

MAINE STATE LEGISLATURE

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Date: 2/9/24

L.D. 380
(Filing No. H- 744)

STATE AND LOCAL GOVERNMENT

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 231, L.D. 380, "An Act Regarding Monhegan Plantation"

Amend the bill by striking out the title and substituting the following:

'An Act to Transfer the Monhegan Water Company to Monhegan Plantation and to Repeal the Monhegan Water Company Charter'

Amend the bill by striking out everything after the title and inserting the following:

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

Whereas, the Monhegan Water Company was created by Private and Special Law 1913, chapter 35 for the purpose of supplying Monhegan Plantation in the county of Lincoln and the inhabitants of the plantation with pure water for domestic, sanitary, commercial, industrial, municipal and public purposes; and

Whereas, the Monhegan Water Company presently provides water service to the residents of Monhegan Plantation; and

Whereas, at its 2023 annual meeting on April 8, 2023, the voters of Monhegan Plantation voted in favor of warrant article 32, which asked whether the plantation wanted to vote to dissolve the Monhegan Water Company and transfer the company's assets to Monhegan Plantation; and

Whereas, this legislation provides for the transfer of the functions and assets of the Monhegan Water Company to Monhegan Plantation for the purpose of establishing and operating the Monhegan Plantation water district owned, controlled, managed and operated by Monhegan Plantation; and

Whereas, the Monhegan Water Company and the Monhegan Plantation seek to accomplish the transfer as soon as possible to ensure the health and welfare of persons receiving water service in the plantation; and

COMMITTEE AMENDMENT

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

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

6 **Sec. 1. Monhegan Water Company required to sell property to Monhegan**
7 **Plantation.** Upon the approval of a majority of the votes of Monhegan Plantation in a
8 referendum vote pursuant to section 11 and the approval of a majority of the trustees of the
9 Monhegan Water Company, the Monhegan Water Company, a public municipal
10 corporation organized and existing pursuant to Private and Special Law 1913, chapter 35,
11 under the terms contained in this Act, shall sell, transfer and convey to Monhegan
12 Plantation by appropriate instruments of conveyance all, and not less than all, of its plants,
13 properties, assets, franchises, rights and privileges, including, without limitation, all lands,
14 buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps,
15 pipes, machinery, fixtures, hydrants, meters, services, tools, equipment and appliances used
16 or useful in supplying water for domestic, sanitary, commercial, industrial and municipal
17 purposes, in consideration of the assumption by the Monhegan Plantation of all of the
18 outstanding debts, obligations and liabilities of the Monhegan Water Company, including,
19 without limitation, the assumption of any outstanding notes or bonds of the Monhegan
20 Water Company that are due on or after the date of the transfer. The transfer in accordance
21 with this section must occur before January 1, 2025.

22 **Sec. 2. Monhegan Plantation's acquisition of property of Monhegan Water**
23 **Company.** The Monhegan Plantation shall acquire, under the terms contained in this Act,
24 all, and not less than all, of the plants, properties, assets, franchises, rights and privileges
25 owned by the Monhegan Water Company, including, without limitation, all lands,
26 buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps,
27 pipes, machinery, fixtures, hydrants, meters, services, tools, equipment and appliances used
28 or useful in supplying water for domestic, sanitary, commercial, industrial and municipal
29 purposes. The consideration to be paid for the plants, properties, assets, franchises, rights
30 and privileges is the assumption by the Monhegan Plantation of all of the outstanding debts,
31 obligations and liabilities of the Monhegan Water Company, including, without limitation,
32 the assumption by the Monhegan Plantation of any outstanding notes or bonds of the
33 Monhegan Water Company that are due on or after the date of the transfer.

34 **Sec. 3. Corporate successor to Monhegan Water Company.** For purposes of
35 assuming all debts and obligations of the Monhegan Water Company, the Monhegan
36 Plantation, operating the Monhegan Plantation water district, is the corporate successor to
37 the Monhegan Water Company upon the transfer of the assets and obligations of the
38 Monhegan Water Company to Monhegan Plantation pursuant to this Act.

