

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

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Legislative Document

No. 890

H.P. 657

House of Representatives, March 7, 2011

An Act To Create the Anson and Madison Water District

(EMERGENCY)

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative CURTIS of Madison.
Cosponsored by Senator WHITTEMORE of Somerset and
Representative: DUNPHY of Embden.

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

3 **Whereas,** the residents of the towns of Madison and Anson are in immediate need
4 of forming a quasi-municipal regional entity to supply potable water within those towns;
5 and

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

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

11 **Sec. 1. Territorial limits; corporate name.** Pursuant to the Maine Revised
12 Statutes, Title 35-A, section 6403, subsection 1, paragraphs A and B and subject to
13 section 8 of this Act, the territory and the inhabitants of the Town of Madison and the
14 Town of Anson constitute a standard water district under the name "Anson and Madison
15 Water District," referred to in this Act as "the district."

16 **Sec. 2. Powers; authority; duties.** Except as otherwise expressly provided in
17 this Act, the district has all the powers and authority and is subject to all the requirements
18 and restrictions provided in the Maine Revised Statutes, Title 35-A, chapter 64, and is
19 authorized to perform all acts and to do all things necessary or convenient to carry out the
20 purposes and powers provided in this Act or reasonably implied from those purposes and
21 powers.

22 **Sec. 3. Authority to take water and locate, construct and maintain dams,**
23 **reservoirs, pipes, aqueducts and other structures and improvements.**
24 Notwithstanding any provision in the Maine Revised Statutes, Title 35-A, section 6404 to
25 the contrary, the district has the power and authority to take, hold and convey water and
26 to locate facilities as set forth in this section. The district is authorized to take, to hold
27 and to convey within the Town of Madison and the Town of Anson and from any part of
28 those towns water from any surface and groundwater source within the towns, including
29 without limitation the Kennebec River, Wesserunsett Lake, also known as Hayden Lake,
30 and Marshall's Pond. Pursuant to Title 35-A, section 6403, subsection 2, paragraph D,
31 the district is authorized to take, to hold and to convey within the Town of Embden water
32 from Hancock Pond, Sand Pond, Black Hill Pond, Mill Stream and Embden Pond and
33 any of the tributary lakes and streams of those ponds and that stream. The district is
34 authorized to erect, maintain and operate dams, reservoirs, gates, hydrants, standpipes and
35 all other structures and improvements necessary or convenient for accomplishing the
36 purposes of this Act and to lay down, maintain and operate pipes, aqueducts and all other
37 structures and improvements necessary or convenient for accumulating, conducting,
38 discharging, distributing and disbursing water, for forming proper reservoirs for those
39 purposes and for accomplishing the purposes of this Act. Pursuant to Title 35-A, section
40 6403, subsection 2, paragraphs F and G, the district is authorized to supply, furnish or
41 otherwise provide water within the Town of Embden pursuant to contract and to
42 construct, locate, acquire, equip, maintain and operate facilities and all other structures

1 and improvements necessary or convenient for accomplishing those purposes. Pursuant
2 to Title 35-A, section 6403, subsection 2, paragraph F, the district is authorized to lay in
3 or through the streets and highways of the Town of Embden, and to maintain, operate,
4 take up, repair and replace all pipes, aqueducts, fixtures and other structures and
5 improvements within the Town of Embden necessary or convenient for accomplishing
6 the purposes of this section.

7 **Sec. 4. Additional powers; eminent domain.** Notwithstanding the Maine
8 Revised Statutes, Title 35-A, section 6404; section 6405; section 6406; section 6408,
9 subsection 2; and section 6409, the district has the powers and authority provided in this
10 section.

11 The district has the power and is authorized to survey for, lay, erect and maintain
12 suitable dams, reservoirs, aqueducts, pipes, hydrants, buildings, treatment or purification
13 plants, pumping equipment and fixtures for flowage, power, pumping its water supply or
14 conveying wastewater produced in the operation of a treatment or filtration facility
15 through its mains, to enter upon any land or public way for laying, erecting and
16 maintaining the pipes and structures and to make surveys for those purposes and to pass
17 over, excavate and flow any lands.

