

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

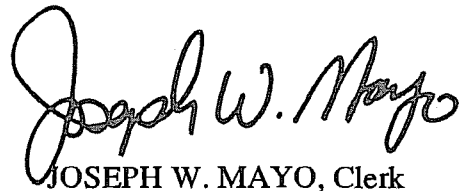
No. 1799

H.P. 1336

House of Representatives, January 27, 1994

An Act to Create the Great Salt Bay Utility District.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Utilities suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative KILKELLY of Wiscasset.
Cosponsored by Senator BEGLEY of Lincoln and
Representatives: HEINO of Boothbay, SPEAR of Nobleboro.

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

2
3 **Sec. 1. Territorial limits; corporate name; purposes.** Subject to
4 section 15, the inhabitants and territory within the Town of
5 Damariscotta, the Town of Newcastle and the Town of Nobleboro
6 constitute a body politic and corporate under the name of the
7 "Great Salt Bay Utility District" for the purpose of supplying
8 the inhabitants of the district with pure water and sewage
9 disposal services for domestic, sanitary, commercial, industrial,
10 agricultural and municipal purposes and for selling to the
11 inhabitants. All incidental rights, powers and privileges
12 necessary to the accomplishment of the main objectives set forth
13 in this Act are granted to the Great Salt Bay Utility District.

14
15 **Sec. 2. Powers of Great Salt Bay Utility District.** The district,
16 for the purposes of its incorporation, may take, hold, divert,
17 use and distribute or sell water from a source in the Town of
18 Damariscotta, the Town of Newcastle or the Town of Nobleboro,
19 natural or artificial, approved by the Department of Human
20 Services. The district may not take, withdraw or divert water
21 from a source for those purposes set forth in this Act, unless it
22 has filed a written petition and obtained approval of the Public
23 Utilities Commission. The petition must include a plan for the
24 taking, withdrawal or diversion. The petition and plan must set
25 forth adequate information upon which findings may be made
26 regarding the nature, capacity, safe yield and rechargeability of
27 the source, the amount of water to be taken over time and other
28 existing and projected uses and demands on the source. The
29 commission may by rule or order prescribe other information to be
30 contained in the petition and plan. The commission may not
31 approve a petition unless the commission finds that the plan
32 ensures that adequate water remains in the source to meet the
33 reasonable needs of existing and projected demands on the
34 source. The commission may impose reasonable terms, conditions
35 or other requirements on the plan. The commission shall issue
36 its order approving or disapproving the plan within 9 months
37 after it determines the petition to be complete.

38
39 **Sec. 3. Exclusions.** Artificial ponds, springs, wells supplying
40 private dwellings and existing septic systems of residents of the
41 Town of Damariscotta, the Town of Newcastle and the Town of
42 Nobleboro are excluded from the powers set out in section 2.

43
44 **Sec. 4. Eminent domain.** The district, for the purposes of
45 its incorporation, may take and hold within the area covered by
46 the district for public uses real estate, personal property and
47 any interest necessary for these purposes, by purchase, lease or
48 otherwise. The district is authorized to acquire for these
purposes lands, interest in lands or water rights necessary for

erecting and maintaining plants and works for flowage, pumping,
2 supplying water through its mains; for forming basins and
reservoirs, preserving the purity of the water; for laying and
4 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 filtering,
rectifying and treating plants, works and facilities; for such
10 other objects necessary, convenient and proper for the purposes
of its incorporation; and for rights-of-way of roadways to its
12 sources of supply reservoirs, mains, aqueducts, structures,
plants, works facilities, distribution facilities and lands.

14
The district may lay pipes, mains, conduits, aqueducts and
16 other fixtures in and through the streets, roads, ways and
highways within the district and across private lands, and
18 maintain, repair and replace all the pipes, mains, conduits,
aqueducts and fixtures as may be necessary and convenient for its
20 corporate purposes and authorities. Whenever the district lays
or installs pipes, aqueducts or fixtures in a street, road, way
22 or highway, the district shall cause the same to be done with as
little obstruction as practicable to the public travel and at the
24 district's own expense, without necessary delay, shall cause the
earth and pavement removed by the district to be replaced in
26 proper condition.

28 This Act may not be construed as authorizing the district to
take by right of eminent domain the property or facilities of
30 another public utility, district or cooperative or district used
or acquired for future use by the owner in the performance of a
32 public duty, unless expressly authorized or by subsequent Act of
the Legislature. This Act may not be construed to empower the
34 district to take by eminent domain a dam, building or other
improvement or the real estate on which a dam, building or other
36 improvement is situated.

