

MAINE STATE LEGISLATURE

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No. 1113

H.P. 766

House of Representatives, March 1, 2005

An Act To Create the Fryeburg Water District

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MUSE of Fryeburg.
Cosponsored by Senator HASTINGS of Oxford.

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

Sec. 1. Territorial limits; corporate name. Pursuant to the Maine Revised Statutes, Title 35-A, chapter 64, that part of the Town of Fryeburg described as follows and its inhabitants constitute a standard district under the name Fryeburg Water District, referred to in this Act as "the district":

Beginning at the point of intersection of 70°, 57', 4.11" longitude W and 44°, 3', 14.76" latitude N; thence due south to the point of intersection of 70°, 57', 0.65" longitude W and 44°, 1', 19.63" latitude N to Route 302; thence east along Route 302 to the point of intersection of 70°, 56', 32.66" longitude W and 44°, 1', 26.8" latitude N; thence south to the point of intersection of 70°, 56', 29.08" longitude W and 43°, 59', 56.34" latitude N; thence west to the Maine and New Hampshire border; thence north along the Maine and New Hampshire border to Route 113; thence east along Route 113 to Stevens Brook; thence south along Stevens Brook to the Saco River; thence north along the Saco River to the point of intersection of 70°, 57', 51.24" longitude W and 44°, 3', 14.42" latitude N; thence east to the point of beginning.

Sec. 2. Powers; authority; duties. The district has all the powers and authority and is subject to all the requirements and restrictions provided in the Maine Revised Statutes, Title 35-A, chapter 64.

Sec. 3. Additional powers. The district is authorized to enter into contracts with appropriate entities to arrange for, or provide, continued service to existing customers of the Fryeburg Water Company who are located outside the territory of the district.

The district is authorized to sell water to bulk water exporters, subject to department rules and town ordinances and with the approval of the town's planning board.

Sec. 4. Power to take water. The district is authorized to take, to hold and to convey within the Town of Fryeburg and from any part of the town water from any surface or groundwater source within the town.

Sec. 5. Number of trustees. The board of trustees of the district is composed of 5 trustees. The trustees must be residents of the district but need not use the district services.

Sec. 6. Election of first board. The first board is elected in an election called by the municipal officers of the

2 Town of Fryeburg by the voters in accordance with this Act. The
3 terms of the first board are governed by the Maine Revised
4 Statutes, Title 35-A, section 6410.

5 **Sec. 7. Terms of trustees.** After the election of the first
6 board, trustees are elected to 3-year terms.

7 **Sec. 8. Authorized to acquire property and franchise of Fryeburg
8 Water Company.** The district, through its trustees, may acquire
9 by purchase the plants, properties, assets, franchises, rights
10 and privileges owned by the Fryeburg Water Company, including all
11 lands, waters, water rights, reservoirs, pipes, machinery,
12 fixtures, hydrants, tools and all apparatus and appliances used
13 or usable in supplying water in the area of the district.

14
15 The sale and transfer by the Fryeburg Water Company to the
16 district of its plants, properties, assets, franchises, rights
17 and privileges; the assumption by the district of all of the
18 outstanding debts, obligations and liabilities of the district
19 pursuant to this section; and the subsequent use of the plants,
20 properties, assets, franchises, rights and privileges by the
21 district within the limits of the district are subject to the
22 approval of the Public Utilities Commission as may be required by
23 the Maine Revised Statutes, Title 35-A, Part 1.

24
25 **Sec. 9. Eminent domain.** Subject to the provisions of this
26 section, the Fryeburg Water District has the right of eminent
27 domain and may exercise that right to acquire real estate or
28 interests in real estate for the purposes of acquiring an
29 underground water supply and to adequately provide for the
30 storage, distribution or transmission of that water. Eminent
31 domain powers may be exercised only for those purposes and only
32 if the assessors determine that public exigency requires the
33 immediate taking of those property interests, the corporation is
34 unable to purchase those property interests for what the
35 assessors consider reasonable valuation or the title is
36 defective. In order to exercise this power, the assessors shall
37 file with the clerk of the corporation and record in the Oxford
38 County Registry of Deeds a written condemnation order and a plan
39 of the property interest to be taken. The condemnation order
40 must include a detailed description of the property interest to
41 be taken, with reference to the plan, the name or names of the
42 owner or owners of record as can be reasonably determined and the
43 amount of damages determined by the assessors to be just
44 compensation for the property interests taken. The assessors
45 shall then serve upon the owner or owners of record in hand, or
46 by certified mail to the last known address of the owner or
47 owners, a copy of the condemnation order and a check in the
48 amount of damages awarded. In the event of multiple ownership,

2 the check may be served on any one of the owners. The assessors
shall also serve the condemnation order upon any mortgagees of
4 record in hand, or by certified mail to the last known address of
the mortgagees. Title passes to the Fryeburg Water District upon
6 service of the condemnation order and check upon the owner or
owners, or upon the recording of the condemnation order and the
8 plan, whichever occurs first. Any person aggrieved by the
determination of the damages awarded to the owner or owners of
10 the property interests taken may, within 30 days after the day
title passes to the corporation, appeal the determination of
damages to the Oxford County Superior Court pursuant to Maine
12 Rules of Civil Procedure, Rule 80B.

14 **Sec. 10. Continue to provide water.** Nothing in this Act is
intended to alter or affect or may be interpreted as altering or
16 affecting the district's continuing to provide water service to
the existing customers of the Fryeburg Water Company, including
18 those customers that are located outside the district's territory.

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

32

Question A:

34

"Do you favor creating the Fryeburg Water District?"

36

Question B:

38

"Do you favor permitting the Fryeburg Water District to
40 acquire the assets of the Fryeburg Water Company?"

42

Sections 1 to 7, 9 and 10 take effect for all purposes upon
acceptance of Question A by a majority of the legal voters of the
44 district. Failure to achieve the necessary approval does not
prevent subsequent referenda held within 3 years of the effective
46 date of this Act. Section 8 of this Act takes effect for all
purposes immediately upon acceptance of Question B by a majority
48 of the legal voters of the district. Failure to achieve the
necessary approval does not prevent subsequent referenda held
50 within 3 years of the effective date of this Act.

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

6

SUMMARY

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This bill creates the Fryeburg Water District.