

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1077

H.P. 812

House of Representatives, March 15, 2011

### **An Act To Enhance Public Participation in Decisions Relating to the Large-scale Extraction and Transportation of Water**

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Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

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

HEATHER J.R. PRIEST  
Clerk

Presented by Representative BURNS of Alfred.  
Cosponsored by Senator HILL of York and  
Representatives: BEAVERS of South Berwick, BERRY of Bowdoinham, CHASE of Wells,  
DOW of Waldoboro, HARMON of Palermo, JOHNSON of Greenville, Senators: COLLINS of  
York, SULLIVAN of York.

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

2 **Sec. 1. 35-A MRSA §6109-B**, as enacted by PL 2009, c. 37, §1, is amended to  
3 read:

4 **§6109-B. Contracts for large-scale extraction or transportation of water**

5 Except as provided in subsection 5, this section governs any contract or agreement  
6 between a consumer-owned water utility, a municipality or the Maine Land Use  
7 Regulation Commission and another entity that involves the large-scale extraction of  
8 water ~~and~~ or the large-scale transportation of water.

9 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
10 following terms have the following meanings.

11 A. "Large-scale extraction of water" means the extraction of water that is required to  
12 be permitted, certified, reported or approved pursuant to:

13 (1) The in-stream flow provisions of Title 38, section 470-H;

14 (2) The requirements for significant groundwater wells under Title 38, section  
15 480-B;

16 (3) The site location of development law requirements for a development of state  
17 or regional significance that may substantially affect the environment as provided  
18 in Title 38, section 482, subsection 2; or

19 (4) The water withdrawal reporting program under Title 38, chapter 3,  
20 subchapter 1, article 4-B.

21 B. "Large-scale transportation of water" means the transportation of water for  
22 commercial purposes by pipeline or other conduit or by tank truck or in a container,  
23 greater in size than 10 gallons, beyond the boundaries of the municipality or township  
24 in which the water is naturally located or of any bordering municipality or township.

25 **2. Public meeting required.** A consumer-owned water utility may not enter into a  
26 contract or agreement subject to this section until at least 30 days after holding a public  
27 meeting on the proposed contract or agreement in accordance with this subsection. The  
28 public meeting must include:

29 A. A presentation by the consumer-owned water utility of the terms and conditions  
30 of the proposed contract or agreement and the criteria to be used by the utility to  
31 decide whether to enter into the contract or agreement; and

32 B. An opportunity for public comment on the proposed contract or agreement.

33 **3. Public notice required.** The consumer-owned water utility shall, at least 30 days  
34 prior to the public meeting required under subsection 2, give written notice of the public  
35 meeting and the proposed contract or agreement in accordance with this subsection. The  
36 notice must include the date, time, place and purpose of the meeting.

37 A. The consumer-owned water utility shall give one written notice to each of its  
38 customers.

1 B. The consumer-owned water utility shall give written notice to the commission, the  
2 Office of the Public Advocate and the municipality or municipalities where the  
3 source of water is located.

4 C. The consumer-owned water utility shall publish one notice in a newspaper of  
5 general circulation in the area served by the consumer-owned water utility.

6 **4. Copy available for inspection.** Prior to the public meeting required under  
7 subsection 2, the consumer-owned water utility shall make available for public inspection  
8 a copy of the proposed contract or agreement.

9 **5. Exceptions.** This section does not apply to a contract or agreement between a  
10 consumer-owned water utility, a municipality or the Maine Land Use Regulation  
11 Commission and another entity that involves the ~~large-scale extraction of water and the~~  
12 large-scale transportation of water when:

13 ~~A. The entity entering into a contract or agreement with the consumer-owned water~~  
14 ~~utility is:~~

15 ~~(1) An existing customer of the consumer-owned water utility; or~~

16 ~~(2) A water utility; or~~

17 B. The large-scale transportation of water meets the exceptions provided in Title 22,  
18 section 2660-A, subsection 2, paragraph B, C or D.

19 **6. Rulemaking.** The commission may adopt rules to implement this section. Rules  
20 adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
21 chapter 375, subchapter 2-A.

22 **7. Ratification.** Prior to entering into a contract for large-scale extraction or  
23 transportation of water, the governing body of a consumer-owned water utility or a  
24 municipality or the Maine Land Use Regulation Commission shall submit the proposed  
25 contract for approval by the voters of each municipality in which the consumer-owned  
26 water utility operates, the municipality or, in the case of the Maine Land Use Regulation  
27 Commission, the county impacted by the proposed large-scale extraction or transportation  
28 of water. In the case of a consumer-owned water utility or a municipality, the voters may  
29 approve the proposed contract at a town meeting. In the case of a consumer-owned water  
30 utility, all of the voters in a municipality in which that utility operates are eligible to vote  
31 pursuant to this subsection, regardless of whether they are served by that utility or live in  
32 the territory served by that utility. If there is more than one municipality within the  
33 territory of the consumer-owned water utility, the voters of each municipality must  
34 approve the contract. A referendum must be conducted according to the laws governing  
35 referenda for that municipality or county. The governing body of a consumer-owned  
36 water utility, a municipality or the Maine Land Use Regulation Commission may not sign  
37 the proposed contract unless it is approved by the voters as provided in this subsection.

38 A. A referendum under this subsection regarding the large-scale extraction or  
39 transportation of water may not occur more than one time in a 12-month period.

40 B. A municipality or county may require the party to the proposed contract that is not  
41 a consumer-owned water utility, a municipality or the Maine Land Use Regulation

