

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

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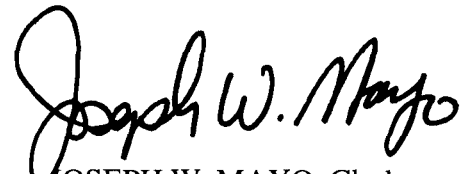
H.P. 1276

House of Representatives, February 6, 1996

An Act to Merge the Charter of the Jackman Water and Sewer Districts.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Utilities and Energy suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative DEXTER of Kingfield.
Cosponsored by Senator MILLS of Somerset.

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

9
10 **Be it enacted by the People of the State of Maine as follows:**

11 **Sec. 1. Jackman Sewer District; additional purposes; expanded**
12 **powers.** The Jackman Sewer District, formed under Private and
13 Special Law 1969, chapter 88 and referred to in this Act as "the
14 district," is granted additional powers, rights, privileges and
15 obligations as provided in this Act for the purpose of allowing
16 the district to supply the town and inhabitants and others within
17 the territory of the district with potable water for domestic,
18 sanitary, commercial, industrial, agricultural and municipal
19 purposes. All authority and powers of the Jackman Sewer District
20 as previously granted continue in full force and effect. The
21 board of trustees of the district as presently elected and
22 constituted may exercise all additional powers, rights,
23 privileges and obligations granted by this section in the same
24 manner as currently empowered for the affairs of this district.

25 **Sec. 2. Additional powers of district.** The district, for the
26 purposes specified in section 1, may take, collect, store, flow,
27 use, divert, distribute and convey to the district, or any part
28 of the district, water from any surface or underground source,
29 natural or artificial, within the district on the effective date
30 of this Act. It may also locate, construct and maintain
31 aqueducts, pipes, conduits, dams, wells, reservoirs, standpipes,
32 hydrants, pumping stations and other necessary structures and
33 equipment therefor, and do anything necessary to furnish water
34 for public purposes and for the public health, comfort and
35 convenience of the inhabitants and others of the district, or to
36 contract to do any and all of the foregoing things.

37
38 All incidental powers, rights and privileges granted to the
39 Jackman Water District and necessary to the accomplishment of the
40 objectives set forth in this Act are granted to the district.

41
42 Notwithstanding section 1 and other provisions of this
43 section, the district may not provide service to any person or
44 business within the territory served by the Jackman Water
45 District, or its successors, unless the provision of service is
46 approved by the Public Utilities Commission pursuant to section

13 of this Act and approved by the voters pursuant to section 18
2 of this Act.

4 **Sec. 3. Authorized to lay mains, pipes, conduits and other water**
5 **conveyances through public ways and across private lands.** The district
6 may lay in, along, under and through the streets, roads, ways,
7 highways, bridges, tidal waters, lakes, ponds, rivers and water
8 courses in the territory of the district and across private lands
9 in the territory of the district and maintain, repair and replace
10 pipes, mains, conduits, aqueducts and fixtures and appurtenances
11 as necessary and convenient for the purposes specified in section
12 1 and, whenever the district lays any pipes, mains, conduits,
13 aqueducts and fixtures or appurtenances in any street, road, way
14 or highway, it shall cause the same to be done with as little
15 obstruction as practicable to the public travel and at the
16 district's own expense, without unnecessary delay, shall cause
17 the earth and pavement removed by the district to be replaced in
18 proper condition.

20 **Sec. 4. Authorized to erect dams and reservoirs; to cross navigable**
21 **waters; to supply water to utilities.** The district, for the purposes
22 specified in section 1, may erect and maintain all dams,
23 reservoirs and structures necessary and convenient for those
24 purposes. The district may lay, construct and maintain its pipes
25 and fixtures in, over and under navigable waters and build and
26 maintain structures for the pipes and fixtures, subject to the
27 laws of the United States. The district may supply water to any
28 public utility now supplying water in Somerset County, subject to
29 the consent of the Public Utilities Commission.

30 **Sec. 5. Procedure if public utility must be crossed.** In case of
31 crossing of any public utility, unless consent is given by the
32 company owning and operating the public utility as to place,
33 manner and conditions of the crossing within 30 days after
34 consent is requested by the district, the Public Utilities
35 Commission, upon petition by the district, shall determine the
36 place, manner and conditions of the crossing, and all work on the
37 property of the public utility must be done under the supervision
38 and to the satisfaction of the public utility or as prescribed by
39 the Public Utilities Commission, but at the expense of the
40 district.

42 **Sec. 6. Authority to acquire property; rights of eminent domain.** In
43 addition to the district's eminent domain powers granted under
44 the Maine Revised Statutes, Title 38, chapter 11, the district is
45 granted the right of eminent domain for the purposes of this Act
46 pursuant to Title 35-A, chapters 65 and 67.

