

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2424

H.P. 1736

House of Representatives, March 17, 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.

EDWIN H. PERT, Clerk

Presented by Representative PARADIS of Frenchville.
Cosponsored by Senator THERIAULT of Aroostook.

STATE OF MAINE

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

An Act to Create the Fort Kent Utilities 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, the Town of Fort Kent is in great need of
6 installation of a sewer treatment plant and the improvement of
its water and sewer system; and

8 Whereas, it is important that a sewer treatment plant be
10 constructed at the earliest possible opportunity to supply a
water and sewer system to the inhabitants of Fort Kent; and

12 Whereas, in the judgment of the Legislature, these facts
14 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
16 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

20 **Sec. 1. Territorial limits; corporate name; purposes.** Subject to
22 section 16, the inhabitants and territory within the corporate
limits of the Town of Fort Kent constitute a body politic and
24 corporate under the name of Fort Kent Utilities District for the
purpose of supplying the inhabitants of the district with pure
26 water and sewage disposal services for domestic, sanitary,
commercial, industrial, agricultural and municipal purposes. All
28 incidental rights, powers and privileges necessary to accomplish
the objectives of this Act are granted to the Fort Kent Utilities
30 District.

32 **Sec. 2. Powers of Fort Kent Utilities District.** The Fort Kent
Utilities District, for the purposes of its incorporation, may
34 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
36 from any lake, pond, stream or river, or from any surface or
underground brook, spring or vein of water, natural or
38 artificial, in the town. It may also locate, construct and
maintain aqueducts, pipes, conduits, dams, wells, reservoirs,
40 standpipes, hydrants, pumping stations, drains, treatment plants
and other necessary structures and equipment, and do anything
42 necessary to furnish water and sewerage facilities for public
purposes and for the public health, comfort and convenience of
44 the inhabitants and others of the district, either by
construction, eminent domain or purchase of any existing
46 facilities, or may contract to do any and all of the foregoing
things.

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

16 **Sec. 4. Authorized to erect dams and reservoirs; to cross navigable**
17 **water; to supply water to utilities.** The district, for the purposes of
18 its incorporation, may erect and maintain all dams, reservoirs
19 and structures necessary and convenient for its corporate
20 purposes. The district may lay, construct and maintain its pipes
21 and fixtures in, over and under navigable waters and build and
22 maintain structures for the pipes and fixtures, subject to the
23 laws of the United States. The district may supply water to any
24 public utility now supplying water in Aroostook County, subject
25 to the consent of the Public Utilities Commission.

26 **Sec. 5. Eminent domain.** The district, for the purposes of
27 its incorporation, may take and hold within the area covered by
28 the district for public uses real estate, personal property and
29 any interest necessary for these purposes, by purchase, lease or
30 otherwise. The district may acquire for these purposes any
31 lands, interest in lands or water rights necessary for erecting
32 and maintaining plants and works for flowage, pumping, supplying
33 water through its mains; for forming basins and reservoirs,
34 preserving the purity of the water; for laying and maintaining
35 mains, aqueducts and other structures used for taking,
36 distributing, discharging and disposing of water or wastewater;
37 for erection of buildings for pumping works; for laying pipes and
38 maintaining them; for laying and maintaining conduits for
39 carrying, collecting and discharging water; for filtration or
40 waste treatment plants, for all works and facilities; for such
41 other objects necessary, convenient and proper for the purposes
42 of its incorporation; and for rights-of-way or roadways to its
43 sources of supply reservoirs, mains, aqueducts, structures,
44 plants, works facilities, distribution facilities and lands.

46 This section may not be construed as authorizing the
47 district to take by right of eminent domain any of the property
48 or facilities of any other public utility, or district used or
49 acquired for future use by the owner in the performance of a
50

2 public duty, unless expressly authorized to do so by this
3 section, by subsequent Act to the Legislature or as provided in
4 section 6 or 7. This section may not be construed to empower the
5 district to take by eminent domain any dam, building or other
6 improvement or the real estate on which any dam, building or
7 other improvement is situated.

8 **Sec. 6. Procedure in exercising right of eminent domain; assessment**
9 **of damage; appeal procedure.** In exercising the right of eminent
10 domain in the taking of lands, interests in lands or water
11 rights, the district shall file in the office of the
12 commissioners of Aroostook County and record in the Aroostook
13 County Registry of Deeds plans of the location of all property to
14 be taken, with an appropriate description and the names of the
15 owners, if known. Notice of the filing must be sent by mail to
16 the owners at the address appearing on the tax records of the
17 municipality in which the land is located. When for any reason
18 the district fails to acquire the property it is authorized to
19 take, which is described in that location, or if the location
20 recorded is defective or uncertain, the district may, at any
21 time, correct and perfect that location and file a new
22 description, and in that case the district is liable for damages
23 only for property for which the owner had not previously been
24 paid, to be assessed as of the time of the original taking, and
25 the district is not liable for any acts that would have been
26 justified if the original taking had been lawful. Entry may not
27 be made on any private lands, except to make surveys, until the
28 expiration of 10 days from that filing, at which time possession
29 may be had of all lands, interests in lands or water rights so
30 taken, but title does not vest in the district until payment is
31 made.

