

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1447

S.P. 530

In Senate, May 2, 1995

An Act to Create the Hebron Village Water District.

(EMERGENCY)

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

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator HANLEY of Oxford.

Cosponsored by Representatives: BIRNEY of Paris, UNDERWOOD of Oxford.

2 **Mandate preamble.** This measure requires one or more local
units of government to expand or modify activities so as to
4 necessitate additional expenditures from local revenues but does
not provide funding for at least 90% of those expenditures.
6 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.

8
10 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

12 **Whereas,** the Hebron Village Water District must take action
14 as soon as possible to acquire the assets of the Hebron Water
District and become operational; and

16 **Whereas,** the timely appointment of the trustees is essential
18 to the administration of the Hebron Village Water District; and

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

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

28 **Sec. 1. Territorial limits; corporate name; purposes.** The
inhabitants and territory of that part of the Town of Hebron in
30 Oxford County comprised of the area beginning at the point of the
intersection of the center line of the Central Maine Power
32 Company transmission line right of way and the Hebron and Oxford
town lines; thence easterly along the Hebron-Oxford town line a
34 distance of .31 miles, more or less, to a point at the
intersection of the town line with the Hebron Road; thence
36 easterly on a line parallel with the southerly sideline of Route
119 and equidistant .22 miles, more or less, from Route 119 as
38 the aforementioned point of intersection of said town line with
the Hebron Road, a distance of approximately 1.15 miles to the
40 center line of Collins Road, now known as Old County Road; thence
southeasterly a distance of .29 miles, more or less, to the
42 center line of Route 119 at a point two hundred feet from the
southeasterly corner of the Hebron Fire Station building; thence
44 northeasterly, a distance of .50 miles, more or less, to the
point of intersection of Cushman Hill Road and the stream known
46 as Middle Branch; thence northerly along said Branch, a distance
of .76 miles, more or less, to the point of intersection of said
48 brook with the center line of the Central Maine Power Company
transmission line right of way; thence a distance of .86 miles,
50 more or less, in a westerly direction along the center line of

2 said transmission line right of way to a point; thence
southwesterly along the center line of said right of way, a
4 distance of 1.2 miles, more or less, to the point of beginning,
constitute a quasi-municipal corporation under the name of
6 "Hebron Village Water District," referred to in this Act as the
"district," for the purpose of supplying the town and the
8 inhabitants and others of the district with potable water for
domestic, sanitary, commercial, industrial, agricultural and
municipal purposes, including the extinguishment of fires. The
10 area within the territorial limits is defined for the purpose of
this Act as Hebron Village.

12

Sec. 2. Powers of district. The district, for the purposes of
14 its incorporation, may take, collect, store, flow, use, divert,
distribute and convey to the district, or any part of the
16 district, water from any source approved by the Department of
Human Services, natural or artificial, within the area of Hebron
18 Village and from any other source from which the Hebron Water
Company may take water under its charter, Private and Special Law
20 1899, chapter 49, section 2. It may also locate, construct and
maintain aqueducts, pipes, conduits, dams, wells, reservoirs,
22 standpipes, hydrants, pumping stations and other necessary
structures and equipment for those purposes and do anything
24 necessary to furnish water for public purposes and for the public
health, comfort and convenience of the inhabitants and others of
26 the district, or to contract to do any and all of the foregoing
things.

28

All incidental powers, rights and privileges necessary to
30 the accomplishment of the objectives set forth in this Act are
granted to the district created by this Act.

32

Notwithstanding section 1 and other provisions of this
34 section, the district may not provide service to any person or
business within the territory served by the Hebron Water Company
36 unless the district acquires, pursuant to section 13 of this Act,
the plant, properties, franchises, rights and privileges owned by
38 the Hebron Water Company or unless the provision of service is
approved by the Public Utilities Commission pursuant to the Maine
40 Revised Statutes, Title 35-A, section 2102 unless the Hebron
Water Company consents in writing to the provision of the service.

