

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1442

S.P. 440

In Senate, March 5, 2001

An Act to Create the Boothbay Region Water District.

(EMERGENCY)

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator KILKELLY of Lincoln.
Cosponsored by Representative: HONEY of Boothbay.

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

4 **Whereas,** the residents of the towns of Boothbay and Boothbay
6 Harbor are in immediate need of forming a quasi-municipal entity
to supply potable water; and

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

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

16 **Sec. 1. Territorial limits; corporate name.** Pursuant to the Maine
18 Revised Statutes, Title 35-A, section 6403, subsection 1,
paragraph B, and subject to section 12 of this Act, the Town of
20 Boothbay and the Town of Boothbay Harbor and their inhabitants
constitute a standard water district under the name "Boothbay
22 Region Water District," referred to in this Act as the "district."

24 **Sec. 2. Powers; authority; duties.** Except as otherwise provided
in this Act, the district has all the powers and authority and is
26 subject to all the requirements and restrictions provided in the
Maine Revised Statutes, Title 35-A, chapter 64. The district has
28 authority to provide water to the Town of Southport.

30 **Sec. 3. Power to take water.** The district is authorized to
take, hold and to convey within the Town of Boothbay, the Town of
32 Boothbay Harbor and the Town of Southport and from any part of
the towns and the islands adjacent to the towns water from Adams
34 Pond, Knickerbocker Lake, Wiley Pond and Meadow Brook Wells in
the Town of Boothbay and the Town of Boothbay Harbor and from any
36 other surface and groundwater source within the towns.

38 **Sec. 4. Authorized to acquire property and franchises of the Town of
Boothbay Harbor and the East Boothbay Water District.** Pursuant to
40 the Maine Revised Statutes, Title 35-A, section 6403, subsection
2, paragraph C, the district, through its trustees, may acquire
42 by purchase the plants, properties, assets, franchises, rights
and privileges owned by the Town of Boothbay Harbor and the East
44 Boothbay Water District, including all lands, buildings, waters,
water rights, reservoirs, tanks, standpipes, mains, pumps, pipes,
46 machinery, fixtures, hydrants, meters, services, tools, equipment
and all apparatus and appliances used or usable in supplying
48 water in the area of the district. The district may acquire, by
the exercise

2 of the right of eminent domain, a right expressly delegated to
the district for that purpose, the plants, properties,
4 franchises, rights and privileges including cash assets and
accounts receivable owned by the Town of Boothbay Harbor and the
6 East Boothbay Water District, including all lands, waters, water
rights, dam structures, reservoirs, pipes, machinery, fixtures,
hydrants, tools and all apparatus and appliances used or usable
8 in supplying water in the area of the district.

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

30 The district shall file in the registry of deeds for Lincoln
32 County plans and descriptions of the location of all the lands
and water rights taken under the provisions of this Act, and
34 entry may not be made upon any land, except to make surveys,
until the expiration of 10 days from the filing. With the plan,
36 the district may file a statement of the damages it is willing to
pay to any person for any property or property rights taken. If
38 the amount finally awarded does not exceed that sum, the district
may recover costs against a person; otherwise that person may
40 recover costs against the district. Within 30 days after the
filing of the plans and descriptions, the district shall publish
42 notice of the taking and filing in a newspaper in the county,
with the publication to be continued 3 weeks successively.

44 Any person aggrieved by the determination of the damages
46 awarded to owners of property or interests taken under this
section may appeal, within 60 days after service of the
48 condemnation order and check, to the Superior Court of Lincoln
County. The court shall determine damages by a verdict of its
50 jury or, if all parties agree, by the court without a jury or by

2 a referee or referees and shall render judgment for just
3 compensation, with interest when interest is due, and for costs
4 in favor of the entitled party. A decision of the Superior Court
5 may be appealed to the Law Court, as in other civil actions.

6 **Sec. 5. Trustees; how elected; first board; meeting; officers.** All of
7 the affairs of the district must be managed by a board of
8 trustees composed of 5 members: Three residents of the Town of
9 Boothbay Harbor and 2 residents of the Town of Boothbay.

10 **1. First board.** The municipal officers of the Town of
11 Boothbay Harbor and the Town of Boothbay at a joint meeting shall
12 appoint the first board of trustees. The trustees from the Town
13 of Boothbay Harbor serve terms as follows: one for a term of one
14 year, one for a term of 2 years and one for a term of 3 years.
15 The trustees from the Town of Boothbay serve terms as follows:
16 one for a term of 2 years and one for a term of 3 years. The
17 municipal officers shall determine the term of office of each
18 trustee. Vacancies are filled pursuant to subsection 4. After
19 the expiration of the term of the Boothbay Harbor trustee with
20 the term of one year, the succeeding trustee is elected at large
21 from the district for a term of 3 years.