18 The district is authorized to take and hold for public uses, by purchase, eminent
19 domain or otherwise, any land that may be necessary for supplying, treating or purifying
20 water, conveying wastewater, laying and maintaining its pipelines and constructing other
21 structures, preserving the purity of its watershed and ensuring the purity of its water
22 supply. The district is also authorized to take and hold in the same manner any land that
23 may be necessary for rights of way or roadways to its sources of supply, dams, power
24 stations, reservoirs, mains, aqueducts, structures and land. The district may hold all real
25 estate and personal property necessary or convenient for these purposes.

26 The district may not take by right of eminent domain any property or facilities of any
27 other public utility used or acquired for future use in the performance of a public duty.

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

38 Any person aggrieved by the determination of the damages awarded to owners of
39 property or interests taken under this section may appeal, within 60 days after service of
40 the condemnation order, to the Superior Court of Somerset County. The court shall
41 determine damages by a verdict of its jury or, if all parties agree, by the court without a
42 jury or by a referee or referees and shall render judgment for just compensation, with

1 interest when interest is due and for costs in favor of the entitled party. A decision of the
2 Superior Court may be appealed to the Law Court as in other civil actions.

3 **Sec. 5. Trustees; how elected; first board; meetings; officers.** All of the
4 affairs of the district must be managed by a board of trustees composed of 7 members: 4
5 residents of the Town of Madison and 3 residents of the Town of Anson.

6 **1. First board; nominations and elections.** Notwithstanding any provision in the
7 Maine Revised Statutes, Title 35-A, section 6410, subsections 1, 2, 3 and 4 to the
8 contrary, the nomination, appointment and election of trustees and the appointment and
9 terms of office of the first board of trustees are authorized by this subsection.

10 Within 30 days after the ratification of the referendum and pursuant to section 8 of this
11 Act, the 3 trustees of the Madison Water District serving on the effective date of this Act,
12 all of whom are residents of the Town of Madison, must be nominated to serve on the
13 first board of the district for terms that coincide with the remainder of their terms on the
14 Madison Water District. Subsequent trustees are elected to 3-year terms according to
15 Title 30-A, section 2528. The 4th trustee of the Anson and Madison Water District from
16 the Town of Madison must be a resident of the Town of Madison and is elected at large at
17 a special election at a date and time called by the 3 trustees of the Madison Water
18 District. The election must be held as soon as is convenient after ratification of the
19 referendum, but may not exceed one year from the date of the referendum and must be
20 conducted according to Title 30-A, section 2528.

21 Within 30 days after the ratification of the referendum and pursuant to section 8 of this
22 Act, the 3 trustees of the Anson Water District serving on the effective date of this Act,
23 all of whom are residents of the Town of Anson, must be nominated to serve on the first
24 board of the district for terms that coincide with the remainder of their terms on the
25 Anson Water District. Subsequent trustees are elected to 3-year terms according to Title
26 30-A, section 2528.

27 **2. Organization; conduct of business.** Except as otherwise expressly provided in
28 this Act, the organization and powers of the board of trustees must be in accordance with
29 Title 35-A, chapter 64.

30 Notwithstanding Title 35-A, section 6410, subsection 4, within 30 days after the
31 ratification of the referendum, the trustees shall hold a meeting for the purpose of electing
32 a chair, treasurer and secretary from among them to serve for one year and until their
33 successors are elected and qualified.

34 A quorum of the board of trustees consists of 4 members, 2 from the Town of Anson and
35 2 from the Town of Madison.

36 **3. Bylaws.** The trustees may adopt and establish such bylaws as are necessary or
37 convenient for the management of the affairs of the district.

