

# 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)



# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

---

Legislative Document

No. 1475

S.P. 476

In Senate, May 10, 1993

---

**An Act to Deregulate Consumer-owned Water Utilities.**

---

Submitted by the Public Utilities Commission pursuant to Joint Rule 24.  
Reference to the Committee on Utilities suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator VOSE of Washington.



2 **§6503. Trustees retirement**

4 Persons who were not trustees before January 1, 1987 and who  
6 are not full-time employees are not eligible to become members of  
8 the Maine State Retirement System as a result of their selection  
10 as trustees. To determine a water district trustee's eligibility  
12 for membership in the Maine State Retirement System before  
14 January 1, 1987, the provisions of the appropriate governing  
16 charter in effect at the time of the trustee's application for  
18 membership control.

20 **SUBCHAPTER II**

22 **POWERS**

24 **§6531. Authority for taxation under default**

26 1. Issuance of a warrant. If there is a default in the  
28 payment of the principal of or interest on a note, bond or other  
30 evidence of indebtedness issued by a water district created by  
32 special act of the Legislature, the trustees, directors or  
34 managing board of the district, unless the default is cured,  
36 shall issue a warrant immediately to those portions of the  
38 municipality or municipalities that constitute the district.

40 2. Form of warrant. The form of the warrant must be  
42 similar to the warrant used by the Treasurer of State for real  
44 estate taxes.

46 3. Assessment and collection of taxes. In the warrant for  
48 payment of the sum, the assessors in each municipality shall  
50 assess the sum allocated to the municipality or portion of the  
52 municipality upon the taxable estates within the municipality or  
portion of the municipality and shall commit their assessment to  
the constable or collector of the municipality, who has all  
authority, powers and duty to collect taxes, as is vested by law  
to collect state, county and municipal taxes.

4. Allocation if district is composed of more than one  
municipality. If the district is composed of more than one  
municipality or portion of a municipality, the trustees shall  
make the allocation on a basis resulting in a uniform rate  
applied to 100% of the state valuation of all taxable property  
within the water district.

5. Treasurer to pay tax within 30 days. Within 30 days  
after the date fixed by the municipalities on which their taxes  
are due, the treasurer of the municipality shall pay the assessed  
tax to the treasurer of the district.

6. Section not effective until approved by municipality.  
This section does not take effect until it or former Title 35,

2 section 3211 or Title 35-A, section 6103, subsection 6 has been  
4 approved at a regular or special meeting by a majority of the  
6 legislative body of the municipality or municipalities that  
8 constitute a district. The municipal official shall declare the  
10 action of the legislative body and file a certificate of it with  
12 the Secretary of State and with the clerk of the district.

14 **§6532. Rates of water districts**

16 **1. Scope of section.** Notwithstanding any other provision  
18 of this Title or any charter to the contrary, and in addition to  
20 any charter or private and special laws creating or affecting a  
22 consumer-owned water utility, the rate, toll or charge made,  
24 exactd, demanded or collected by a consumer-owned water utility  
26 is governed by this section.

28 **2. Determining rates.** The water district shall establish  
30 rates, tolls or charges. Rates, tolls and charges include but  
32 are not limited to customer deposits, assessments and  
34 contributions for construction of water main extensions and  
36 service line and system development charges.

38 **3. Uniform rates.** The water district shall establish rates  
40 that are uniform within the territory supplied whenever the  
42 installation and maintenance of mains and the cost of service is  
44 substantially uniform. If the cost of construction and  
46 maintenance or the cost of service in a section of the territory  
48 exceeds the average, the governing body may establish higher  
50 rates for that section, but those higher rates must be uniform  
52 throughout that section.

32 **§6533. Injunctive relief for violations of municipal shoreland**  
34 **zoning ordinances**

36 Pursuant to Title 38, section 444-A, a water district may  
38 commence a civil action for a violation of municipal shoreland  
40 zoning ordinances.

42 **§6534. Right of eminent domain**

44 Each water district may exercise the right of eminent  
46 domain, as specified in its legislative charter, for obtaining  
48 sources of supply and locations for storage and for the  
50 protection of them and locations for transmission and  
52 distribution of water to the public.

