

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 678

S.P. 242

In Senate, February 14, 2003

**An Act To Amend the Charter of the Lubec Water and Electric
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 SHOREY of Washington.

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

4
6 **Whereas,** in 1991 the Lubec Water and Electric District
changed its name to the Lubec Water District; and

8 **Whereas,** the legislation was passed by the Legislature as
Private and Special Law 1991, chapter 14; and

10
12 **Whereas,** the law required that the changes to the name of
the district be approved by the voters of the Town of Lubec; and

14 **Whereas,** the Town of Lubec never held an election to vote on
these matters; and

16
18 **Whereas,** it is imperative that this legislation become
effective before the 90 days so that the Town of Lubec may vote
on the name change of the district; and

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

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

28 **Sec. 1. P&SL 1951, c. 92, §§1 to 5** are amended to read:

30 **Sec. 1. Territorial limits, corporate name, powers and**
32 **purposes.** The inhabitants and territory within the ~~town~~ Town of
Lubec, in the ~~county~~ County of Washington (hereinafter referred
34 to as Lubec), ~~shall be and hereby~~ are constituted a body politic
and corporate under the name of Lubec Water and ~~Electric~~ District
36 (hereinafter referred to as district), with the purpose, right
and power to take and use water for domestic, commercial,
38 sanitary and municipal purposes including extinguishment of fire,
~~and to make, buy, generate, sell and distribute electricity;~~ and,
40 also, so far as applicable to said these purposes, with the
rights and powers conferred upon said Lubec by section 1 of
42 chapter 489 of the private and special laws of 1901, ~~as amended~~
~~by section 1 of chapter 47 of the private and special laws of~~
44 ~~1919, and by section 1 of chapter 91 of the private and special~~
~~laws of the special session of 1933.~~

46
48 **Sec. 2. Title of utility properties of Lubec to vest in**
district. ~~At the time this act takes effect, the~~ The title of
Lubec to the entire plant, lands, property and franchises, rights
50 and privileges, including all rents, water rights, dams,

reservoirs, pipes, machinery, fixtures, hydrants, tools, apparatus and appliances used in connection with its water business, ~~and also the property, franchises, property rights, privileges and assets, including land, poles, wiring, fixtures, machinery, apparatus and appliances used or capable of being used in connection with maintaining its electrical business,~~ together with all unexpended funds credited to said the water and electric department and all bills receivable for water and electric services ~~service,~~ shall ~~become~~ remain the property of and vest in said the district in. In consideration of the said district assuming all of the prior obligations of Lubec in connection with said the water and electric business and ~~of said,~~ the district paying shall pay the Town of Lubec ~~for a term of 99 years~~ the sum of \$10,000 annually, in quarterly payments of \$2,500 each, each year until and including the year 2051.

Sec. 3. Powers of district. Said The district is hereby authorized, in addition to all the powers and rights conferred under section 1 hereof, to take, collect, store, flow, use, detain, distribute and convey to the ~~town~~ Town of Lubec or any part ~~thereof of the town~~ water from any lake, pond, stream, or river or from any surface or underground brook, spring or vein of water in said ~~town~~ the Town of Lubec and in the ~~town of~~ Trescott Township and from the Orange ~~river~~ River in Whiting, and is also authorized to locate, construct and maintain aqueducts, pipes, conduits, standpipes, hydrants, pumping stations and other necessary structures and equipment ~~therefor~~ necessary for the taking of water; and erect ~~poles and lines~~ and do all things necessary to furnish water, ~~light and power~~ for public purposes and for public health, comfort and convenience of the inhabitants of said the district, ~~and to supply electric light and power to the inhabitants of the town of Lubec and to the town of Trescott and that part of Whiting known as Whiting Village.~~

Sec. 4. Right of eminent domain conferred. The said district, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, by purchase, eminent domain, or otherwise, any land or interest ~~therein~~ in land, or water rights necessary for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining aqueducts and other structures, for taking, distributing and disposing of water and for rights of way and roadways to its sources of supply, power stations, reservoirs, mains, aqueducts, structures and lands, and also all things necessary for supplying water as ~~aforesaid, and for supplying electric lighting and power.~~ Provided, however, nothing herein contained shall This section may not be construed as authorizing said the district to take by right of eminent domain any of the property or facilities of any

2 other public service corporation or district used or required for
3 future use by the owner ~~thereof~~ of that public service
4 corporation or district in performance of a public duty, unless
5 expressly authorized herein by this section or by subsequent act
6 of the ~~legislature~~ Legislature.

