

MAINE STATE LEGISLATURE

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UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1194, L.D. 1638, Bill, "An Act to Amend the Charter of the Boothbay Harbor Water District"

Amend the bill by striking out the title and substituting the following:

'An Act to Revise the Charter of the Boothbay Harbor Water System'

Further 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, the boundary of the service area of the Boothbay Harbor water system needs clarification; and

Whereas, consumers within the service area clarified by this Act are desirous of service; and

Whereas, a grant may be available to assist with the costs of providing service to those consumers this year; and

COMMITTEE AMENDMENT

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

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

8 **Sec. 1. P&SL 1895, c. 56**, as amended by P&SL 1993, c. 38, §§1,
9 2 and 3, is repealed.

10 **Sec. 2. Authority to convey, sell and purify water; authority to convey**
11 **wastewater; service area.** The Town of Boothbay Harbor is authorized
12 and empowered to take water from Adams Pond in the Town of
13 Boothbay or from any other ponds or supply in the Boothbay Harbor
14 water system service area, sufficient for all domestic, sanitary,
15 municipal and commercial purposes, to perform such operations and
16 procedures as may be necessary to ensure the purity of any water
17 so taken, including constructing and operating water treatment
18 and purification facilities, and to take and convey the water,
19 through the Boothbay Harbor water system service area. The town,
20 acting through its board of water commissioners, is also
21 authorized and empowered to sell water to the towns in the
22 Boothbay Harbor water system service area, including the Town of
23 Boothbay, and to any company, individual, firm or corporation in
24 the Boothbay Harbor water system service area. The town is also
25 authorized to convey through the towns of Boothbay, Boothbay
26 Harbor and Southport such wastewater as may be produced in the
27 operation of any water treatment or purification facility.

28 The Boothbay Harbor water system service area includes the
29 area bounded and described as follows:

30 That part of the Town of Boothbay commencing on the boundary line
31 between Boothbay and Boothbay Harbor at a distance westerly along
32 said line of 2,000 feet from the center line of the Beath Road,
33 thence continuing in a northerly direction to the intersection of
34 the Beath Road with the road passing by the Country Club, which
35 intersection is known as Houlton's Corner, thence continuing in a
36 northeasterly direction along the center line of Butler Road to
37 the intersection of Butler Road with Pleasant Cove Road and
38 Pension Ridge Road, thence continuing in a northerly direction
39 along the center line of Pension Ridge Road to the intersection
40 of Pension Ridge Road with Ambleside Road, thence continuing in a
41 northeasterly direction along the center of Ambleside Road to the
42 end of Ambleside Road, thence continuing in a straight line
43 further in a northeasterly direction through Pleasant Cove to the
44 southwest point in the angle of the boundary line between
45 Boothbay and Bristol at the end of Pleasant Cove, thence

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continuing in a generally northerly, westerly, southerly, and easterly direction along the boundary lines of Boothbay and Bristol, Boothbay and Edgecomb, Boothbay and Westport and Boothbay and Boothbay Harbor to the point of beginning. The Boothbay Harbor water system service area also includes the towns of Boothbay Harbor and Southport, the Village Corporation of Squirrel Island, Mouse Island and other adjacent islands.

Sec. 3. Powers. The Town of Boothbay Harbor has the power and is authorized to survey for, lay, erect and maintain suitable dams, reservoirs, aqueducts, pipes, hydrants, buildings, treatment or purification plants, pumping equipment and fixtures for flowage, power, pumping its water supply or conveying wastewater produced in the operation of a treatment or filtration facility through its mains; to enter upon any land or public way for laying, erecting and maintaining the pipes and structures, and to make surveys for those purposes; and to pass over, excavate and flow any lands. The town is authorized to take and hold for public uses by purchase, eminent domain or otherwise, any land that may be necessary for supplying, treating or purifying water; conveying wastewater; laying and maintaining its pipelines and constructing other structures; preserving the purity of its watershed; and ensuring the purity of its water supply. The town is also authorized to take and hold in the same manner any land that may be necessary for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and land. The town may hold all real estate and personal property necessary or convenient for these purposes.

The town is authorized to issue its general obligation securities for the purposes of this Act in such amounts and upon such terms as it may for municipal purposes under the Maine Revised Statutes, Title 30-A, section 5772. Any bond, security, note or other debt instrument lawfully issued by the Town of Boothbay, its municipal officers or its board of water commissioners for the purposes of the Boothbay Harbor water system prior to the effective date of this Act is valid and is governed by applicable law and the terms of the debt instrument.