38 **4. Terms; eligibility requirements; vacancy.** Notwithstanding any provision in
39 Title 35-A, section 6410, subsections 1, 3 and 4 to the contrary, the terms of trustees,
40 eligibility requirements and filling of vacancies are authorized by this subsection.
41 Trustees from the Town of Madison and the Town of Anson serve 3-year terms. The
42 successor of a trustee who is a resident of the Town of Madison must be a resident of the

1 Town of Madison elected by the inhabitants of the Town of Madison. The successor of a
2 trustee who is a resident of the Town of Anson must be a resident of the Town of Anson
3 elected by the inhabitants of the Town of Anson.

4 If the office of a trustee becomes vacant, the vacancy is filled in the same manner for the
5 unexpired term by a special election called by the trustees of the district. When any
6 trustee ceases to be a resident of the town in which the trustee resided when appointed or
7 elected, the trustee shall vacate the office of trustee and the vacancy must be filled as
8 provided in this subsection. A trustee is eligible for reelection, but a person who is a
9 municipal officer of the Town of Madison or the Town of Anson is not eligible for
10 appointment or for nomination or election as a trustee.

11 **Sec. 6. Finance.** Notwithstanding the Maine Revised Statutes, Title 35-A, section
12 6412, subsections 1 and 2 and section 6413, the district, in order to accomplish the
13 purposes of this Act, by vote of its board of trustees and without district vote, is
14 authorized to borrow money, including temporary borrowing, without limit, for the
15 purposes of paying necessary expenses and liabilities incurred under this Act, acquiring
16 properties, paying damages, laying pipes, mains, sewers, drains and conduits, purchasing,
17 constructing, maintaining and operating a water system and making renewals, additions,
18 extensions and improvements to that system and is authorized to issue, without limit,
19 from time to time, bonds, notes or other evidences of indebtedness of the district in such
20 amount or amounts, bearing interest at such rate or rates and having such terms and
21 provisions as the trustees determine pursuant to this Act. In the case of a vote by the
22 trustees to authorize bonds, notes or other evidences of indebtedness to pay for the
23 acquisition of property; to pay the cost of a water system, part of a water system or
24 renewal of or additions to a water system or for other improvements in the nature of
25 capital costs; to pay for renewing or refunding existing indebtedness; to pay for
26 maintenance or repairs; or to pay current expenses, notice of the proposed debt and of the
27 general purpose or purposes for which it was authorized must be given by the district by
28 publication at least once in a newspaper having circulation in the Town of Madison and
29 the Town of Anson.

30 Notwithstanding Title 35-A, section 6412, subsection 4, interest or dividends paid on
31 bonds, notes or other evidences of indebtedness issued under this Act are exempt from
32 taxation within the State, whether or not such income is subject to taxation under the
33 United States Internal Revenue Code, as amended.

34 In addition to the authority set forth in Title 35-A, section 6416, all district funds,
35 including reserve funds and trust funds to the extent that the terms of the instrument or
36 vote creating the fund do not prohibit, may also be deposited or invested by the treasurer
37 under the direction of the trustees according to the requirements for the deposit or
38 investment of municipal funds contained in Title 30-A, section 5706 and section 5712,
39 subsections 1, 2 and 3.

40 **Sec. 7. Transfer of assets and liabilities of the Madison Water District**
41 **and the Anson Water District.** The district, through its trustees, shall acquire, in
42 accordance with this section, all of the plants, properties, assets, franchises, rights and
43 privileges of the Madison Water District and the Anson Water District, including, without
44 limitation, lands, buildings, waters, water rights, springs, wells, reservoirs, tanks,

1 standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools,
2 equipment, apparatus and appliances used or useful in supplying water for domestic,
3 commercial, industrial and municipal purposes and shall, by appropriate instruments,
4 assume, in accordance with this section, all of the outstanding debts, obligations and
5 liabilities of the Madison Water District and the Anson Water District, including, without
6 limitation, the assumption of any outstanding bonds, notes or other evidences of
7 indebtedness of the Madison Water District and the Anson Water District that are due on
8 or after the date of transfer.

