

# MAINE STATE LEGISLATURE

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*M  
R.S.*

L.D. 1333

DATE: *5-3-01*

(Filing No. H-*307*)

*MAJORITY*  
**UTILITIES AND ENERGY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "*A*" to H.P. 996, L.D. 1333, Bill, "An Act to Permit Consumer-owned Water Utilities to Exercise Local Control Regarding Matters within the Jurisdiction of the Public Utilities Commission"

Amend the bill in section 1 in that part designated "**S6203.**" by striking out all of subsections 3 and 4 and inserting in their place the following:

'3. Referendum approval. An election under subsection 1 takes effect only if approved by the legal voters within the consumer-owned water district voting in an election held in accordance with this subsection. The governing body of a district that has made an election under subsection 1 shall request that each municipality within the district hold an election. If all the municipalities within the district consent, an election must be held in accordance with this subsection. The election must be held simultaneously with a statewide election. The election must be called, advertised and conducted by each municipality according to the law relating to municipal elections. The registrar of voters of each municipality must be in session on the secular day next preceding the election. The district shall prepare and provide to each municipality the required ballots, including absentee ballots, on which must appear the following question:

"Do you favor allowing the (name of the district) to become a locally governed water district so that its business affairs will no longer be regulated by the Maine Public Utilities Commission?"

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2 The voters shall indicate by a cross or check mark placed against  
3 the word "Yes" or "No" their opinion on the question. The  
4 results must be declared by the municipal officers of each  
5 municipality within the district and due certificate of the  
6 results filed by each municipality with the commission. The  
7 commission shall tabulate the results and notify the governing  
8 body of the district of the results.

9  
10 4. Effective date. An election takes effect upon the  
11 commission's notice to the governing body of the district that a  
12 majority of the legal voters voting at the election approved the  
13 election.'

14 Further amend the bill in section 1 in that part designated  
15 "§6204." in subsection 2 by striking out all of paragraphs J to L  
16 (page 3, lines 4 to 9 in L.D.) and inserting in their place the  
17 following:

18 'J. Chapter 64, as applicable pursuant to the express terms  
19 of that chapter or the express terms of the charter of the  
20 locally governed water district, except that:

21  
22 (1) Section 6401, subsection 3 and section 6414 do not  
23 apply; and

24  
25 (2) Notwithstanding section 6408, subsection 2 and  
26 section 6409, the provisions of sections 6701, 6702,  
27 6703 and 6704 do not apply;

28  
29 K. Section 6704-A;

30  
31 L. Section 6705; and

32  
33 M. Section 6706.'

34  
35 Further amend the bill in section 1 in that part designated  
36 "§6204." in subsection 3 by striking out all of the last  
37 underlined sentence (page 3, lines 26 to 28 in L.D.)

38  
39 Further amend the bill in section 1 in that part designated  
40 "§6205." in subsection 3 in the last line (page 4, line 25 in  
41 L.D.) by inserting after the following: "hearing." the following:  
42 'Once a proposed rate becomes final, a copy of the rate must  
43 remain on file at the main office of the district for public  
44 information.'

45  
46 Further amend the bill in section 1 in that part designated  
47 "§6205." by inserting after subsection 4 the following:  
48

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2 '5. Fire protection charges; cost allocation. A locally  
3 governed water district must allocate as a percentage of gross  
4 revenue its charges for water service for fire protection in  
5 accordance with the standards, terms and conditions established  
6 in any commission rules governing such allocation for  
7 consumer-owned water utilities, or, if no rules exist, based on  
8 the results of a full allocation study of the district's system.'

10 Further amend the bill in section 1 by striking out all of  
11 that part designated "§6206." and inserting in its place the  
12 following:

14 '§6206. Eminent domain

16 A locally governed water district has eminent domain  
17 authority as specified in its charter except that any provision  
18 in the charter that references a section of this Title that by  
19 the terms of this chapter does not apply to the district does not  
20 cause that section to apply.'

22 Further amend the bill in section 1 by striking out all of  
23 those parts designated "§6208." and "§6209." and inserting in  
24 their place the following:

26 '§6208. Actions and appeals

28 1. Local option; appeal. The governing body of a locally  
29 governed water district may elect to create a process for appeals  
30 of its decisions to another person, board or entity that may  
31 lawfully review and decide such appeals, including an ombudsman  
32 or appeals board appointed by the governing body. The governing  
33 body may provide for appeals of any action of the governing body,  
34 including, but not limited to, actions regarding matters relating  
35 to denial or termination of service, terms and conditions of  
36 service and billing, metering and collection for service. The  
37 governing body shall establish rules concerning the manner in  
38 which such appeals may be taken.

40 2. Final action. If the governing body establishes an  
41 appeal process under subsection 1, a decision for which an appeal  
42 process has been established does not become a final decision of  
43 the district for purposes of subsection 3 until a decision on  
44 appeal has been made. In all other cases, a decision of the  
45 governing body is a final decision of the district for purposes  
46 of subsection 3.

48 3. Right of appeal. Except as otherwise provided in the  
49 charter of a locally governed water district, any person  
50 aggrieved by a final decision of the district has a right of  
appeal to the Superior Court on questions of law in the same

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2 manner as an appeal taken to the Law Court from a judgment of the  
3 Superior Court in a civil action.

4 4. Other actions. A person may bring an action under the  
5 Maine Rules of Civil Procedure, Rule 80B to review any action or  
6 failure or refusal to act by a locally governed water district.  
7 Nothing in this section may be interpreted to limit any rights of  
8 action or appeal that may exist by operation of other law.'

10 Further amend the bill in section 1 by renumbering the  
11 sections to read consecutively.

14 **SUMMARY**

16 This amendment clarifies certain portions of the bill and  
17 makes clear the rights of action and appeal that are available  
18 with respect to actions or failures of action by a locally  
19 governed water district. This amendment also replaces that  
20 portion of the bill that made the election of a consumer-owned  
21 water district to become a locally governed water district  
22 subject to approval by a majority of the municipalities within  
23 the district. Under this amendment, the election is subject to  
24 referendum approval by the voters within the district. This  
25 amendment also provides that a locally governed water district  
26 must allocate as a percentage of gross revenue its charges for  
27 water service for fire protection according to the provisions of  
28 commission rules governing such cost allocation for  
29 consumer-owned water utilities, or, if no rules exist, based on  
30 the results of a full allocation study of the district's system.

**COMMITTEE AMENDMENT**