

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 238

H.P. 192

House of Representatives, January 23, 2009

**An Act Regarding Consumer-owned Water Utilities and Contracts
for Water Extraction and for the Sale of Water**

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LEGG of Kennebunk.
Cosponsored by Senator SULLIVAN of York and
Representatives: BEAUDOIN of Biddeford, BERRY of Bowdoinham, BOLAND of Sanford,
CASAVANT of Biddeford, CHASE of Wells, CONNOR of Kennebunk, DRISCOLL of
Westbrook, EATON of Sullivan, FLAHERTY of Scarborough, HOGAN of Old Orchard
Beach, PIOTTI of Unity, ROTUNDO of Lewiston, TREAT of Hallowell, WATSON of Bath,
WHEELER of Kittery, WRIGHT of Berwick, Senators: BARTLETT of Cumberland,
BOWMAN of York.

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

2 **Sec. 1. 35-A MRS §6109-B** is enacted to read:

3 **§6109-B. Extraordinary contracts for sale of water or water extraction**

4 Notwithstanding any provision to the contrary in its charter or in law, a consumer-
5 owned water utility may not enter into an extraordinary contract without first holding a
6 public hearing and securing approval of a majority of voters at a referendum conducted in
7 accordance with this section.

8 **1. Definition.** For purposes of this section, “extraordinary contract” means a
9 contract with any entity that involves one or more of the following: the sale of water for
10 purposes other than on-site use or consumption by the purchasing entity; the sale or lease
11 of any water rights held by the consumer-owned water utility, including the right to
12 extract water from sources from which the consumer-owned water utility is authorized to
13 obtain water; and the sale of any water or sale or lease of any water rights on terms
14 different than those available to any other similarly situated entity.

15 **2. Public hearing.** Prior to entering into an extraordinary contract, the governing
16 body of a consumer-owned water utility shall hold a public hearing at which the Public
17 Advocate and any customer may testify and may question the officials present regarding
18 the proposed contract. The consumer-owned water utility shall, at least 14 days prior to
19 the hearing, publish a notice of the proposed contract and the hearing, including the date,
20 time, place and purpose of the hearing, in a newspaper of general circulation in the area
21 encompassed by the consumer-owned water utility and give one notice of the proposed
22 contract and the date, time, place and purpose of the hearing to each of its customers.
23 The published and individual notices must include a statement describing the proposed
24 contract, the customer's right to request information relating to the proposed contract, the
25 right to an open and fair hearing and the availability of assistance from the Public
26 Advocate. The consumer-owned water utility shall send copies of the notice to the
27 commission and the Public Advocate at least 14 days prior to the hearing.

28 **3. Referendum.** Prior to entering into an extraordinary contract, the governing body
29 of a consumer-owned water utility shall submit the proposed contract for approval at a
30 referendum conducted in accordance with this subsection. The governing body may not
31 sign the proposed contract unless it is approved by a majority of legal voters voting at the
32 referendum.

33 The referendum must be called, advertised and conducted according to the law relating to
34 municipal elections, except the registrar of voters is not required to prepare or the clerk to
35 post a new list of voters. The referendum may be held outside the territory of the
36 consumer-owned water utility if the usual voting place for persons located within the
37 territory of the utility is located outside the territory of the utility. For the purpose of
38 registering voters, the registrar of voters must be in session on the regular work day
39 preceding the election. The question presented must conform to the following form:

