

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2368

H.P. 1688

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 HOLT of Bath.
Cosponsored by Senator HOLLOWAY of Lincoln.

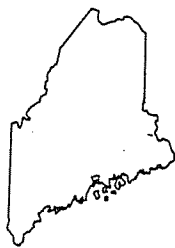
STATE OF MAINE

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

An Act to Create the Dresden Mills 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 Dresden Mills area have become
6 contaminated with petroleum and pose a serious threat to the
health and well-being of residents in that area; and

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

12 Whereas, it is desirable that a public district be formed in
Dresden Mills to be able to supply water to the people of the
14 area; 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 16, the inhabitants and territory within the Town of
26 Dresden in Lincoln County comprise of the area starting at the
Route 27 bridge on the Eastern River at Dresden Mills; thence
28 about 800 feet northeasterly by the southeast shore of the
Eastern River to the entrance of a tributary stream; thence about
30 500 feet southeasterly up the tributary stream to intersect Blinn
Hill Road at a point that is about 600 feet northeast along Blinn
32 Hill Road from its entrance onto Route 27 in Dresden Mills;
thence about 2100 feet northeasterly and easterly along Blinn
34 Hill Road to the northeasternmost corner of Lot 54, Property Map
U-1; thence about 2300 feet southerly and southwesterly along the
36 southeast boundaries of Lots 54, 44 and 47, Property Map U-1,
they being the common boundary between Property Maps U-1 and R-4,
38 to intersect Route 27 at a point that is about 2200 feet
southeast along Route 27 from the point of beginning at the Route
40 27 bridge; thence follow Route 27 southeast about 870 feet along
the boundary of Lot 48, Property Map U-1, to the northeast corner
42 of Lot 49, Property Map R-5; thence about 2500 feet southerly
along the east boundaries of Lot 49 and Lot 1, Property Map R-5,
44 to the southeast corner of Lot 1, Property Map R-5; thence about
3800 feet westerly along the south boundary of Lot 1, Property
46 Map R-5, to the shore of the Eastern River, crossing Route
127/197 at a point that is about 3600 feet southwest along Route
48 127/197 from its entrance onto Route 27 in Dresden Mills; thence
about 4500 feet northeasterly by the southeast shore of the
50 Eastern River to the point of beginning at the Route 27 bridge on
the Eastern River at Dresden Mills constitutes a public municipal

2 corporation under the name of "Dresden Mills Water District" for
the purpose of supplying the inhabitants of the district with
4 pure water for domestic, sanitary, manufacturing and municipal
purposes. Reference to lot numbers are taken from Dresden
6 Property Maps No. U-1 and R-5, which are the official town tax
maps as prepared by John E. O'Donnell and Associates in 1977.

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

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

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

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

50

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

16 This section may not be construed as authorizing the
18 district to take by right of eminent domain any of the property
20 or facilities of any other public utility used, or acquired for
22 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.

24 **Sec. 6. Procedure if public utility must be crossed.** In case of
26 crossing of any public utility, unless consent is given by the
28 company owning and operating the public utility as to place,
30 manner and conditions of the crossing within 30 days after
32 consent is requested by the district, the Public Utilities
34 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.

36 **Sec. 7. Procedure in exercising of eminent domain.** The district,
38 in exercising, from time to time, any right of eminent domain in
40 the taking of land, interests in the land or water rights, shall
42 file in the office of the county commissioners of Lincoln County
44 and record in the Lincoln County Registry of Deeds plans of the
46 location of all property to be taken, with an appropriate
48 description and the names of the owners, if known. Notice of the
50 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 Lincoln 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.

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 and, after selection of the first board, elected as provided in the Maine Revised Statutes, Title 35-A, chapter 63.

1. First board. Within 14 days after acceptance of this Act, the municipal officers of the Town of Dresden shall give notice of a special election of the Dresden Mills Water District, for the purpose of selecting the first board of trustees, by posting a notice at least 30 days prior to the date set for election. The notice must be posted, in a conspicuous public place. The voters of the district shall elect 3 initial trustees; one for a term expiring at the following town meeting, one for a term expiring a year later and one for a term expiring 2 years later. The member receiving the greatest number of votes serves for a term of 3 years; the member receiving the next highest number of votes serves for a term of 2 years; and the 3rd member serves for a term of one year. In the event of a tie vote, the terms of office of the members affected must be determined by lot. Thereafter, trustees are elected to serve for 3-year terms. Elections must be held in accordance with the requirements for municipal elections. Vacancies are filled pursuant to subsection 4.

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.

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.

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

4
6 **3. Bylaws.** The trustees may adopt and establish bylaws as
necessary for the proper management of the affairs of the
district.

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

26
28 The trustees may procure an office and incur such expenses
as may be necessary.

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

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

48
50 **Sec. 11. District and town authorized to make and assume
contracts.** The district, through its trustees, may contract with

2 persons and corporations, including the Town of Dresden, and
those towns may contract with the district for the supply of
water for municipal purposes.

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

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

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

48
50 The district may refund and reissue, from time to time, in
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 the district are legal investments for savings banks in the State and are free from taxation.

Sec. 13. Rates. The rates established pursuant to this section must be sufficient to provide revenue for the purposes of this Act and for all other purposes of the district, without the need for any financial assistance from the Town of Dresden, other than the normal payment of water charges for services 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.

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

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

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

Sec. 16. Acceptance subject to referendum. This Act must be submitted to the legal voters within the district at an election called for that purpose and held by December 31, 1993. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters and, for this purpose, the registrar of voters

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

8 "Shall the Dresden Mills Water District be created?"

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

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

16 This Act takes effect upon its acceptance by a majority of
17 the legal voters within the district voting at the special
18 election. Failure of the approval by the necessary majority of
19 voters at any such election does not prevent a subsequent
20 election or elections from being held for that purpose.

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

26 **STATEMENT OF FACT**

28 This bill creates the Dresden Mills Water District.