48 This section may not be construed as authorizing the
50 district to take by right of eminent domain any of the property

2 or facilities of any other public utility used, or acquired for
future use by the owner of that property or those facilities, in
the performance of a public duty, unless expressly authorized to
4 do so by this Act or by subsequent Act of the Legislature.

6 **Sec. 7. Annual report.** The trustees of the district shall
make and publish an annual report concerning the operations of
8 the district pursuant to this Act, including a report of the
treasurer.

10 **Sec. 8. District and towns authorized to make and assume**
12 **contracts.** The district, through its trustees, in order to carry
out the objectives set forth in this Act, may contract with
14 persons, districts, municipalities, utilities or corporations.
The district may contract with the Town of Jackman and the town
16 may contract with the district for the supply of water for
municipal purposes.

18 **Sec. 9. Authorized to receive government aid; borrow money; issue**
20 **bonds and notes.** For accomplishing the purposes of this Act, the
district, through its trustees, without vote of the inhabitants,
22 may receive state and federal aid or grants, borrow money
temporarily and issue for the money its negotiable notes for the
24 purpose of renewing and refunding the indebtedness so created,
for paying any necessary expenses and liabilities incurred under
26 this Act, including organizational and other necessary expenses
and liabilities, whether incurred by the district or the Town of
28 Jackman, the district being authorized to reimburse the Town of
Jackman for any such expense incurred by the town and in
30 acquiring properties, paying damages, laying pipes, mains,
aqueducts and conduits, constructing, maintaining and operating a
32 water plant or system and making renewals, additions, extensions
and improvements to the water plant or system and to cover
34 associated interest payments. The district, through its
trustees, may also issue, from time to time, in accordance with
36 the Maine Revised Statutes, Title 35-A, chapter 63, bonds, notes
or other evidences of indebtedness of the district in such amount
38 or amounts, bearing interest at such rate or rates, selling at
par or at a discount or a premium, to be sold in such manner, at
40 public or private sale, and having such other terms and
provisions as the trustees determine, except that loans running
42 for one year or less do not require the approval of the Public
Utilities Commission.

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

2 as the trustees determine. All bonds, notes or other evidences
3 of indebtedness must have inscribed upon their face the words
4 "Jackman Sewer District" and be signed by the treasurer and
5 countersigned by the chair of the board of trustees of the
6 district. If coupon bonds are issued, the interest coupon
7 attached to the coupon bonds must bear the facsimile signature of
8 the treasurer.

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

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

20 **Sec. 10. Rates.** The rates established pursuant to this
21 section must be sufficient to provide revenue for the purposes of
22 this Act, without the need for any financial assistance from the
23 Town of Jackman other than the normal payment of water charges
24 for services rendered and the loan or loans for initial funds as
25 set forth in section 9. Individuals, firms and corporations,
26 whether private, public or municipal, shall pay to the treasurer
27 or other designated officer of the district the rates established
28 by the board of trustees for the water used by them. The rates
29 must be established in accordance with the Maine Revised
30 Statutes, Title 35-A, chapter 61, to provide for the purposes set
31 forth therein.

34 **Sec. 11. Jackman Sewer District's acquisition of property of Jackman
35 Water District.** The Jackman Sewer District acquires, under the
36 terms contained in this Act, all, and not less than all, of the
37 plant, properties, assets, franchises, rights and privileges
38 owned by the Jackman Water District including, without
39 limitation, lands, buildings, waters, water rights, springs,
40 wells, reservoirs, tanks, standpipes, mains, pumps, pipes,
41 machinery, fixtures, hydrants, meters, services, tools, equipment
42 and appliances used or useful in supplying water for domestic,
43 sanitary, commercial, industrial and municipal purposes. The
44 consideration paid for them is the assumption by the Jackman
45 Sewer District of all of the outstanding debts, obligations and
46 liabilities of the Jackman Water District including, without
47 limitation, the assumption by the Jackman Sewer District of any
48 outstanding notes or bonds of the Jackman Water District that are
49 due on or after the date of transfer.

2 **Sec. 12. Jackman Water District required to sell property to the**
3 **Jackman Sewer District.** The Jackman Water District, a
4 quasi-municipal corporation organized and existing pursuant to
5 Private and Special Law 1971, chapter 119, under the terms
6 contained in this Act, shall sell, transfer and convey to the
7 Jackman Sewer District by appropriate instruments of conveyance
8 all, and not less than all, of its plants, properties, assets,
9 franchises, rights and privileges including, without limitation,
10 lands, buildings, waters, water rights, springs, wells,
11 reservoirs, tanks, standpipes, mains, pumps, pipes, machinery,
12 fixtures, hydrants, meters, services, tools, equipment and
13 appliances used or useful in supplying water for domestic,
14 commercial, industrial and municipal purposes, in consideration
15 of the assumption by the Jackman Sewer District of all of the
16 outstanding debts, obligations and liabilities of the Jackman
17 Water District including, without limitation, the assumption of
18 any outstanding notes or bonds of the Jackman Water District that
19 are due on or after the date of the transfer.