44 **§6535. Notice requirements for taking of land for water**  
46 **treatment facilities**

48 A water district that proposes to initiate condemnation  
50 proceedings for the purpose of acquiring land for the  
52 construction of a water treatment facility shall:

2           1. Notice to public. No less than 90 days before  
4           initiation of condemnation proceedings, notify the public in a  
6           newspaper of general circulation in the county and affected area  
8           in which the property is located that the construction of a water  
10           treatment facility is being considered and identifying the area  
12           or areas that are being considered for that construction;

14           2. Notice to municipal officers. No less than 60 days  
16           before initiation of condemnation proceedings, provide written  
18           notice to the municipal officers of each municipality where land  
20           proposed to be taken by eminent domain is located. This notice  
22           must state clearly that the construction of a water treatment  
24           facility is being considered and must identify the areas that are  
26           being considered for that construction; and

28           3. Notice to landowners. No less than 60 days before  
30           initiation of condemnation proceedings, provide written notice to  
32           each owner and all abutters of land proposed to be taken by  
34           eminent domain. This notice must state that the construction of  
36           a water treatment facility is being considered and must identify  
38           the area or areas that are being considered for that  
40           construction. This notice also must state clearly in  
42           nontechnical language the rights of each landowner in the  
44           proposed condemnation proceedings, including any rights of  
46           appeal, and must provide the name, address and telephone number  
48           of the appropriate state agency to assist the landowner in the  
50           proceedings.

52           §6536. Water district line crossing railroad right-of-way

Wherever a line or main of a water district is to be located  
and about to be constructed across the right-of-way of a  
railroad, unless the officers of the water district agree with  
the corporation operating the railroad as to the time, place,  
manner and conditions of the crossing, the Public Utilities  
Commission, upon petition of either party, after notice and  
hearing, shall determine the time, place, manner and conditions  
of the crossing. All the work within the limits of the railroad  
must be done under the supervision of the officers of the  
corporation operating the railroad and to the satisfaction of the  
Public Utilities Commission. The water district shall bear the  
expense of the work. The Public Utilities Commission shall  
report its decision in the same manner as in the case of highways  
located across railroads and subject to the same right of appeal.

§6537. Crossing public utilities

If a line of a water district crosses the property or line  
of a public utility, unless consent is given by the public  
utility as to place, manner and conditions of the crossing within  
30 days after the consent is requested by the district, the

2 Public Utilities Commission shall determine the place, manner and  
4 conditions of the crossings; and all work on the property of the  
6 public utility must be done under the supervision and to the  
8 satisfaction of the public utility, but at the expense of the  
10 district.

12 **§6538. Preservation of certain rights and duties**

14 Although water districts are no longer defined as water  
16 utilities under Title 35-A, section 102 and are not regulated by  
18 the Public Utilities Commission in any way, it is the intention  
20 of the Legislature that water districts continue to be treated as  
22 water utilities for some purposes. As a result, water districts  
24 are deemed to continue to be water utilities, public utilities,  
26 public service corporations or entities providing a regulated  
28 service for purposes of all Titles except Title 35-A.

30 **Sec. 3. 35-A MRSA §102, sub-§22,** as amended by PL 1987, c.  
32 490, Pt. C, §2, is further amended to read:

34 **22. Water utility.** "Water utility" includes every person,  
36 its lessees, trustees, receivers or trustees appointed by any  
38 court, owning, controlling, operating or managing any water works  
40 for compensation within this State, including any aqueduct  
42 organized under former Title 35, chapter 261 and any of its  
44 predecessors. "Water utility" does not include an entity  
46 performing the functions of a water utility that is wholly owned  
48 by its consumers, including, but not limited to, a municipal or  
50 quasi-municipal water district or corporation, municipal water  
52 department or the water portion of a utility that is wholly owned  
by a municipality or district.

**Sec. 4. 35-A MRSA §310, sub-§3, ¶A,** as enacted by PL 1987, c.  
141, Pt. A, §6, is repealed.

**Sec. 5. 35-A MRSA §6101, sub-§§1-A and 1-B,** as enacted by PL  
1987, c. 490, Pt. B, §11, are repealed.

**Sec. 6. 35-A MRSA §6101, sub-§3,** as enacted by PL 1987, c.  
141, Pt. A, §6, is repealed.

**Sec. 7. 35-A MRSA §6103,** as enacted by PL 1987, c. 141, Pt.  
A, §6, is repealed.

**Sec. 8. 35-A MRSA §6104,** as amended by PL 1991, c. 52, §2, is  
repealed.

**Sec. 9. 35-A MRSA §6105,** as corrected by RR 1991, c. 2, §131,  
is repealed.

**Sec. 10. 35-A MRSA §6106,** as amended by PL 1989, c. 159, §9,  
is repealed.