Sec. 4. File plan of location in registry of deeds; file statement of damages. The Town of Boothbay Harbor shall file in the registry of deeds for Lincoln County, plans and descriptions of the location of all the lands and water rights taken under the provisions of this Act, and entry may not be made upon any land, except to make surveys, until the expiration of 10 days from the filing. With the plan, the town may file a statement of the damages it is willing to pay to any person for any property or property rights taken. If the amount finally awarded does not exceed that sum, the town may recover costs against a person,

otherwise that person may recover costs against the town. Within 30 days after the filing of the plans and descriptions, the town shall publish notice of the taking and filing in a newspaper in the county, the publication to be continued 3 weeks successively.

Sec. 5. Liable for all damages; damages ascertained in case of disagreement. The Town of Boothbay Harbor must be held liable to pay all legal damages that are sustained by any person by the taking of that person's land, water rights or other property, by flowage or by excavating through any land for the purpose of laying down pipes and aqueducts or building dams and reservoirs. If a person sustaining damages and the town are unable to agree upon the sum to be paid for the damages, the person or the town, within 12 months after the filing of the plans and location, may apply to the commissioners of Lincoln County. The commissioners of Lincoln County shall have the damages assessed in the same manner and under the same conditions, restrictions, limitations and rights of appeal as are by law prescribed in the case of damages for the laying out of highways, so far as the law is consistent with the provisions of this Act. The failure to make an application within 12 months is deemed to be a waiver of all right to claim damages.

Sec. 6. Authorized to make contract with any water company for sale or lease of any system of works. The Town of Boothbay Harbor is authorized and empowered to enter into contracts with any duly organized water company for the sale or lease to the water company of any system of waterworks owned by the town on such terms and subject to such conditions as a majority of the voters of the town at a legal meeting called for that purpose may prescribe. Any contract lawfully entered into by the Town of Boothbay Harbor for the purposes of the Boothbay Harbor water system prior to the effective date of this Act is valid.

Sec. 7. Board of water commissioners, duties, compensation; town manager, powers, duties. The Town of Boothbay Harbor may elect by ballot a board of water commissioners consisting of 3 members who serve staggered terms of 3 years. At the first election, the water commissioner who receives the largest number of votes shall hold office for 3 years; the water commissioner who receives the next largest number of votes cast shall hold office for 2 years; and the water commissioner who receives the next largest number of votes cast shall hold office for one year. After the initial election one commissioner is elected annually in the month of May to serve a term of 3 years. The water commissioners shall serve until their successors are elected and qualified. If a commissioner resigns from office before the expiration of that commissioner's term or is otherwise unable to complete that term, the remaining 2 commissioners may appoint a new commissioner,

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2 with the approval of the municipal officers, to complete the term
 3 of the departed commissioner. The 2 remaining commissioners must
 4 agree on the appointment in order to exercise their appointment
 5 authority. The commissioners are authorized to fix the water
 6 rates and determine the conditions and the manner of the water
 7 supply and have the general control and management of the water
 8 system owned by the town. The commissioners are entitled to
 9 receive such compensation for their services as may be fixed by
 10 the town. When the town votes to employ a town manager, but not
 11 in union with one or more other towns, the town manager is the
 12 administrative head of the water system and is responsible to the
 13 water commissioners. The town manager's powers and duties in
 14 connection with the water system are the same as in the
 15 management of the municipal affairs of the town, so far as
 16 applicable. Purchases and disbursements are made by the town
 17 manager on vouchers signed by a majority of the commissioners.

18 **Emergency clause.** In view of the emergency cited in the
 19 preamble, this Act takes effect when approved.'

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

24 **FISCAL NOTE**

26 This bill requires the Boothbay Harbor water system to
 27 provide services to an expanded area. The additional costs of
 28 this state mandate could be significant; the exact amounts can
 29 not be determined at this time. Pursuant to the Mandate
 30 Preamble, the 2/3 vote of all members elected to each House
 31 exempts the State from the constitutional requirement to fund 90%
 32 of the additional local costs.'

34 **STATEMENT OF FACT**

36 This amendment replaces the bill. The amendment amends the
 37 title of the bill and adds a mandate preamble, an emergency
 38 preamble and an emergency clause. The amendment repeals the
 39 charter of the Boothbay Harbor water system and replaces that
 40 original charter with updated language. The amendment clarifies
 41 the service area of the Boothbay Harbor water system and provides
 42 that any vacancies on the board of water commissioners are filled
 43 by appointment by the remaining 2 water commissioners, with the
 44 approval of the municipal officers. The amendment also adds a
 45 fiscal note to the bill.