39 **Sec. 4. Contracts of Monhegan Water Company assumed by Monhegan**
40 **Plantation.** All contracts between the Monhegan Water Company and any person, firm
41 or corporation relating to supplying water that are in effect on the date of the transfer by
42 the Monhegan Water Company to Monhegan Plantation are assumed and must be carried
43 out by Monhegan Plantation, operating the Monhegan Plantation water district.

1 **Sec. 5. Pledge of revenues.** In order to carry out the purposes of this Act and
2 notwithstanding the Maine Revised Statutes, Title 30-A, section 5772, Monhegan
3 Plantation is authorized to issue its notes or bonds in the form of either a general obligation
4 pledge or a revenue pledge, as the Monhegan Plantation board of assessors may determine,
5 to replace or refinance any or all of the existing debts or obligations of the Monhegan Water
6 Company and is authorized to deliver other instruments evidencing its assumption of the
7 debts, obligations and other liabilities of the Monhegan Water Company without the need
8 for any further action or approval from the Monhegan Plantation board of assessors or the
9 voters of Monhegan Plantation. Any notes or bonds or other instruments evidencing the
10 plantation's assumption of the debts, obligations and other liabilities of the Monhegan
11 Water Company may be issued in the amounts necessary to pay the principal of, premium
12 of, if any, and interest on the debts, obligations and other liabilities of the Monhegan Water
13 Company and may mature up to but not later than the stated maturity date of the debts,
14 obligations and other liabilities of the Monhegan Water Company.

15 **Sec. 6. Approval of Public Utilities Commission.** The sale and transfer by the
16 Monhegan Water Company to Monhegan Plantation of its plants, properties, assets,
17 franchises, rights and privileges; the acquisition of them by Monhegan Plantation and the
18 assumption by Monhegan Plantation of all of the outstanding debts, obligations and
19 liabilities of the Monhegan Water Company pursuant to this Act; and the subsequent use
20 thereof by Monhegan Plantation operating the Monhegan Plantation water district, within
21 the limits of the plantation, are subject to such approval of the Public Utilities Commission
22 as may be required by applicable provisions of the Maine Revised Statutes, Title 35-A.

23 **Sec. 7. Transfer of rights to acquire source of supply.** Upon the transfer of the
24 assets and obligations of the Monhegan Water Company to Monhegan Plantation pursuant
25 to this Act, Monhegan Plantation, operating the Monhegan Plantation water district, may,
26 for the purpose of providing water service to its customers, take, collect, store, flow, use,
27 detain, distribute and convey water from the so-called "meadow aquifer" on Monhegan
28 Island. Monhegan Plantation has the right to maintain, repair and replace any water pipes,
29 pumps and associated fixtures and appurtenances necessary to deliver water from these
30 sources of supply to customers receiving water service from the Monhegan Plantation
31 water district and is authorized to take and hold, as for public uses, by purchase or
32 otherwise, including by right of eminent domain, any land or interest in land necessary for
33 delivering water from these sources of supply and any rights-of-way or roadways to these
34 sources of supply.

35 **Sec. 8. Ordinance authority.** Notwithstanding the Maine Revised Statutes, Title
36 30-A, section 7051, upon the transfer of the assets and obligations of the Monhegan Water
37 Company to Monhegan Plantation pursuant to this Act, the Monhegan Plantation board of
38 assessors may adopt ordinances in accordance with Title 30-A, section 3002 and not
39 inconsistent with the general laws of the State to prevent the pollution and preserve the
40 purity of the water of the so-called "meadow aquifer," and the Monhegan Plantation board
41 of assessors may prescribe penalties for the violation of those ordinances. The ordinances
42 may specifically restrict or prohibit boating or fishing in a manner consistent with the
43 general laws of the State to prevent pollution and preserve the purity of the water. The
44 ordinances may restrict swimming to prevent pollution and preserve the purity of the water,
45 but any such restriction must be consistent with the general laws of the State. The
46 ordinances have the same force and effect as municipal ordinances, and the District Court

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1 has jurisdiction over violations. Nothing contained in this section affects in any way the
2 jurisdiction of the Land Use Planning Commission, including, without limitation, its
3 authority to regulate land use matters under Title 12, chapter 206-A in Monhegan
4 Plantation.

