

# MAINE STATE LEGISLATURE

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H. O. S.  
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L.D. 2424

(Filing No. S- 663)

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STATE OF MAINE  
SENATE  
115TH LEGISLATURE  
SECOND REGULAR SESSION

SENATE AMENDMENT " A" to H.P. 1736, L.D. 2424, Bill, "An Act to Create the Fort Kent Utilities District"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

**Sec. 1. Territorial limits; corporate name; purposes.** Subject to Section 16, the inhabitants and territory within the corporate limits of the Town of Fort Kent constitute a body politic and corporate under the name of "Fort Kent Utility District" for the purpose of supplying the inhabitants of the district with pure water and sewage treatment and disposal services for domestic, sanitary, commercial, industrial, agricultural, fire protection and municipal purposes. All incidental rights, powers, and privileges necessary to the accomplishment of the main objectives set forth in this Act are granted to the Fort Kent Utility District referred to in this Act as the "district."

**Sec. 2. Powers of Fort Kent Utility District.** The Fort Kent Utility District is authorized for the purposes of its incorporation to take, collect, store, flow, use, divert, distribute and convey to the Town of Fort Kent or any part of the Town of Fort Kent water from any lake, pond, stream or river or from any surface or underground brook, spring or vein of water, natural or artificial, in the town. It may also locate, construct and maintain aqueducts, pipes, conduits, dams, wells, reservoirs, standpipes, hydrants, pumping stations, drains, treatment plants and other necessary structures and equipment, and do anything necessary to furnish water and sewage treatment

**SENATE AMENDMENT**

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2 and collection facilities for public purposes and for the public  
health, comfort and convenience of the inhabitants and others of  
4 the district. The district may contract to do any and all of the  
foregoing things.

6 The district may, for the purposes outlined in this Act, do  
any and all things necessary to provide water and sewage  
8 treatment and collection systems for public purposes and for the  
health, comfort and convenience of the inhabitants of the  
10 district either by construction, eminent domain or purchase of  
any existing facilities.

12  
14 Upon approval of this Act by the voters of the Town of Fort  
Kent, the town shall convey by deed or other appropriate means of  
conveyance its title to all property previously used by the town  
16 for water and sewer utility purposes.

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

32  
34 **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  
36 and structures necessary and convenient for its corporate  
purposes. The district may lay, construct and maintain its pipes  
38 and fixtures in, over and under navigable waters and build and  
maintain structures for the pipes and fixtures, subject to the  
40 laws of the United States. The district may supply water to any  
public utility now supplying water in Aroostook County, subject  
42 to the consent of the Public Utilities Commission.

44 **Sec. 5. Eminent domain.** The district, for the purposes of  
its incorporation, may take and hold within the area covered by  
46 the district for public uses real estate, personal property and  
any interest necessary for these purposes, by purchase, lease or  
48 otherwise. The district is authorized to acquire for these  
purposes any lands, interest in lands or water rights necessary  
50 for erecting and maintaining plants and works for flowage,

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2 pumping, supplying water through its mains; for forming basins  
and reservoirs, preserving the purity of the water; for laying  
4 and maintaining mains, aqueducts and other structures used for  
taking, distributing, discharging and disposing of water; for  
6 erection of buildings for pumping works; for laying pipes and  
maintaining them; for laying and maintaining conduits for  
8 carrying, collecting and discharging water; for filtration,  
rectification and treatment plants, works and facilities; for  
10 such other objects necessary, convenient, and proper for the  
purposes of its incorporation; and for rights-of-way for roadways  
12 to its sources of supply reservoirs, and for mains, aqueducts,  
structures, plants, works facilities, distribution facilities and  
14 for lands.

16 Nothing contained in this Act may be construed as  
authorizing the district to take by right of eminent domain any  
18 of the property or facilities of any other public utility,  
district or cooperative or district used or acquired for future  
20 use by the owner in the performance of a public duty, unless  
expressly authorized by subsequent Act of the Legislature.  
22 Nothing contained in this Act may be construed to empower the  
district to take by eminent domain any dam, building or other  
24 improvement or the real estate on which any dam, building or  
other improvement is situated.

26 The district may, for the purposes outlined in this section,  
do any and all things necessary in providing a water supply and a  
28 system of sewage treatment and collection and drainage for public  
purposes and for the health, comfort and convenience of the  
30 inhabitants of the district.

32 **Sec. 6. Procedure in exercising right of eminent domain; assessment  
of damage; appeal procedure.** In exercising any right of eminent  
34 domain in the taking of lands, interests in lands or water  
rights, the district shall file in the office of the County  
36 Commissioners of Aroostook County and record in the Northern  
Aroostook County Registry of Deeds, plans of the location of all  
38 property to be taken, with an appropriate description and the  
names of the owners, if known. Notice of the filing must be sent  
40 by mail to owners at the address appearing on the tax records of  
the municipality in which the land is located. When for any  
42 reason the district fails to acquire the property that it is  
authorized to take and that is described in the location, or if  
44 the location recorded is defective or uncertain, it may, at any  
time, correct and perfect that location and file a new  
46 description and in that case the district is liable for damages  
only for property for which the owner had not previously been  
48 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  
50 justified if the original taking had been lawful. Entry may not

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2 be made on any private lands, except to make surveys, until the  
3 expiration of 10 days from that filing, at which time possession  
4 may be had of all lands, interests inland or water rights so  
5 taken, but title does not vest in the district until payment is  
6 made.