32
33 If any person sustaining damages by any taking does not
34 agree with the trustees of the district on the sum to be paid,
35 either party, upon petition to the county commissioners of
36 Aroostook County, may have the damages assessed by the county
37 commissioners. The procedure and all subsequent proceedings and
38 rights of appeal are under the same restrictions, conditions and
39 limitations as are or may be by law prescribed in the case of
40 damages by the laying out of highways.

41 **Sec. 7. Procedure if public utility must be crossed.** In case of any
42 crossing of any public utility, unless consent is given by the
43 company owning or operating the public utility as to place,
44 manner and conditions of the crossing within 30 days after the
45 consent is requested by the district, the Public Utilities
46 Commission, upon petition by the district, shall determine the
47 place, manner and conditions of the crossing. All work on the
48 property of the public utility must be done under the supervision
49 and to the satisfaction of the public utility or as prescribed by
50 the Public Utilities Commission, but at the expense of the
51 district.
52

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

8 After the acceptance of this Act, the municipal officers of
10 Fort Kent shall hold an election on June 9, 1992 to elect 5
12 trustees of the district to hold office as follows: one to serve
14 until the next town meeting; 2 to serve until the next town
16 meeting thereafter; and 2 to serve until the next town meeting
18 thereafter. When the term of each trustee expires, a successor
20 trustee is elected in accordance with the Maine Revised Statutes,
22 Title 35-A, chapter 63, for a term of 3 years or until a
successor is elected and qualified at the Fort Kent town
meeting. Whenever any trustee who was a resident of the district
when elected ceases to be a resident of the district, the trustee
vacates the office of trustee. Vacancy in the office of trustee
is filled for the unexpired term at a special town meeting in
Fort Kent unless the vacancy occurs within 3 months prior to the
next annual town meeting.

24 Organization and powers of the board of trustees must be in
26 accordance with Title 35-A, chapter 63.

28 All decisions of the board of trustees are by a majority of
30 those present and voting. A quorum of the board of trustees is 3
trustees.

32 Trustees' compensation is \$500 annually.

34 **Sec. 9. Annual meeting of district.** After the acceptance of this
36 Act and the organization of the board, the annual meeting of the
38 district for seating of a trustee must be held in the district
within the first 2 weeks of June at an hour and place designated
by the board of trustees as provided in the bylaws, and the newly
elected trustee is seated at this meeting.

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

48 All valid contracts between the Town of Fort Kent and other
50 towns, persons or corporations for supplying water or sewage
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 its

2 plant, properties, rights and privileges used or useful in
3 providing a water supply and sewerage system in the Town of Fort
4 Kent must be assumed and carried out by the Fort Kent Utilities
5 District.

6 **Sec. 11. Authorized to receive government aid; borrow money; issue**
7 **bonds and notes.** For accomplishing the purposes of this Act and
8 for other necessary expenses the district, through its trustees,
9 may accept state, federal or municipal grants and may borrow
10 money temporarily and issue its negotiable notes for the purpose
11 of renewing and refunding the indebtedness so created, of paying
12 any necessary expenses and liabilities incurred under this Act,
13 including organizational and other necessary expenses and
14 liabilities whether incurred by the district or the town, the
15 district being authorized to reimburse the town for any expenses
16 incurred by them and in acquiring properties; paying damages;
17 laying pipes, mains, aqueducts and conduits; constructing,
18 maintaining and operating a water plant or system and making
19 renewals, additions, extensions and improvements to them and to
20 cover interest payments during the period of construction. The
21 district, through its trustees, may also issue, from time to
22 time, in accordance with the Maine Revised Statutes, Title 35-A,
23 chapter 63, bonds, in one series, or in separate series, in such
24 amount or amounts, bearing interest at such rate or rates and
25 having such terms and provisions as the trustees determine.

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

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

2 **Sec. 12. Rates.** The rates established pursuant to this
4 section must be sufficient to provide revenue for the purposes of
6 this Act and for all other purposes of the district, without the
8 need for any financial assistance from the Town of Fort Kent,
10 other than the normal payment of water charges for services
12 rendered. 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.

14 **Sec. 13. Existing laws not affected; rights conferred subject to law.**
16 Nothing contained in this Act is intended to repeal, or may be
18 construed as repealing, the whole or any part of any existing
20 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.

22 **Sec. 14. Property tax exempt.** The property, both real and
24 personal, rights and franchises of the Fort Kent Utilities
District are forever exempt from taxation in the Town of Fort
Kent.

26 **Sec. 15. Separability clause.** If any section or part of a
28 section of this Act is held invalid by a court of competent
30 jurisdiction, the holding does not affect the remainder of this
32 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.

34 **Sec. 16. Acceptance subject to referendum.** This Act must be
36 submitted to the legal voters within the district at an election
called for that purpose and held on March 23, 1992. The election
must be called, advertised and conducted according to the laws
38 governing municipal elections except that the registrar of voters
is not required to prepare or the clerk to post a new list of
40 voters and, for this purpose, the registrar of voters must be in
session the 3 secular days preceding the election, of which the
42 first 2 days must be devoted to registration of the voters and
the last day to verification of the list and completion of the
44 records of these sessions by the registrar. The subject matter
of this Act is reduced to the following question:

46 "Do you favor the creation of the Fort Kent Utilities
48 District?"

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

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

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

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

16

18

STATEMENT OF FACT

20

This bill creates the Fort Kent Utilities District.