42

**Sec. 3. Authorized to lay mains, pipes, conduits and other water
44 conveyances through public ways and across private lands.** The district
may lay in, along, under and through the streets, roads, ways,
46 highways, bridges, lakes, ponds, rivers and water courses in the
Town of Hebron and the Town of Paris and across private lands in
48 those towns and maintain, repair and replace all such pipes,

2 mains, conduits, aqueducts and fixtures and appurtenances as may
3 be necessary and convenient for its corporate purposes and,
4 whenever the district lays any pipes, mains, conduits, aqueducts
5 and fixtures or appurtenances in any street, road, way or
6 highway, it shall cause the same to be done with as little
7 obstruction as practicable to the public travel and at its own
8 expense, without necessary delay, shall cause the earth and
9 pavement removed by it to be replaced in proper condition.

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

20 **Sec. 5. Procedure if public utility must be crossed.** In case of the
21 crossing of any public utility, unless consent is given by the
22 company owning and operating the public utility as to place,
23 manner and conditions of the crossing within 30 days after
24 consent is requested by the district, the Public Utilities
25 Commission, upon petition by the district, shall determine the
26 place, manner and conditions of the crossing, and all work on the
27 property of the public utility must be done under the supervision
28 and to the satisfaction of the public utility or as prescribed by
29 the Public Utilities Commission, but at the expense of the
30 district.

31 **Sec. 6. Authority to acquire property; rights of eminent domain.**
32 The district, for the purposes of its incorporation, may take and
33 hold, for public uses, real estate and personal estate and any
34 interest in real estate and personal estate necessary or
35 convenient for those purposes, by purchase, lease or otherwise
36 and may exercise the right of eminent domain as provided in this
37 Act, to acquire for those purposes any land or interest in land
38 or water rights necessary for erecting and maintaining dams,
39 plants and works, for flowage, power, pumping and supplying water
40 through its mains; for reservoirs, preserving the purity of the
41 water and watershed; for laying and maintaining aqueducts and
42 other structures; for taking, distributing, discharging and
43 disposing of water; and for rights-of-way or roadways to its
44 sources of supply, dams, power stations, reservoirs, mains,
45 aqueducts, structures 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 used, or acquired for
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2 future use by the owner of that property or those facilities, in
the performance of a public duty, unless expressly authorized to
do so by this section or by subsequent act of the Legislature or
4 as provided in section 5 or 13.

6 **Sec. 7. Procedure in exercising of eminent domain.** The district
may exercise the right of eminent domain granted under section 6
8 in accordance with this section. The district, in exercising,
from time to time, any right of eminent domain in the taking of
10 land, interests in the land or water rights, shall file in the
office of the county commissioners of Oxford County and record in
12 the Oxford County Registry of Deeds plans of the location of all
such property to be taken, with an appropriate description and
14 the names of the owners, if known. Notice of the filing must be
sent by mail to the owners at the address appearing on the tax
16 records of the municipality in which the land is located. When
for any reason the district fails to acquire the property it is
18 authorized to take, and which is described in that location, or
if the location recorded is defective or uncertain, it may, at
20 any time, correct and perfect that location and file a new
description, and in such case the district is liable for damages
22 only for property for which the owner had not previously been
paid, to be assessed as of the time of the original taking, and
24 the district is not liable for any acts that would have been
justified if the original taking had been lawful. Entry may not
26 be made on any private lands, except to make surveys, until the
expiration of 10 days from that filing, at which time possession
28 may be had of all lands, interests in the lands or water rights
so taken, but title does not vest in the district until payment
30 has been made.

32 **Sec. 8. Adjustment of damages; procedure as in laying out of
highways.** If any person sustaining damages by any taking
34 pursuant to the right of eminent domain does not agree with the
district upon the sum to be paid for the taking, either party,
36 upon petition to the county commissioners of Oxford County, may
have the damages assessed by them. The procedure and all
38 subsequent proceedings and right of appeal are under the same
restrictions, conditions and limitations as are or may be by law
40 prescribed in the case of damages by the laying out of highways.

42 **Sec. 9. Trustees; how elected; first board; meeting; officers.** All of
the affairs of the district must be managed by a board of
44 trustees composed of 3 members, all of whom must be residents of
the district and, after selection of the first board, elected as
46 provided in the Maine Revised Statutes, Title 35-A, chapter 63,
except as specifically provided in subsection 4 of this section.

