

MAINE STATE LEGISLATURE

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W
R.O.S.

L.D. 1113

DATE: *5/4/05*

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UTILITIES AND ENERGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "*A*" to H.P. 766, L.D. 1113, Bill, "An Act To Create the Fryeburg Water District"

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, the health, safety and convenience of the customers of the Fryeburg Water Company require adequate and affordable water service and immediately creating authority to establish through a referendum vote the Fryeburg Water District may be the means of ensuring such service; and

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 necessary for the preservation of the public peace, health and safety; now, therefore,'

Further amend the bill in section 1 in the blocked paragraph in the 10th and 11th lines (page 1, lines 18 and 19 in L.D.) by striking out the following: "to Route 113; thence east along Route 113"

Further amend the bill in section 3 in the first paragraph in the 5th line (page 1, line 34 in L.D.) by inserting after the following: "district" the following: 'to the extent permitted under and in accordance with applicable laws and rules'

COMMITTEE AMENDMENT

R. of S.

2 Further amend the bill in section 3 in the 2nd paragraph in
the 2nd line (page 1, line 37 in L.D.) by striking out the
4 following: "department" and inserting in its place the following:
'the requirements of applicable laws and'

6
Further amend the bill by striking out all of sections 8 and
8 9 and inserting in their place the following:

10 **'Sec. 8. District authorized to acquire property and franchises of**
Fryeburg Water Company. The district, through its trustees, may
12 acquire by purchase the Fryeburg Water Company and the entire
plant, properties, franchises, rights and privileges owned by the
14 Fryeburg Water Company, located within the district, including
all lands, waters, water rights, reservoirs, pipes, machinery,
16 fixtures, hydrants and tools and all apparatus and appliances
used or usable in supplying water in the area of the district.
18 The district may acquire by the exercise of the right of eminent
domain, a right expressly delegated to the district for that
20 purpose, the Fryeburg Water Company and the entire plant,
properties, franchises, rights and privileges, except cash assets
22 and accounts receivable, owned by the Fryeburg Water Company,
including all lands, waters, water rights, dam structures,
24 reservoirs, pipes, machinery, fixtures, hydrants and tools and
all apparatus and appliances used or usable in supplying water in
26 the area of the district. Except as otherwise expressly provided
in this section and in furtherance of the acquisition of the
28 Fryeburg Water Company pursuant to this section, the district may
also acquire by the exercise of the right of eminent domain any
30 tangible or intangible personal property that represents or
constitutes an ownership interest in the company by another
32 person or entity.

34 In exercising the right of eminent domain under this Act,
the trustees shall file with the town clerk a condemnation order
36 that includes a detailed description of the property interest to
be taken, the name or names of the owner or owners of record as
38 far as they can be reasonably determined and the amount of
damages determined by the trustees to be just compensation for
40 the property or interest in the property taken. The trustees
shall then serve upon the owner or owners of record a copy of the
42 condemnation order and a check in the amount of the damages
awarded and record a certified copy of the condemnation order in
44 the Oxford County Registry of Deeds. In the event of multiple
ownership, the check may be served on any one of the owners. This
46 title passes to the district upon service of the condemnation

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order and check or upon recordation in accordance with this section, whichever occurs first. Acceptance and negotiation of the check do not bar an appeal under this section.

Any person aggrieved by the determination of the damages awarded to owners of property or interests in the property under this section may, within 60 days after service of the condemnation order and check, appeal to the Superior Court of Oxford County. The court shall determine damages by a verdict of its jury or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for just compensation, with interest when such is due, and for costs in favor of the party entitled to the costs. Appeal from the decision of the Superior Court may be made to the Law Court, as in other civil actions.

The sale and transfer by the Fryeburg Water Company to the district of its plants, properties, assets, franchises, rights and privileges; the assumption by the district of all the outstanding debts, obligations and liabilities of the district pursuant to this section; and the subsequent use of the plants, properties, assets, franchises, rights and privileges by the district within the limits of the district are subject to the approval of the Public Utilities Commission as may be required by the Maine Revised Statutes, Title 35-A.'

Further amend the bill by striking out all of section 11 and inserting in its place the following:

'Sec. 11. Referendum; effective date. This Act takes effect when approved only for the purpose of permitting its submission to the legal voters within the territory described in section 1 at an election called for that purpose and held within 3 years of the effective date of this Act. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The subject matter of this Act is reduced to the following question:

"Do you favor creating the Fryeburg Water District and permitting it to acquire the assets of the Fryeburg Water Company?"

This Act takes effect for all purposes upon its acceptance by a majority of the legal voters of the district. Failure to achieve the necessary approval does not prevent subsequent referenda held within 3 years of the effective date of this Act.

n. of s.

2 The results must be declared by the municipal officers of
the Town of Fryeburg and due certificate of the results must be
4 filed by the town clerk with the Secretary of State.'

6 Further amend the bill by inserting at the end before the
summary the following:

8 'Emergency clause. In view of the emergency cited in the
10 preamble, this Act takes effect when approved.'

12 Further amend the bill by relettering or renumbering any
nonconsecutive Part letter or section number to read
14 consecutively.

16 **SUMMARY**

18 This amendment makes the following changes to the bill. It:

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1. Modifies the description of the territory of the
22 proposed Fryeburg Water District to ensure that no portion
extends beyond the borders of this State;

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2. Clarifies the authority of the district to arrange for
26 continued service to customers of the Fryeburg Water Company
located outside the territory of the district;

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3. Clarifies the authority of the district to sell water to
30 bulk water exporters;

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4. Provides that the district may take by eminent domain
the property and franchise of the Fryeburg Water Company located
34 within the territory of the district and removes an unneeded
eminent domain provision that appeared in the bill;

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5. Clarifies the referendum provision of the bill and
38 provides for one unified referendum question rather than 2
separate referendum questions; and

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6. Adds an emergency preamble and an emergency clause to
42 the bill.