5 **Sec. 9. Dissolution and termination of Monhegan Water Company; pledge**
6 **of revenues.** Prior to January 1, 2025, all debts, obligations and other liabilities of the
7 Monhegan Water Company must be paid in full and discharged or the holders or owners
8 of all debts, obligations and other liabilities that have not been paid in full and discharged
9 must have assented to the assumption thereof by Monhegan Plantation and to the novation
10 and substitution of Monhegan Plantation as obligor in place of the Monhegan Water
11 Company. The clerk of the Monhegan Water Company shall file a certificate to that effect
12 with the Secretary of State, which results in the termination and cessation of the Monhegan
13 Water Company. Until the corporate existence of the Monhegan Water Company ceases
14 and terminates pursuant to this section, the gross revenues derived by Monhegan Plantation
15 from the sale of water must be applied first to the payment of expenses reasonably allocable
16 to the operation of the water systems and 2nd to payments of debts, obligations and other
17 liabilities of the Monhegan Water Company assumed by Monhegan Plantation pursuant to
18 this Act.

19 **Sec. 10. P&SL 1913, c. 35** is repealed.

20 **Sec. 11. Referendum; effective date; certificate to Secretary of State.** In view
21 of the emergency cited in the preamble, this Act takes effect when approved only for the
22 purpose of permitting its submission to the legal voters of Monhegan Plantation at a regular
23 election or at a special election called and held for the purpose no later than June 30, 2024.
24 The election must be called, advertised and conducted according to the law relating to
25 municipal elections. The subject matter of this Act must be reduced to the following
26 question:

27 "Do you favor the dissolution of the Monhegan Water Company and the
28 acquisition of the assets and liabilities of the Monhegan Water Company
29 by Monhegan Plantation for the purpose of establishing and operating the
30 Monhegan Plantation water district?"

31 The result of the vote must be declared by the Monhegan Plantation board of assessors
32 and due certificate of the vote must be filed by the plantation's clerk with the Secretary of
33 State. If a majority of the legal voters of Monhegan Plantation voting at a regular or special
34 election called and held no later than June 30, 2024 vote in favor of the question, the
35 provisions of this Act other than section 10 take effect for all purposes upon certification
36 of that vote, and section 10 of this Act takes effect for all purposes on January 1, 2025.

37 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
38 takes effect when approved, except as otherwise indicated.'

39 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
40 number to read consecutively.

41 **SUMMARY**

42 This amendment replaces the bill, which is a concept draft, and changes the title. It
43 repeals Private and Special Law 1913, chapter 35 that created the Monhegan Water

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COMMITTEE AMENDMENT "A" to H.P. 231, L.D. 380

1 Company to provide the inhabitants of Monhegan Plantation with pure water for domestic,
2 sanitary, commercial, industrial, municipal and public purposes. The amendment directs
3 the Monhegan Water Company to transfer to the Monhegan Plantation, and the Monhegan
4 Plantation to acquire from the Monhegan Water Company, all the assets, property, rights,
5 privileges, obligations and liabilities of the Monhegan Water Company. Upon the transfer
6 and acquisition, Monhegan Plantation is required to establish and operate the Monhegan
7 Plantation water district. The transfer and acquisition and the establishment and operation
8 of the water district is subject to the approval of the Public Utilities Commission. The
9 transaction must occur before January 1, 2025 and paperwork filed with the office of the
10 Secretary of State terminating the corporate existence of the Monhegan Water Company
11 by that date. To protect the source of water for Monhegan Plantation, its board of assessors
12 may enact ordinances to prevent the pollution and preserve the purity of the water of the
13 so-called "meadow aquifer" subject to the jurisdiction of the Land Use Planning
14 Commission. The Monhegan Plantation's board of assessors must submit a referendum
15 question to the voters about this transaction by June 30, 2024.

COMMITTEE AMENDMENT