48 **1. First board.** The municipal officers of the Town of
50 Hebron shall appoint the first board of trustees. One trustee

2 serves for a term of one year, one trustee serves for a term of 2
3 years and one trustee serves for a term of 3 years. At the first
4 meeting the initial trustees shall determine by agreement, or
5 failing to agree they shall determine by lot, the term of office
6 of each trustee. Vacancies are filled pursuant to subsection 4
7 of this Act.

8 **2. Organization; conduct of business.** Organization and
9 powers of the board of trustees must be in accordance with the
10 Maine Revised Statutes, Title 35-A, chapter 63.

11 All decisions of the board of trustees must be by a majority of
12 those present and voting. A quorum of the board of trustees is 2
13 trustees.

14 Trustees are entitled to compensation in accordance with Title
15 35-A, chapter 63.

16 **3. Bylaws.** The trustees may adopt and establish such
17 bylaws as are necessary for the proper management of the affairs
18 of the district.

19 **4. Vacancy.** Whenever the term of office of a trustee
20 expires, the trustee's successor must be elected at large by a
21 plurality vote by the inhabitants of the district. For the
22 purpose of election, a special election must be called and held
23 on the same date as the annual municipal election, the election
24 to be called by the trustees of the district in the same manner
25 as town meetings are called and for this purpose the trustees are
26 vested with the powers of municipal officers of towns. The
27 trustee so elected shall serve the full term of 3 years. If any
28 vacancy arises in the membership of the board of trustees, it
29 must be filled in like manner for the unexpired term by a special
30 election to be called by the trustees of the district. When any
31 trustee ceases to be a resident of the district, the trustee
32 shall vacate the office of trustee and the vacancy must be filled
33 as provided in this section. All trustees are eligible for
34 reelection, but a person who is a municipal officer in the Town
35 of Hebron is not eligible for nomination or election as trustee.

36 The trustees shall appoint a registrar of voters for the
37 district, who may also be the registrar of voters for the Town of
38 Hebron, and fix the registrar's salary. It is the registrar's
39 duty to make and keep a complete list of all the eligible voters
40 of the district. The list prepared by the registrar, as provided
41 by the laws of the State, governs the eligibility of any voter.
42 In determining the eligible voters of the district, the registrar
43 of voters shall exclude from that list and from all checklists
44 the legal voters who are resident outside the territorial limits
45 of the district as defined in this Act. All warrants issued for
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2 elections by the trustees must be varied accordingly to show that
3 only the voters resident within the territorial limits of the
4 district are entitled to vote.

6 **Sec. 10. Annual report.** The trustees or their designated
7 representative shall make and publish an annual report, including
8 a report of the treasurer. The report may be included in and
9 published as part of the annual town report of the Town of Hebron.

10 **Sec. 11. District and towns authorized to make and assume**
11 **contracts.** The district, through its trustees, in order to carry
12 out the objectives set forth in this Act, may contract with
13 persons, districts, municipalities, utilities or corporations.
14 The district may contract with the Town of Hebron and the town
15 may contract with the district for the supply of water for
16 municipal purposes.

18 **Sec. 12. Authorized to receive government aid; borrow money; issue**
19 **bonds and notes.** For accomplishing the purposes of this Act, the
20 district, through its trustees, without vote of the inhabitants,
21 may receive state and federal aid or grants, borrow money
22 temporarily and issue for the money its negotiable notes for the
23 purpose of renewing and refunding the indebtedness so created,
24 for paying any necessary expenses and liabilities incurred under
25 this Act, including organizational and other necessary expenses
26 and liabilities, whether incurred by the district or the Town of
27 Hebron, the district being authorized to reimburse the Town of
28 Hebron for any such expense incurred by the town and in acquiring
29 properties, paying damages, laying pipes, mains, aqueducts and
30 conduits, constructing, maintaining and operating a water plant
31 or system and making renewals, additions, extensions and
32 improvements to the water plant or system and to cover associated
33 interest payments. The district, through its trustees, may also
34 issue, from time to time, in accordance with the Maine Revised
35 Statutes, Title 35-A, chapter 63, bonds, notes
36 or other evidences of indebtedness of the district in such amount
37 or amounts, bearing interest at such rate or rates, selling at
38 par or at a discount or a premium, to be sold in such manner, at
39 public or private sale, and having such other terms and
40 provisions as the trustees determine, except that loans running
41 for one year or less do not require the approval of the Public
42 Utilities Commission.