22 **2. Organization; conduct of business.** Organization and
23 powers of the board of trustees must be in accordance with the
24 Maine Revised Statutes, Title 35-A, chapter 64.

25 All decisions of the board of trustees must be by a majority of
26 those present and voting. A quorum of the board of trustees is 3
27 trustees.

28 **3. Bylaws.** The trustees may adopt and establish such
29 bylaws as are necessary for the proper management of the affairs
30 of the district.

31 **4. Vacancy.** Whenever the term of office of a trustee from
32 the Town of Boothbay Harbor expires, the trustee's successor must
33 be elected from the Town of Boothbay Harbor by the inhabitants of
34 the district. Except that, after the first year, the successor
35 of the trustee from the Town of Boothbay Harbor that served a
36 term of one year must be elected at large by the inhabitants of
37 the district at town meetings to be held in the Town of Boothbay
38 Harbor and the Town of Boothbay. Whenever the term of office of
39 a trustee from the Town of Boothbay expires, the trustee's
40 successor must be elected from the Town of Boothbay by the
41 inhabitants of the district. Trustees are elected at the annual
42 town meetings from the town that the trustee represents. The
43 trustee so elected shall serve the full term of 3 years. If any
44 vacancy arises in the membership of the board of trustees, it
45 must be filled in like manner for the unexpired term by a special

2 election to be called by the trustees of the district. When any
3 trustee ceases to be a resident of the district, the trustee
4 shall vacate the office of trustee and the vacancy must be filled
5 as provided in this subsection. All trustees are eligible for
6 reelection, but a person who is a municipal officer in the Town
7 of Boothbay Harbor or the Town of Boothbay is not eligible for
8 nomination or election as trustee.

9
10 **Sec. 6. Compensation.** Notwithstanding the Maine Revised
11 Statutes, Title 35-A, section 6410, subsection 7, the
12 compensation of the trustees and the treasurer of the board of
13 trustees is determined by the board of trustees.

14 **Sec. 7. District acquisition of property of the Town of Boothbay
15 Harbor and East Boothbay Water District.** The district acquires,
16 under the terms contained in this Act, all and not less than all,
17 of the plants, properties, assets, franchises, rights and
18 privileges owned by the Town of Boothbay Harbor and the East
19 Boothbay Water District, including, without limitation, lands,
20 buildings, waters, water rights, springs, wells, dam structures,
21 reservoirs, tanks, standpipes, mains, pumps, pipes, machinery,
22 fixtures, hydrants, meters, services, tools, equipment and all
23 apparatus and appliances used or useful in supplying water for
24 domestic, sanitary, commercial, industrial and municipal
25 purposes. The consideration paid for them is the assumption by
26 the district of all of the outstanding debts, obligations and
27 liabilities of the Town of Boothbay Harbor and the East Boothbay
28 Water District, including, without limitation, the assumption by
29 the district of any outstanding notes or bonds of the Town of
30 Boothbay Harbor and the East Boothbay Water District that are due
31 on or after the date of transfer.

32
33 **Sec. 8. The town of Boothbay Harbor and East Boothbay Water
34 District required to sell property to district.** The Town of Boothbay
35 Harbor, pursuant to Private and Special Law 1995, chapter 74, and
36 the East Boothbay Water District, a quasi-municipal corporation
37 organized and existing pursuant to Private and Special Law 1959,
38 chapter 132, under the terms contained in this Act, shall sell,
39 transfer and convey to the district by appropriate instruments of
40 conveyance all, and not less than all, of their plants,
41 properties, assets, franchises, rights and privileges, including,
42 without limitation, lands, buildings, waters, water rights,
43 springs, wells, reservoirs, tanks, standpipes, mains, pumps,
44 pipes, machinery, fixtures, hydrants, meters, services, tools,
45 equipment and appliances used or useful in supplying water for
46 domestic, commercial, industrial and municipal purposes, in
47 consideration of the assumption by the district of all of the
48 outstanding water-related debts, obligations and liabilities of
49 the Town of Boothbay Harbor and the East Boothbay Water District,
50 including, without limitation, the assumption of any outstanding

2 water-related notes or bonds of the Town of Boothbay Harbor and
the East Boothbay Water District that are due on or after the
date of transfer.

4
6 **Sec. 9. Approval of Public Utilities Commission.** The sale and
transfer by the Town of Boothbay Harbor and the East Boothbay
8 Water District to the district of their plants, properties,
assets, franchises, rights and privileges and the assumption by
10 the district of all of the outstanding debts, obligations and
liabilities of the district pursuant to sections 7 and 8 and the
12 subsequent use of the plants, properties, assets, franchises,
rights and privileges by the district within the limits of the
14 district are subject to the approval of the Public Utilities
Commission as may be required by the Maine Revised Statutes,
Title 35-A, Part 1.