20 **Sec. 13. Approval of Public Utilities Commission.** The sale and
21 transfer by the Jackman Water District to the Jackman Sewer
22 District of its plant, properties, assets, franchises, rights and
23 privileges and the assumption by the Jackman Sewer District of
24 all of the outstanding debts, obligations and liabilities of the
25 Jackman Water District pursuant to sections 11 and 12 and the
26 subsequent use of the plants, properties, assets, franchises,
27 rights and privileges by the Jackman Sewer District within the
28 limits of the Jackman Sewer District are subject to the approval
29 of the Public Utilities Commission as may be required by the
30 Maine Revised Statutes, Title 35-A, Part 1.

31 **Sec. 14. Contracts of Jackman Water District assumed by the**
32 **Jackman Sewer District.** All contracts between the Jackman Water
33 District and any person, firm or corporation relating to
34 supplying water that are in effect on the date of the transfer by
35 the Jackman Water District to the Jackman Sewer District are
36 assumed and carried out by the Jackman Sewer District.

37 **Sec. 15. Dissolution and termination of Jackman Water District;**
38 **pledge of revenues.** If and when all debts, obligations and other
39 liabilities of the Jackman Water District have been paid in full
40 and discharged or the holders or owners of all debts, obligations
41 and other liabilities that have not been paid in full and
42 discharged have assented to the assumption thereof by the Jackman
43 Water District and to the novation and substitution of the
44 Jackman Sewer District as obligor in respect thereto in place of
45 the Jackman Water District and, when the transfer of property
46 pursuant to section 12 is complete, the clerk of the Jackman
47 Water District shall file a certificate to that effect with the
48 Secretary of State and the corporate existence of the
49 49
50 50

2 Jackman Water District terminates. After filing the certificate
with the Secretary of State, the clerk of the Jackman Water
4 District shall submit legislation to repeal Private and Special
Law 1971, chapter 119. Until the corporate existence of the
6 Jackman Water District is terminated pursuant to this section,
the gross revenues derived by the Jackman Sewer District from the
8 sale of water within the area comprising the former limits of the
district must be applied first to the payment of expenses and 2nd
10 to payments of debts, obligations and other liabilities of the
Jackman Water District assumed by the Jackman Sewer District
pursuant to this Act.

12
14 **Sec. 16. Property tax exemption.** Notwithstanding the Maine
Revised Statutes, Title 38, section 1064, the property of the
16 district acquired pursuant to this Act and used for the purposes
of this Act is exempt from taxation to the extent provided in
18 Title 36, section 651.

20 **Sec. 17. Existing laws not affected; rights conferred subject to
provisions of law; preservation of powers.** Nothing contained in this
22 Act is intended to repeal, or may be construed as repealing, the
whole or any part of any existing law, and all the rights and
24 duties mentioned in this Act must be exercised and performed in
accordance with all the applicable provisions of and amendatory
26 acts to the Maine Revised Statutes, Title 35-A to the extent that
title and its amendments affect the operations of the district.
28 Powers granted in this Act are in addition to powers granted to
the district under the provisions of Title 38, chapter 11, and
nothing in this Act may be construed as limiting the authority of
30 the district in carrying out the purposes of the district as
provided in Title 38, section 1063.

32
34 **Sec. 18. Referendum; effective date.** The municipal officers of
the Town of Jackman shall submit this Act to the legal voters of
36 the Town of Jackman voting at a regular or special election
called and held within 6 months after passage of this Act. If
38 the municipal officers choose to so submit this Act the election
must be called, advertised and conducted according to the law
40 relating to municipal elections, except that the municipal
officers are not required to prepare or the town clerk to post a
42 new list of voters. For the purpose of registration of voters
the registrar is required to be in session the 3 secular days
44 next preceding the election, of which the first 2 days must be
devoted to registration of the voters and the last day to
46 verification of the list and completion of the records of these
sessions. The subject matter of this Act is reduced to the
following question:

2 "Do you favor the dissolution of the Jackman Water District
and the acquisition of the assets and liabilities of the
4 Jackman Water District by the Jackman Sewer District?"

6 This Act also must be submitted to the Trustees of the
Jackman Water District for a ratification vote at any trustees'
8 meeting.

10 This Act takes effect for all purposes immediately upon its
acceptance by the Trustees of the Jackman Water District and by a
12 majority of the legal voters of the Town of Jackman voting at the
election.

14 The results of the election must be declared by the
municipal officers of the Town of Jackman and due certificate of
16 the results filed by the town clerk with the Secretary of State.
The trustees of the Jackman Water District shall certify the
18 results of their vote and file the certification with the
Secretary of State.

20

22

STATEMENT OF FACT

24

This bill combines the Jackman Water District and the
26 Jackman Sewer District.

26