44 Bonds, notes and evidences of indebtedness of the district
45 may be issued to mature serially or made to run for a term of
46 years as the trustees determine. Bonds, notes or evidences of
47 indebtedness may be issued with or without provisions for calling
48 the bonds, notes or evidences of indebtedness prior to maturity
49 and, if callable, may be made callable at par or at such premium
50 as the trustees determine. All bonds, notes or other evidences

2 of indebtedness must have inscribed upon their face the words
3 "Hebron Village Water District" and be signed by the treasurer
4 and countersigned by the chair of the board of trustees of the
5 district. If coupon bonds are issued, the interest coupon
6 attached to the coupon bonds must bear the facsimile signature of
7 the treasurer.

8 All bonds, notes and evidences of indebtedness so issued by
9 the district, which is declared to be a quasi-municipal
10 corporation, are legal obligations of the district within the
11 meaning of the Maine Revised Statutes, Title 30-A, section 5701.

12 The district may refund and reissue, from time to time, in
13 one or in separate series, its bonds, notes and other evidences
14 of indebtedness, and each authorized issue constitutes a separate
15 loan. All bonds, notes and evidences of indebtedness issued by
16 the district are legal investments for savings banks in the State
17 and are exempt from state income tax.

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19 **Sec. 13. Authorized to acquire property and franchises of Hebron**
20 **Water Company.** The district, through its trustees, may acquire
21 by purchase or conveyance, all or part of the plant, property,
22 franchises, rights and privileges owned by the Hebron Water
23 Company located within the Town of Paris or the Town of Hebron,
24 including all lands, waters, water rights, reservoirs, pipes,
25 machinery, fixtures, hydrants, tools and all apparatus and
26 appliances used or usable in supplying water in the area of the
27 district. Any transfer or conveyance by Hebron Water Company
28 under this section is subject to the approval of the Public
29 Utilities Commission required by applicable provisions of the
30 Maine Revised Statutes, Title 35-A.

31
32 **Sec. 14. Rates.** The rates established pursuant to this
33 section must be sufficient to provide revenue for the purposes of
34 this Act and for all other purposes of the district, without the
35 need for any financial assistance from the Town of Hebron, other
36 than the normal payment of water charges for services rendered
37 and the loan or loans for initial funds as set forth in section
38 12. Individuals, firms and corporations, whether private, public
39 or municipal, shall pay to the treasurer or other designated
40 officer of the district the rates established by the board of
41 trustees for the water service provided to them. The rates must
42 be established in accordance with the Maine Revised Statutes,
43 Title 35-A, chapter 61.

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45 **Sec. 15. Existing laws not affected; rights conferred subject to**
46 **provisions of law.** Nothing contained in this Act is intended to
47 repeal, or may be construed as repealing, the whole or any part
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of any existing 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 to the extent that Title 35-A and its amendments affect the operations of the district.

Sec. 16. Separability clause. If any section or part of a section of this Act is held invalid by a court of competent jurisdiction, the holding does not affect the remainder of this 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.

Sec. 17. Act void unless property of Hebron Water Company is acquired. If the district, pursuant to the provisions of this Act fails to purchase, acquire or lease, before January 1, 1997, the plant, properties, franchises, rights and privileges owned by the Hebron Water Company and used or usable in supplying water in the district, then this Act is void.

Sec. 18. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act takes effect when approved but only for the purposes of permitting its submission to the legal voters within the district at an election called for that purpose and held by December 31, 1996. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters and, for this purpose, the registrar of voters must be in session the secular day preceding the election. The subject matter of this Act is reduced to the following question:

"Do you favor creating the Hebron Village Water District?"

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

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

This Act takes effect for all purposes immediately upon its acceptance by a majority of the legal voters with the district voting at the special election. Failure of the approval by the necessary majority of voters at any such election does not prevent a subsequent election or elections from being held for that purpose, provided the election is held no later than December 31, 1996.

STATEMENT OF FACT

This bill creates the Hebron Village Water District.