9 The Madison Water District, a quasi-municipal corporation organized and existing
10 pursuant to Private and Special Law 1913, chapter 121, as amended, and the Anson
11 Water District, a quasi-municipal corporation organized and existing pursuant to Private
12 and Special Law 1915, chapter 200, as amended, shall, through their respective trustees,
13 assign, transfer and convey to the district by appropriate instruments of conveyance all,
14 and not less than all, of their respective plants, properties, assets, franchises, rights and
15 privileges, including, without limitation, lands, buildings, waters, water rights, springs,
16 wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants,
17 meters, services, tools, equipment, apparatus and appliances used or useful in supplying
18 water for domestic, commercial, industrial and municipal purposes, in consideration of
19 the assumption by the district of all of the outstanding debts, obligations and liabilities of
20 the Madison Water District and the Anson Water District, including, without limitation,
21 the assumption of any outstanding bonds, notes or other evidences of indebtedness of the
22 Madison Water District and the Anson Water District that are due on or after the date of
23 transfer.

24 The transfer by the Madison Water District and the Anson Water District to the
25 district of their respective plants, properties, assets, franchises, rights and privileges, the
26 assumption by the district of all of the outstanding debts, obligations and liabilities of the
27 Madison Water District and the Anson Water District pursuant to this section and the
28 subsequent use of the plants, properties, assets, franchises, rights and privileges by the
29 district within the limits of the district are subject to the approval of the Public Utilities
30 Commission as may be required by the Maine Revised Statutes, Title 35-A, Part 1.

31 Promptly after completion of the transfer and assumption of assets and liabilities
32 pursuant to this section, the Madison Water District and the Anson Water District shall
33 each cause to be filed with the Secretary of State a certificate of dissolution certifying the
34 name of that district and that all assets of that district and all debts, obligations and
35 liabilities of that district have been transferred to the Anson and Madison Water District
36 and that is signed by the chair or presiding trustee of that district and by the clerk,
37 secretary or another officer of that district. Upon the respective filing dates of the
38 certificates of dissolution of the Madison Water District and the Anson Water District, the
39 existence of that district ceases.

40 **Sec. 8. Emergency clause; referendum; effective date.** In view of the
41 emergency cited in the preamble, this Act takes effect when approved only for the
42 purpose of permitting its submission to the legal voters within the territory described in
43 section 1 of this Act at a referendum called for that purpose and held after May 1, 2011
44 but within 2 years after the effective date of this Act. Each referendum must be called by

1 the municipal officers of the respective towns and must be held at the regular voting
2 places. The referendum must be called, advertised and conducted according to the law
3 relating to municipal elections. The registrars shall make a complete list of all the eligible
4 voters of the proposed district as described in this Act. The list prepared by the registrars
5 governs the eligibility of a voter. For the purpose of registration of voters, the registrars
6 of voters must be in session the regular workday preceding the referendum. The subject
7 matter of this Act is reduced to the following question:

8 "Do you favor creating the Anson and Madison Water District and
9 permitting the Anson and Madison Water District to acquire the assets
10 and assume the liabilities of the Madison Water District the Anson Water
11 District?"

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

14 The results must be declared by the municipal officers of the Town of Madison and
15 the Town of Anson and due certificate of the results filed by the clerk with the Secretary
16 of State.

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

22 If after May 1, 2011, referenda on the question specified in this section are held in
23 accordance with this section and a majority of the legal voters of each town voting at the
24 referenda cast votes in favor of the question and due certificate of the results are filed
25 with the Secretary of State, this Act takes effect when approved.

26 **SUMMARY**

27 This bill creates the Anson and Madison Water District, which is composed of the
28 Anson Water District and the Madison Water District.