

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 415

H.P. 311

House of Representatives, February 6, 1995

**An Act to Require Uniform Public Access and Tax Status for Water
Districts.**

Reference to the Committee on Utilities and Energy suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CAMPBELL of Holden.
Cosponsored by Senator RUHLIN of Penobscot and
Representatives: BAILEY of Township 27, BIRNEY of Paris, CAMERON of Rumford,
CARLETON of Wells, CHICK of Lebanon, DiPIETRO of South Portland, JACQUES of
Waterville, KEANE of Old Town, KERR of Old Orchard Beach, LEMONT of Kittery,
LIBBY of Kennebunk, LOOK of Jonesboro, MURPHY of Berwick, PERKINS of Penobscot,
POVICH of Ellsworth, SIMONEAU of Thomaston, VIGUE of Winslow, Senators: CAREY
of Kennebec, CIANCHETTE of Somerset, HARRIMAN of Cumberland, MICHAUD of
Penobscot, STEVENS of Androscoggin.

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

4 **Sec. 1. 35-A MRSA §6306**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

6 **§6306. Conformity with private and special laws**

8 This chapter governs all water districts formed on or after
10 January 1, 1982. This chapter does not apply to water districts
12 formed before January 1, 1982, except that section 6303,
14 subsections 4 and 5, section 6310 and section 6311 apply to those
districts. Any portion of the charter of those districts ~~which~~
that is contrary to these-subsections section 6303, subsections 4
or 5 or section 6310 is repealed.

16 **Sec. 2. 35-A MRSA §§6310 and 6311** are enacted to read:

18 **§6310. Tax status of quasi-municipal water districts**

20 Quasi-municipal water districts are public municipal
22 corporations and property of these districts is tax exempt to the
extent provided in Title 36, section 651, subsection 1,
24 paragraphs D and E.

26 **§6311. Public access to surface water sources**

28 Except as otherwise specifically provided by law, there is a
public right of ingress and egress across lands of public water
districts bordering the surface waters of the State. The public
right is limited to ingress and egress for purposes of
recreational use of the surface waters. A district may control
or restrict public access to the extent necessary to protect a
public water supply, to ensure public safety or to protect
district property. To the extent public access needs to be
restricted in order to protect a public water supply, the
district shall consult with the Commissioner of Inland Fisheries
and Wildlife to develop a plan to accommodate the greatest
possible public access, consistent with the need to protect the
public water supply, in order to preserve, protect and enhance
recreational use of the waters.

42 This section does not limit the application of Title 14,
section 159-A, Title 14, chapter 741 or any other law in effect
on the effective date of this section, and may not be construed
to limit the application of any law limiting or eliminating any
potential exposure of public water districts to liability for
injuries occurring on their land.

STATEMENT OF FACT

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4 This bill ensures public recreational access across
6 shorelands owned by public water districts to the State's surface
8 waters. Currently, a water district may purchase or take by
10 eminent domain lands around its water sources and then exclude
12 the public from those lands. This bill creates a public right of
14 ingress and egress across water district shoreland. A district
16 may restrict access only for purposes of protecting public water
supply, protecting public safety or protecting district
property. If a district intends to limit access for purposes of
protecting a public water supply, it must consult with the
Commissioner of Inland Fisheries and Wildlife to develop a plan
to ensure the maximum possible public recreational access
consistent with the need to protect the public water supply.

18 This bill preserves all protections against water district
20 liability for injuries occurring on district land, which are
22 provided under the Maine Revised Statutes, Title 14, section
159-A; the Tort Claims Act, Title 14, chapter 741; and any other
law now in effect or subsequently enacted.

24 This bill also makes uniform the tax status of all water
26 districts in the State. Currently, many water districts have
28 specific provisions in their charters regarding the tax status of
the utilities' properties. In nearly all cases district property
is to some extent tax exempt. However, there are some variations
in the extent of the tax exemptions. The general law of the
State, Title 36, section 651, provides a uniform tax-exemption
30 scheme for water district properties. This bill would make all
32 water district properties tax exempt as provided under the
general law and repeal all inconsistent charter provisions.