

MAINE STATE LEGISLATURE

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UTILITIES AND ENERGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 937, L.D. 1326, Bill, "An Act Concerning the Kennebec Water District"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, a review of the Kennebec Water District's rates has already begun at the Public Utilities Commission and in order to ensure that the directives in this Act become effective before that review has concluded this Act needs to be an emergency; and

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

P. 012

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

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Sec. 1. P&SL 1899, c. 200, §5, as repealed and replaced by P&SL 1987, c. 33, §1, is repealed and the following enacted in its place:

Sec. 5. Trustees; how elected. All of the affairs of the district are managed by a board of trustees composed of 10 members, 4 of whom are elected by a plurality of voters of the City of Waterville, 2 of whom are elected by a plurality of voters of the Town of Winslow, 2 of whom are elected by a plurality of voters of the Town of Fairfield, one of whom is elected by a plurality of voters of the Town of Benton and one of whom is elected by a plurality of voters of the Town of Vassalboro. Trustees must be residents of the towns in which they are elected. Nominations and elections must be conducted in accordance with the Maine Revised Statutes, Title 35-A, chapter 63, except as specifically provided in subsection 3 of this section.

1. Organization; conduct of business. As soon as convenient after the election of trustees, the trustees shall hold a meeting in the city rooms in the City of Waterville and organize by the election of a president and clerk, adopt a corporate seal and, when necessary, may choose a treasurer and all other necessary officers and agents for the proper conduct and management of the affairs of the district.

All decisions of the board of trustees must be by a majority of those present and voting. A quorum of the board of trustees is 7 trustees.

Trustees are entitled to compensation in accordance with Title 35-A, chapter 63.

2. Bylaws. The trustees may adopt and establish such bylaws as are necessary for the proper management of the affairs of the district.

3. Election; vacancy. Whenever the term of office of a trustee expires, the trustee's successor must be elected as provided in this section. For the purpose of election, a special election must be called and held between October 1st and November 30th prior to the expiration of the trustee's term, the election to be called by the municipal officers of the appropriate city or town. The term of the trustee so elected begins on the first Wednesday of January following the election. The trustee so elected shall serve the full term of 3 years.

If any vacancy arises in the membership of the board of trustees, it must be filled by appointment for the unexpired term by the municipal officers of the town from which the trustee was elected.

All elections held pursuant to this section must be paid for by the district. When any trustee ceases to be a resident of the town or city from which the trustee was elected, the trustee shall vacate the office of trustee and the vacancy must be filled as provided in this section. All trustees are eligible for reelection, except that a person who is serving as a municipal officer in Waterville, Winslow, Fairfield, Benton or Vassalboro is not eligible for nomination or election as trustee and no trustee may serve more than 2 consecutive terms.

Sec. 2. Transition. The terms of trustees of the Kennebec Water District, serving on the effective date of this section, which would otherwise terminate prior to January 1, 1997, are extended until January 1, 1997 or until the trustees' successors are elected and qualified pursuant to this section. The terms of all other trustees terminate upon the election and qualification of successors pursuant to this section.

The first elected board of trustees of the district must be elected by special election held in the City of Waterville and the towns of Winslow, Fairfield, Benton and Vassalboro on the same date as the general election in November, 1996. The elected board of trustees must be composed as follows: 4 trustees must be elected by a plurality of voters of the City of Waterville, 2 trustees must be elected by a plurality of voters of the Town of Winslow, 2 trustees must be elected by a plurality of voters of the Town of Fairfield, one trustee must be elected by a plurality of voters of the Town of Benton and one trustee must be elected by a plurality of voters of the Town of Vassalboro. Trustees must be residents of the towns in which they are elected. The nominations and the elections must be conducted in accordance with the laws relating to municipal elections.