38 **Sec. 5. Procedure in exercising right of eminent domain; assessment
of damage; appeal procedure.** In exercising the right of eminent
40 domain in the taking of lands, interests in lands or water
rights, the district shall file in the office of the county
42 commissioners of Lincoln County and record in the Lincoln County
registry of deeds plans of the location of all property to be
44 taken, with an appropriate description and the names of the
owners, if known. Notice of the filing must be sent by mail to
46 the owners at the address appearing on the tax records of the
municipality in which the land is located. When for any reason
48 the district fails to acquire the property that it is authorized
to take and that is described in that location, or if the
50 location recorded is defective or uncertain, it may, at any time,

2 correct and perfect that location and file a new description and
in that case the district is liable for damages only for property
4 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
6 liable for acts that would have been justified if the original
taking had been lawful. Entry may not be made on private lands,
8 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 lands or water rights so taken, but title does not
10 vest in the district until payment is made.

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

20
Sec. 6. Procedure if public utility must be crossed. In case of the
22 crossing of a public utility, unless consent is given by the
company, district or cooperative owning or operating the public
24 utility as to place, manner and conditions of the crossing within
30 days after the consent is requested by the district, the
26 Public Utilities Commission, upon petition by the district, shall
determine the place, manner and conditions of the crossing. All
28 work on the property of the public utility must be done under the
supervision and to the satisfaction of the public utility or as
30 prescribed by the Public Utilities Commission, but at the expense
of the district.

32
Sec. 7. Trustees; how appointed; meetings; officers. All of the
34 affairs of the district must be managed by a board of 6 trustees
who are chosen as provided in the Maine Revised Statutes, Title
36 35-A, chapter 63. A municipal officer of the Town of
Damariscotta, the Town of Newcastle or the Town of Nobleboro may
38 not serve as a trustee.

40 As soon as possible after the acceptance of this Act, the
municipal officers of the Town of Damariscotta, the Town of
42 Newcastle and the Town of Nobleboro shall appoint 6 trustees, 3
from the Town of Damariscotta, 2 from the Town of Newcastle and
44 one from the Town of Nobleboro to hold office as follows: one to
serve until the first annual meeting of the district following
46 the acceptance of this Act; 2 to serve until the 2nd annual
meeting; and 3 to serve until the 3rd annual meeting. When the
48 term of each trustee expires, a successor trustee is elected in
accordance with Title 35-A, chapter 63, for a term of 3 years or
50 until a successor is elected and qualified at the town meeting in

2 the town where the trustee resides. Whenever a trustee who was a
resident of the district when elected ceases to be a resident of
4 the district, the trustee vacates the office of trustee. Vacancy
in the office of a trustee is filled for the unexpired term at a
6 special town meeting in the town where the trustee resides unless
the vacancy occurs within 3 months prior to the next annual town
meeting in the town where the trustee resides.

8
10 Organization of the board of trustees is in accordance with
Title 35-A, chapter 63. The trustees have the powers specified
in Title 35-A, chapter 63.

12
14 All decisions of the board of trustees are by a majority of
those present and voting. A quorum of the board of trustees is 4
trustees.

16
18 Trustees' compensation is set in accordance with Title 35-A,
chapter 63.

20 **Sec. 8. Annual meeting of district.** After the acceptance of this
Act and the organization of the board, the annual meeting of the
22 district for seating of a trustee must be held within the
district on the first Monday of each April at an hour and place
24 designated by resolution of the board of trustees as provided in
the bylaws and the newly elected trustee is seated at this
26 meeting.

28 **Sec. 9. District and towns authorized to make contracts.** The
district, through its trustees, may contract with persons and
30 corporations, including the Town of Damariscotta, the Town of
Newcastle and the Town of Nobleboro and the Town of Damariscotta,
32 the Town of Newcastle and the Town of Nobleboro may contract with
them for the supply of water for municipal purposes. The Town of
34 Damariscotta, the Town of Newcastle and the Town of Nobleboro, by
vote at their town meetings, may loan the district a sum not
36 exceeding \$5,000 in the aggregate to be used for engineering,
accounting and legal expenses in connection with the organization
38 of the district and to be repaid by the district from its initial
long-term financing.

40
42 **Sec. 10. Authorized to borrow money, to issue bonds and notes.** For
accomplishing the purposes of this Act and for such other
44 expenses as may be necessary for the carrying out of the
purposes, the district, through its trustees, may accept state,
46 federal or municipal grants and may borrow money temporarily and
issue its negotiable notes. For the purposes of renewing and
48 refunding the indebtedness so created, of paying necessary
expenses and liabilities incurred under this Act, including
organizational, and of paying other necessary expenses and
50 liabilities, whether incurred by the district or the towns, the

2 district being authorized to reimburse the towns for expenses
3 incurred by them and in acquiring properties; paying damages;
4 laying pipes, mains, aqueducts and conduits; constructing,
5 maintaining and operating a water plant or system and making
6 renewals, additions, extensions and improvements to them and to
7 cover interest payments during the period of construction, the
8 district, through its trustees, may also issue, from time to
9 time, in accordance with the Maine Revised Statutes, Title 35-A,
10 chapter 63, bonds, in one series, or in separate series, in such
11 amount or amounts, bearing interest at such rate or rates and
12 having such terms and provisions as the trustees determine.