7 If any person sustaining damages by any taking does not  
8 agree with the trustees of the district upon the sum to be paid,  
9 either party, upon petition to the county commissioners of  
10 Aroostook County, may have damages assessed by the county  
11 commissioners. The procedure and all subsequent proceedings and  
12 the rights of appeal are under the same restrictions, conditions  
13 and limitations as are or may be by law prescribed in the case of  
14 damages by the laying out of highways.

15 **Sec. 7. Procedure if public utility must be crossed.** In case of any  
16 crossing of any public utility, unless consent is given by the  
17 company, district or cooperative owning or operating the public  
18 utility as to place, manner and conditions of the crossing within  
19 30 days after the consent is requested by the district, the  
20 Public Utilities Commission, upon petition by the district, shall  
21 determine the place, manner and conditions of the crossing. All  
22 work on the property of the public utility must be done under the  
23 supervision and to the satisfaction of the public utility or as  
24 prescribed by the Public Utilities Commission, but at the expense  
25 of the district.

26 **Sec. 8. Trustees; how elected; meetings; officers.** All of the  
27 affairs of the district must be managed by a board of 5 trustees  
28 who are chosen as provided in the Maine Revised Statutes, Title  
29 35-A, Chapter 63. A municipal officer of the Town of Fort Kent  
30 may not serve as a trustee.

31 After the acceptance of this Act, the municipal officers of  
32 the Town of Fort Kent shall hold an election not later than  
33 December 1, 1992, to elect 5 trustees of the district to hold  
34 office as follows: one to serve until the next annual district  
35 meeting; 2 to serve until the annual district meeting thereafter;  
36 and 2 to serve until the next annual district meeting  
37 thereafter. When the term of each trustee expires, a successor  
38 trustee is elected in accordance with the Maine Revised Statutes,  
39 Title 35-A, Chapter 63, for a term of 3 years or until a  
40 successor is elected and qualified at the annual district  
41 meeting. Whenever any trustee who was a resident of the district  
42 when elected ceases to be a resident of the district, the trustee  
43 vacates the office of trustee. Vacancy in the office of trustee  
44 is filled for the unexpired term by vote of the trustees, and the  
45 interim trustee serves until the next annual district meeting.  
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2           Organization of the board of trustees is in accordance with  
4           the Maine Revised Statutes, Title 35-A, Chapter 63. The trustees  
6           have the powers specified in the Maine Revised Statutes, Title  
8           35-A, Chapter 63.

10           All decisions of the board of trustees are by a majority of  
12           those present and voting. A quorum of the board of trustees is 3  
14           trustees.

16           Trustees' compensation is \$500 annually.

18           **Sec. 9. Annual meeting of district.** After the acceptance of this  
20           Act and the organization of the first board, the district shall  
22           hold annual meetings within the district for the election of  
24           trustees, at a time and place designated by resolution of the  
26           board of trustees as provided in the bylaws. The trustees shall  
28           give 7 days' notice to the voters of the district of the time and  
30           place of the meeting.

32           The trustees may establish such bylaws as are necessary for  
34           their own convenience and the proper management of the affairs of  
36           the district. The trustees may procure an office and incur such  
38           expenses as may be necessary. The treasurer shall furnish bond  
40           in such sum and with such sureties as trustees may approve.  
42           Members of the board shall be eligible for any office under the  
44           board.

46           **Sec. 10. District and town authorized to make contracts.** The  
48           district, through its trustees, may contract with persons and  
50           corporations, including the Town of Fort Kent, and the Town of  
            Fort Kent may contract with the trustees for the supply of water  
            for municipal purposes and for the use of sewerage and drainage  
            facilities.

            All valid contracts between the Town of Fort Kent and other  
            towns, persons or corporations for supplying water or sewerage  
            services within the Town of Fort Kent that are in effect on the  
            date of transfer by the Town of Fort Kent to the district of the  
            town's plant, properties, rights and privileges used or useful in  
            providing a water supply and sewerage system in the Town of Fort  
            Kent must be assumed and carried out by the Fort Kent Utility  
            District.

**Sec. 11. Authorized to borrow money, to 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 the  
            purposes, the district, through its trustees, may accept state,  
            federal or municipal grants and may borrow money temporarily and  
            issue its negotiable notes. For the purpose of renewing and

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2 refunding the indebtedness so created, paying any necessary  
3 expenses and liabilities incurred under this Act, including  
4 organizational and other necessary expenses and liabilities,  
5 whether incurred by the district or the Town of Fort Kent, the  
6 district being authorized to reimburse the town for any expenses  
7 incurred by them and in acquiring properties; paying damages,  
8 laying pipes, mains, aqueducts and conduits; constructing,  
9 maintaining and operating a water or sewer plant or water or  
10 sewer system and making renewals, additions, extensions and  
11 improvements to them and to cover interest payments during the  
12 period of construction; the district, through its trustees, may  
13 also issue, from time to time, bonds, in one series or in  
14 separate series, in such amount or amounts, bearing interest at  
15 such rate or rates and having such terms and provisions as the  
16 trustees determine. The issuance of any bonds for water projects  
17 must be in accordance with the Maine Revised Statutes, Title  
18 35-A, chapter 63.

