 arises in the membership of the board of trustees, it must be
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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 municipal officer in the Town
of Searsmont 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
Searsmont, 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 reports of the Town of Searsmont.

**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 Searsmont, and
the town may contract with the district for the supply of water
for municipal purposes.

**Sec. 12. Authorized to receive government aid; borrow money; issue
bonds and notes.** For accomplishing the purposes of this Act and
for such other expenses as may be necessary for the carrying out
of these purposes, the district, through its trustees, without
vote of the inhabitants, may receive state and federal aid
grants, borrow money temporarily and issue for the money its
negotiable notes for the purpose of renewing and refunding the
indebtedness so created, for paying any necessary expenses and
liabilities incurred under this Act, including organizational and
other necessary expenses and liabilities, and in acquiring
properties, paying damages, laying pipes, mains, aqueducts and
conduits, constructing, maintaining and operating a water plant
or system

2 and making renewals, additions, extensions and improvements to
4 the water plant or system and to cover interest payments during
6 the period of construction. The district, through its trustees,
8 without the vote of its inhabitants, may also issue, from time to
10 time, in accordance with the Maine Revised Statutes, Title 35-A,
12 chapter 63, bonds, notes or other evidences of indebtedness of
the district in such amount or amounts bearing interest at such
rate or rates, selling at par or at a discount or a premium and
having such other terms and provisions as the trustees determine,
except that loans running for one year or less do not require the
Public Utilities Commission's approval.

14 The bonds, notes and evidences of indebtedness may be issued
16 to mature serially or made to run for such periods as the
18 trustees determine. Bonds, notes or evidences of indebtedness
20 may be issued with or without provisions for calling the bonds,
22 notes or evidences of indebtedness prior to maturity and, if
24 callable, may be made callable at par or at such premium as the
26 trustees determine. All bonds, notes or other evidences of
indebtedness must have inscribed upon their face the words
"Searsmont 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.

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

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

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

2 Company, including all lands, waters, water rights, dam
4 structures, reservoirs, pipes, machinery, fixtures, hydrants,
6 tools and all apparatus and appliances used or usable in
8 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 Searsmont Water Company.

10 In exercising the right of eminent domain under this Act,
12 the trustees shall file with the district clerk a condemnation
14 order that includes a detailed description of the property
16 interests to be taken, the name or names of the owner or owners
18 of record so far as they can be reasonably determined and the
20 amount of damages determined by the trustees to be just
22 compensation for the property or interest therein taken. The
24 trustees shall then serve upon the owner or owners of record a
copy of the condemnation order and a check in the amount of the
damages awarded and record a certified copy of the condemnation
order in the Waldo County Registry of Deeds. In the event of
multiple ownership, the check may be served on any one of the
owners. This title passes to the district upon service of the
order of condemnation and check or upon recordation in accordance
with this Act, whichever occurs first. Acceptance and
negotiation of the check do not bar an appeal under this Act.

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

36
38 **Sec. 14. Rates.** The rates established pursuant to this
40 section must be sufficient to provide revenue for the purposes of
42 this Act and for all other purposes of the district, without the
44 need for any financial assistance from the Town of Searsmont,
46 other than the normal payment of water charges for services
48 rendered and the loan or loans for initial funds as set forth in
section 12. Individuals, firms and corporations, whether
private, public or municipal, shall pay to the treasurer or other
designated officer of the district the rates established by the
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.

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

10 **Sec. 16. Separability clause.** If any section or part of a
11 section of this Act is held invalid by a court of competent
12 jurisdiction, the holding does not affect the remainder of this
13 Act, it being the intention that the remaining portions of this
14 Act stand, notwithstanding the unconstitutionality or invalidity
15 of any section, sentence, clause or phrase.

16 **Sec. 17. Acceptance subject to referendum.** This Act must be
17 submitted to the legal voters within the district at an election
18 called for that purpose and held by December 31, 1993. The
19 election must be called, advertised and conducted according to
20 the law relating to municipal elections, except that the
21 registrar of voters is not required to prepare or the clerk to
22 post a new list of voters and, for this purpose, the registrar of
23 voters must be in session the 3 secular days preceding the
24 election, of which the first 2 days must be devoted to
25 registration of the voters and the last day to verification of
26 the list and completion of the records of these sessions by the
27 registrar. The subject matter of this Act is reduced to the
28 following question:

30 "Shall the Searsmont Village Water District be created?"

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

34 The results must be declared by the municipal officers of
35 the Town of Searsmont and the due certificate of the results
36 filed by the clerk with the Secretary of State.

37 This Act takes effect upon its acceptance by a majority of
38 the legal voters within the district voting at the special
39 election. Failure of the approval by the necessary majority of
40 voters at any such election does not prevent a subsequent
41 election or elections from being held for that purpose.
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STATEMENT OF FACT

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This bill creates the Searsmont Village Water District.