13
14 The bonds, notes and evidences of indebtedness may be issued
15 to mature serially or made to run for such periods as the
16 trustees determine, but none of them may run for a longer period
17 than 40 years from the date of original issue. Bonds, notes or
18 evidences of indebtedness may be issued with or without provision
19 for calling the same prior to maturity, and if callable, may be
20 made callable at par or at such premium as the trustees
21 determine. All bonds, notes or other evidences of indebtedness
22 must have inscribed upon their face the words "Great Salt Bay
23 Utility District" and be signed by the treasurer and
24 countersigned by the chair of the board of trustees of the
25 district. If coupon bonds are issued, the interest coupons
26 attached to the coupon bonds must bear the facsimile signature of
27 the treasurer.

28 All bonds, notes and evidences of indebtedness issued by the
29 district are legal obligations of the district, which is declared
30 to be a quasi-municipal corporation within the meaning of Title
31 30-A, section 5701, and all provisions of that section are
32 applicable. The district may refund and reissue from time to
33 time, in one or in separate series, its bonds, notes and other
34 evidences of indebtedness and each authorized issue constitutes a
35 separate loan. All bonds, notes and evidences of indebtedness
36 issued by the district are legal investments for savings bonds in
37 the State and are tax exempt.

38
39 **Sec. 11. Water rates; application of revenue; sinking fund.** The
40 rates established pursuant to this section must be sufficient to
41 provide revenue for the purposes of this Act and for all other
42 purposes of the district, without the need for financial
43 assistance from the Town of Damariscotta, the Town of Newcastle
44 or the Town of Nobleboro, other than the normal payment of water
45 charges for services rendered and the loan or loans for initial
46 funds as set forth in section 9. Individuals, firms and
47 corporations, whether private, public or municipal, shall pay to
48 the treasurer or other designated officer of the district the
49 rates established by the board of trustees for the water used by
50 them. The rates are established in accordance with the Maine

2 Revised Statutes, Title 35-A, chapter 61 to provide for the
purposes set forth in that Title.

4 **Sec. 12. Property tax exempt.** The property, both real and
personal, rights and franchises of the district are forever
6 exempt from taxation in the Town of Damariscotta, the Town of
Newcastle and the Town of Nobleboro.

8 **Sec. 13. Existing laws not affected; rights conferred subject to law.**
10 This Act is not intended to repeal, or may not be construed as
repealing the whole or a part of an existing law, and all the
12 rights and duties mentioned in this Act must be exercised and
performed in accordance with all the applicable provisions of and
14 amendatory acts to the Maine Revised Statutes, Title 35-A to the
extent that that Title and its amendments affect the operations
16 of the district.

18 **Sec. 14. Severability clause.** If a section or part of a section
of this Act is held invalid by a court of competent jurisdiction,
20 the holding does not affect the remainder of this Act, it being
the intention that the remaining portions of this Act stand,
22 notwithstanding the unconstitutionality or invalidity of a
section, sentence, clause or phrase.

24 **Sec. 15. Acceptance subject to referendum.** This Act must be
26 submitted to the legal voters within the district at an election
called for that purpose and held by December 31, 1994. The
28 election must be called, advertised and conducted according to
the law relating to municipal elections, except that the
30 registrars of voters are not required to prepare nor the clerks
to post a new list of voters and, for this purpose, the
32 registrars of voters must be in session the 3 secular days
preceding the election, of which the first 2 days must be devoted
34 to registration of the voters and the last day to verification of
the lists and completion of the records of these sessions by the
36 registrars. The subject matter of this Act is reduced to the
following question:

38 "Do you favor creating the Great Salt Bay Utility District?"
40

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

44 The results must be declared by the municipal officers of
the Town of Damariscotta, the Town of Newcastle and the Town of
46 Nobleboro and the due certificates of the results filed by the
clerks with the Secretary of State.

48
50 This Act takes effect upon its acceptance by a majority of
the legal voters within the district voting at the special

2 election. Failure of the approval by the necessary majority of
4 voters at that election does not prevent a subsequent election or
6 elections from being held for that purpose.

8
10 **STATEMENT OF FACT**

12 This bill creates the Great Salt Bay Utility District.

14 This document has not yet been reviewed to determine the
16 need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.