19  
20 The bonds, notes and evidences of indebtedness may be issued  
21 for water and sewer purposes, and may be made to mature serially  
22 or made to run for such periods as the trustees determine, but  
23 none of them may run for a longer period than 40 years from the  
24 date of original issue. Bonds, notes or evidences may be issued  
25 with or without provision for calling the same prior to maturity,  
26 and if callable, may be made callable at par or at such premium  
27 as the trustees determine. All bonds, notes or other evidences  
28 of indebtedness must have inscribed upon their face the words  
29 "Fort Kent Utility District," and be signed by the treasurer and  
30 countersigned by the chair of the board of trustees of the  
31 district. If coupon bonds are issued, the interest coupons  
32 attached to the coupon bonds must bear the facsimile signature of  
33 the treasurer.

34 All bonds, notes and evidences of indebtedness issued by the  
35 district are legal obligations of the district, which is declared  
36 to be a quasi-municipal corporation within the meaning of the  
37 Maine Revised Statutes, Title 30-A, Section 5701, and all  
38 provisions of that section are applicable. The district may  
39 refund and reissue from time to time, in one or in separate  
40 series, its bonds, notes and other evidences of indebtedness and  
41 each authorized issue constitutes a separate loan. All bonds,  
42 notes and evidences of indebtedness issued by the district are  
43 legal investments for savings banks in the State and are tax  
44 exempt.

45 **Sec. 12. Rates; application of revenue; sinking fund.** The rates  
46 established pursuant to this section must be sufficient to  
47 provide revenue for the purposes of this Act and for all other  
48 purposes of the district, without the need for any financial  
49 assistance from the Town of Fort Kent, other than the normal  
50

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2 payment of water and sewer charges for services rendered.  
 4 Individuals, firms and corporations, whether private, public or  
 6 municipal, shall pay to the treasurer or other designated officer  
 8 of the district the rates established by the board of trustees  
 10 for the water and sewer service used by them. The water rates  
 12 must be established in accordance with the Maine Revised  
 14 Statutes, Title 35-A, Chapter 61, to provide for the purposes set  
 16 forth in that chapter. Sewer rates must be established in  
 18 accordance with Maine Revised Statutes, Title 38, Section 1202.

20 **Sec. 13. Property tax exempt.** The property of the district is  
 22 exempt from all taxation in the Town of Fort Kent.

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

38 **Sec. 15. Separability clause.** If any section or part of a  
 40 section of this Act is held invalid by a court of competent  
 42 jurisdiction, the holding does not affect the remainder of this  
 44 Act, it being the intention that the remaining portions of this  
 46 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 an at election  
 called for that purpose and held not later than December 1,  
 1992. The election must be called, advertised and conducted  
 according to the law related 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 must be in session the 3 secular days preceding the  
 election, of which the first 2 days must be devoted to  
 registration of the voters and the last day to verification of  
 the list and completion of the records of these sessions by the  
 registrar. The subject matter of this Act is reduced to the  
 following question.

"Shall the Fort Kent Utility District be created?"

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



2 The results must be declared by the municipal officers of  
the Town of Fort Kent and due certificate of the results filed by  
4 the clerk with the Secretary of State.

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

12 **Sec. 17. Local referendum impact.** Notwithstanding the Maine  
Revised Statutes, Title 30-A, section 5684, additional costs, if  
14 any, imposed on any municipality by the provisions of this Act  
are not funded by the State.'

16 Further amend the bill by inserting after the emergency  
18 clause and before the statement of fact the following:

20 **FISCAL NOTE**

22 The Public Utilities Commission will incur some minor  
additional administrative costs to regulate an additional  
24 utility. These costs can be absorbed within the commission's  
existing budgeted resources.'

26 **STATEMENT OF FACT**

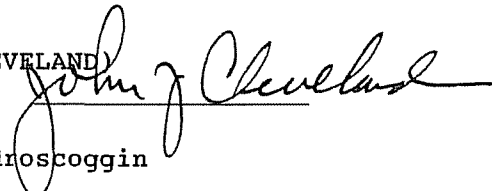
28 This amendment strikes and replaces the bill. This  
30 amendment clarifies the powers and responsibilities of the Fort  
Kent Utility District.

32 This amendment adds language exempting the referendum  
34 provisions of this Act from the municipal mandate laws.

36 This amendment also adds a fiscal note to the bill.

38

40

42 (Senator CLEVELAND)  
SPONSORED BY:   
44 COUNTY: Androscoggin

46

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