16
18 **Sec. 10. Borrowing.** For accomplishing the purpose of this
Act, the district, by vote of its board of trustees, without
20 district vote, is authorized to borrow money, including temporary
borrowing, for the purposes of acquisition and renovation of the
22 Town of Boothbay Harbor and East Boothbay Water District systems,
of renewing and refunding the indebtedness of water-related notes
24 or bonds of the Town of Boothbay Harbor and the East Boothbay
Water District, of paying necessary expenses and liabilities
26 incurred under the provisions of this Act, and of acquiring
properties, paying damages, laying pipes, mains, sewers, drains
28 and conduits, purchasing, constructing, maintaining and operating
a water system and making renewals, additions, extensions and
improvements to such systems, and is authorized to issue, from
30 time to time, bonds, notes or other evidences of indebtedness of
the district in such amount or amounts, bearing interest at such
32 rate or rates, and having such terms and provisions as the
trustees determine. In the case of a vote by the trustees after
34 acquisition and renovation of the Town of Boothbay Harbor and
East Boothbay Water District systems to authorize bonds or notes
36 to pay for the acquisition of property, the cost of a water
system or part of a water system, renewals or additions or for
38 other improvements in the nature of capital costs, the estimated
cost of which singly or in the aggregate included in any one
40 financing is \$500,000 or more, but not for renewing or refunding
existing indebtedness or to pay for maintenance, repairs or
42 current expenses, notice of the proposed debt and of the general
purpose or purposes for which it was authorized must be given by
44 the district by publication at least once in a newspaper having
general circulation in the Town of Boothbay Harbor and the Town
46 of East Boothbay. The total indebtedness outstanding of the
district may not exceed, without district vote, the sum of
48 \$12,000,000 at any one time or such other amount as may be
established pursuant to this section.

50

2 Notwithstanding the limitation on total indebtedness
3 established in this section, the trustees of the district may
4 propose a different debt limit and submit that debt limit for
5 districtwide approval in a referendum held in accordance with
6 this section. The referendum must be called, advertised and
7 conducted according to the law relating to municipal elections,
8 except the registrar of voters is not required to prepare or the
9 clerk to post a new list of voters. For the purpose of
10 registering voters, the registrar of voters must be in session on
11 the regular workday preceding the election. The question
12 presented must conform to the following form:

13 "Do you favor changing the debt limit of the Boothbay Region
14 Water District from (insert current debt limit) to (insert
15 proposed debt limit)?"

16 The voters shall indicate by a cross or check mark placed
17 against the word "Yes" or "No" their opinion on the question.

18 The results must be declared by the trustees and entered
19 upon the district's records. Due certificate of the results must
20 be filed by the clerk with the Secretary of State.

21 A debt limit proposal becomes effective upon its acceptance
22 by a majority of the legal voters within the district voting at
23 the referendum. Failure of approval by the majority of voters
24 voting at the referendum does not prevent subsequent referenda
25 from being held for the same purpose. The costs of referenda are
26 borne by the district.

27 The total indebtedness of the district at any one time
28 outstanding may not exceed the sum approved by referendum.

29 **Sec. 11. P&SL 1959, c. 132, as amended, is repealed.**

30 **Sec. 12. P&SL 1995, c. 74 is repealed.**

31 **Sec. 13. Emergency clause; referenda; effective date.** In view of
32 the emergency cited in the preamble, this Act takes effect when
33 approved only for the purpose of permitting its submission to the
34 legal voters within the territory described in section 1 of this
35 Act at each town's annual election or a special election called
36 for that purpose and held within 2 years after the effective date
37 of this Act. The election must be called by the municipal
38 officers of the respective towns and must be held at the regular
39 voting places. The election must be called, advertised and
40 conducted according to the law relating to municipal elections.
41 The registrars shall make a complete list of all the eligible
42 voters of the proposed district as described in this Act. The
43 list prepared by the registrars governs the

2 eligibility of a voter. For the purpose of registration of
voters, the registrars of voters must be in session the secular
4 day preceding the election. The subject matter of this Act is
reduced to the following question:

6 "Do you favor creating the Boothbay Region Water District
and permitting the Boothbay Region Water District to assume
8 control over the Boothbay Harbor Water System and the East
Boothbay Water District?"

10
12 The voters shall indicate by a cross or check mark placed
against the words "Yes" or "No" their opinion of the same.

14 The results must be declared by the municipal officers of
the Town of Boothbay Harbor and the Town of Boothbay and due
16 certificate of the results filed by the clerks with the Secretary
of State.

18
20 This Act takes effect for all purposes immediately upon its
approval by a majority of the legal voters of each town voting at
the election. Failure to achieve the necessary approval in any
22 referendum does not prohibit subsequent referenda consistent with
this section, provided the referenda are held within 2 years of
24 the effective date of this Act.

26

SUMMARY

28

This bill creates the Boothbay Region Water District.