The terms of trustees elected pursuant to this section begin on January 1, 1997 and are further qualified as follows: 2 trustees from the City of Waterville, one trustee from Winslow, one trustee from Fairfield and the trustee from Vassalboro serve for 2 years or until their successors are elected and qualified; 2 trustees from the City of Waterville, one trustee from Winslow, one trustee from Fairfield and the trustee from Benton serve for 3 years or until their successors are elected and qualified. The determination of which trustees from Waterville, Winslow and Fairfield serve a 2-year term and which a 3-year term must be determined by agreement among those trustees and, failing

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2 agreement, by lot. Notice of the determination must be given to
the public and to municipal officers of Waterville, Winslow and
Fairfield.

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6 Successors are elected as provided in section 1 of this Act.

8 **Sec. 3. Examination.** In its proceedings in Docket #95-091,
the Public Utilities Commission shall examine the management
10 decisions of the Kennebec Water District, including, but not
limited to, decisions regarding the selection, sizing,
12 construction and operation of the filtration system, the impact
of those decisions on the reasonableness of current and proposed
14 rates and remedies, if any, for improper management decisions
resulting in increased rates. Nothing in this section may be
16 construed to be a legislative finding of fact that any improper
act or omission has occurred on the part of the Kennebec Water
District.

18 **Sec. 4. Emergency clause; referendum; effective dates.** In view of
20 the emergency cited in the preamble, this Act takes effect when
approved except that section 1 and section 2 of this Act take
22 effect only for the purpose of permitting their submission to the
legal voters within the City of Waterville and the towns of
24 Winslow, Fairfield, Benton and Vassalboro at an election called
for that purpose and held by December 31, 1995. The election
26 must be called, advertised and conducted according to the law
relating to municipal elections, except that the registrars of
28 voters are not required to prepare or the clerks to post a new
list of voters. For the purpose of registration of voters, the
30 registrars of voters must be in session the secular day preceding
the election. The subject matter of section 1 and section 2 is
32 reduced to the following question:

34 "Do you favor amending the charter of the Kennebec Water
District to cause the number of trustees of the district to
36 be increased from 7 to 10, composed of 4 from Waterville, 2
from Fairfield, 2 from Winslow, one from Benton and one from
38 Vassalboro, and to cause these trustees to be elected by the
voters rather than appointed by the municipal officers of
40 the respective towns?"

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

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46 The results must be declared by the municipal officers of
the towns of Winslow, Fairfield, Benton and Vassalboro and the
City of Waterville and due certificate of the results filed by
48 the clerks with the Secretary of State.

1 If approved by a majority of the legal voters voting at the
2 special election in each of the towns of Winslow, Fairfield,
4 Benton and Vassalboro and the City of Waterville, section 1 and
6 section 2 of this Act take effect as follows: section 2 takes
effect February 1, 1996; and section 1 takes effect on January 1,
1997.'

8 Further amend the bill by inserting at the end before the
statement of fact the following:

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12 **FISCAL NOTE**

14 This bill requires certain municipalities to hold a public
16 referendum and may require the Kennebec Water District to
increase the number of its trustees. The additional costs of
18 this state mandate are likely to be relatively minor. Pursuant
to the Mandate Preamble, the two-thirds vote of all members
20 elected to each House exempts the State from the constitutional
requirement to fund 90% of the additional local costs.

22 The Public Utilities Commission will incur some minor
24 additional costs to examine management decisions of the Kennebec
Water District. These costs can be absorbed within the
26 commission's existing budgeted resources.'

28 **STATEMENT OF FACT**

30 This amendment replaces the bill. This amendment does the
following:

32 1. Amends the charter of the Kennebec Water District to
34 provide the following:

36 A. Increases the number of trustees from 7 to 10, composed
of 4 from Waterville, 2 from Fairfield, 2 from Winslow, one
38 from Benton and one from Vassalboro; and

40 B. Requires the trustees to be elected rather than appointed;

42 2. Establishes a transition from an appointed board to an
elected board;

44 3. Makes the amendment and transition conditional on
46 referendum approval in the affected towns;

48 4. Adds a mandate preamble and an emergency preamble to the
bill;

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COMMITTEE AMENDMENT "A" to H.P. 937, L.D. 1326

5. Directs the Public Utilities Commission to undertake an examination of certain issues concerning the district; and

6. Adds a fiscal note to the bill.