8 **Sec. 5. Authorized to lay mains, pipes, conduits, etc.,**
9 **through and upon public ways and across private lands.** The said
10 district is hereby authorized to lay in and through and to erect
11 upon the streets, roads, ways and highways of the ~~town~~ Town of
12 Lubec and other towns served by it and across private lands
13 therein located in the Town of Lubec and other towns served by
14 the district, and to maintain, repair and replace all such pipes,
15 mains, conduits, aqueducts, ~~poles and wires~~, and fixtures as may
16 be necessary and convenient for its corporate purposes, and
17 whenever said the district ~~shall lay~~ lays any pipes, aqueducts,
18 or conduits ~~or erect pole lines~~ in any street, roadway or
19 highway, it shall cause the same to be done with as little
20 obstruction as practicable to the public travel, and shall at its
21 own expense, without unnecessary delay, cause the earth and
22 pavement removed by it to be replaced in proper condition.

24 **Sec. 2. P&SL 1951, c. 92, §6, first sentence** is amended to read:

25 ~~After the original acquisition for which provision is made in~~
26 ~~section 2 of this act, the said~~ The district, in exercising, from
27 time to time, any right of eminent domain conferred upon it by
28 law or through or under the franchise of Lubec acquired by the
29 district, shall file written application with the ~~public~~
30 ~~utilities commission~~ Public Utilities Commission requesting its
31 approval of the proposed taking.

32 **Sec. 3. P&SL 1951, c. 92, §9** is repealed and the following
33 enacted in its place:

34 **Sec. 9. Board of trustees.** The affairs of the district
35 must be managed by a board of trustees composed of 3 members who
36 must be residents of the district and reside in a household to
37 which the district's service is provided. A municipal officer or
38 holder of another town office of the Town of Lubec is not
39 eligible to be a trustee, and, whenever a trustee becomes a
40 municipal officer or is elected or appointed to and accepts
41 another town office for the Town of Lubec, the trustee
42 automatically ceases to be a trustee. The present board of
43 trustees hold office as trustees for the terms for which they
44 were elected and as each term expires one trustee must be elected
45 by the ratepayers of the district, at a meeting called for that
46 purpose, to serve for a term of 3 years. The trustees shall hold
47 meetings in the Town of Lubec and may organize by the election of

2 a president and a clerk, adopt a corporate seal and choose a
3 treasurer and, when necessary, all other officers and agents,
4 including a general manager, who, with the treasurer, shall serve
5 at the trustees' pleasure and whose compensation is fixed by the
6 trustees. The trustees are entitled to compensation for their
7 services as determined by the trustees. Whenever a vacancy
8 occurs in the office of the president, clerk, general manager or
9 treasurer, that office must be filled by the board of trustees.
10 If a vacancy occurs in the board of trustees, the remaining
11 trustees may appoint a temporary trustee to fill the vacancy
12 until the next regular meeting of the district. At that meeting,
13 a trustee must be elected for the regular term and one to fill
14 the term caused by the vacancy. Whenever a trustee ceases to be
15 a resident of the district, the trustee vacates the office of the
16 trustee. The trustees may also adopt bylaws as necessary for
17 their own convenience and the proper management of the affairs of
18 the district and may procure an office and incur expenses as
19 necessary. The treasurer and the general manager shall furnish
20 bond in a form and with sureties the trustees approve.

21 **Sec. 4. P&SL 1951, c. 92, §10** is amended to read:

22
23 **Sec. 10. Valid contracts of present companies to be assumed**
24 **by district.** All valid contracts now existing between Lubec the
25 district and any persons or corporations for supplying water,
26 light-and-power, in the town Town of Lubec or elsewhere shall
27 must be assumed and carried out by said the district.

28
29 **Sec. 5. P&SL 1951, c. 92, §14, sub-§I** is amended to read:

30
31 **I.** To pay the current expenses for operating and
32 maintaining the water,~~light-and-power~~ system.

33
34 **Sec. 6. P&SL 1951, c. 92, §14, sub-§V** is enacted to read:

35
36 V. Notwithstanding any other provisions in this section,
37 the district is authorized to hold all money received from
38 the sale of that portion of the district's property formerly
39 used to provide electric service and to continue to use
40 these funds or any part of these funds, as the trustees
41 determine advisable, for the extension or improvement of
42 water service or as a means of delaying increases in rates
43 for water service. The fund must be separately accounted
44 for and its application must be overseen by the Public
45 Utilities Commission. The district may, with consent of the
46 Public Utilities Commission, set aside some portion as a
47 reserve with which to make the annual payment to the Town of
48 Lubec required by Section 2 of this Charter.

