

# MAINE STATE LEGISLATURE

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## NINETY - EIGHTH LEGISLATURE

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**Legislative Document**

**No. 1206**

H. P. 868

House of Representatives, March 7, 1957.

Reported by Mr. Roy from the Committee on Public Utilities. Printed under Joint Rules No. 10.

HARVEY R. PEASE, Clerk

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### STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-SEVEN

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#### **AN ACT Creating the Limestone Water and Sewer District.**

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

**Sec. 1. Territorial limits; corporate name and purpose.** The inhabitants, and territory within the town of Limestone in the county of Aroostook shall be and hereby are constituted a body politic and corporate under the name of the "Limestone Water and Sewer District," for the purpose of supplying the town of Limestone and the inhabitants of said town with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires, and of supplying the town of Limestone and the inhabitants of said town with suitable and adequate sewerage facilities, as hereinafter provided.

**Sec. 2. Powers of Limestone Water and Sewer District.** Said Limestone Water and Sewer District is hereby authorized for the purposes aforesaid to take, collect, store, flow, use, detain, distribute and convey to the town of Limestone or any part thereof water from any lake, pond, stream or river, or from any surface or underground brook, spring or vein of water in town or near said town in the United States or Canada, and is also authorized to locate, construct and maintain aqueducts, pipes, conduits, standpipes, hydrants, pumping stations and other necessary structures and equipment therefor, and do anything necessary to furnish water and sewerage and drainage for public purposes and for public health, comfort and convenience of the inhabitants of towns now supplied by the Limestone Water and Sewer Company and other parts of said towns. All incidental powers, rights and privileges necessary to the accomplishment of the main object herein set forth are granted to the corporation hereby created.

**Sec. 3. Rights of eminent domain conferred.** The said district, for the purpose of its incorporation, is hereby authorized to take and hold, as for public

uses, by purchase, eminent domain or otherwise, any land or interest therein, or water rights necessary for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining aqueducts and other structures, for taking, distributing, discharging and disposing of water and for rights-of-way and roadways to its sources of supply, reservoirs, mains, aqueducts, structures and lands, also all things necessary for supplying water. The district may, for the purposes outlined in this chapter, do any and all things necessary to provide a system of sewerage and drainage for public purposes and for the health, comfort and convenience of the inhabitants of said district either by construction, eminent domain, or purchase of any existing facilities. Provided, however, nothing herein contained shall be construed as authorizing said district to take by right of eminent domain any of the property or facilities of any other public service corporation used, or acquired for future use, by the owner thereof in the performance of a public duty, unless expressly authorized thereto herein or by subsequent act of the Legislature.

**Sec. 4. Authorized to lay mains, pipes, conduits, etc., through public ways and across private lands.** The said district is hereby authorized to lay in and through the streets, roads, ways and highways of the town of Limestone and other towns served by it and across private lands therein and to maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures as may be necessary and convenient for its corporate purposes, and whenever said district shall lay any pipes, aqueducts, or conduits in any street, roadway or highway, it shall cause the same to be done with as little obstruction as practicable to the public travel, and shall at its own expense, without unnecessary delay, cause the earth and pavement removed by it to be replaced in proper condition.

**Sec. 5. Procedure in exercising rights of eminent domain.** After the original acquisition for which provision is made in sections 9 and 11 of this act, the said district in exercising, from time to time, any right of eminent domain conferred upon it by law or through or under the franchise of any company by it acquired shall file written application with the Public Utilities Commission requesting its approval of the proposed taking. Such application shall describe the property or rights to be taken, the purpose of the taking, and shall name all parties who may be interested therein. The Commission thereupon shall appoint a time for a hearing near the premises, and shall require such notice as the Commission may direct to be given to the persons interested, at least 14 days before the date of the hearing. The Commission shall then view the premises, hear the parties and shall determine how much, if any, of the property described in the petition should be taken for the reasonable purpose of the district; and in authorizing any taking the Commission may attach such reasonable terms, limitations and restrictions as justice may require. If the Commission shall find that any of the property described in the application is necessary for the aforesaid purposes of the district, it shall make a certificate containing a definite description of the property to be taken, and of any terms, restrictions and limitations in connection therewith, and shall furnish to the district a true copy thereof, attested by the clerk of the Commission; and when such copy of the certificate is filed with the clerk of courts in the county where the property lies, the property shall be deemed and treated as taken; provided, however,

that when the property is held by a tenant for life and the reversion is contingent as to the persons in whom it may vest at the termination of the life estate, such fact shall be stated in the application and the Commission, in addition to the notice to the tenant for life, shall require notice by publication, in such manner as it may deem proper, to all others interested. Entry may be made on any private land prior to the filing of any such application for the purpose of making surveys, the district being responsible for any damage resulting from such entry, and possession may be had of the property described in the certificate of the Commission forthwith upon filing and recording of such certificate as hereinbefore provided, but title to such property shall not vest in the district until payment therefor has been made.

**Sec. 6. Adjustment of damages.** If any person sustaining damages by any taking as aforesaid shall not agree with the trustees of said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Aroostook county may have said damages assessed by them; the procedure and all subsequent proceedings and the rights of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be prescribed in the case of damages by laying out of highways. Payment of the award shall be reported to and proven before the county commissioners who shall thereupon record the fact of such payment in the proceedings before the county commissioners. If upon final adjudication of the award and tender of the amount thereof, any person entitled thereto shall refuse acceptance thereof, said amount shall be deposited with the county commissioners for the benefit of the person entitled thereto; and such deposits shall be recorded by the county commissioners in the proceedings pursuant to said petition, and shall constitute a final acquittance of liability of the district in the premises.

**Sec. 7. Procedure if public utility must be crossed.** In case of crossing of any public utility, unless consent is given by the company owning and operating such public utility as to place, manner and conditions of the crossing within 30 days after such consent is requested by such district, the Public Utilities Commission shall determine the place, manner and conditions of such crossing, and all work on the property of such public utility shall be done under the supervision and to the satisfaction of such public utility, but at the expense of the district.

**Sec. 8. Board of trustees.** All the affairs of said district shall be managed by a board of trustees composed of 3 members, who shall be bona fide residents of the town of Limestone and who shall be elected by written ballot within 60 days after the acceptance of this act by the inhabitants of said district as hereinafter provided, but that no member of the board of trustees may hold any other elective office in Limestone and if elected to any other office he shall automatically cease to be a trustee. The term of the trustees shall expire at the end of the municipal year of the town of Limestone. Whenever a term of office of a trustee expires, the voters shall elect a trustee for a full term of 3 years at the regular town elections held in March. As soon as convenient after the members of said Board are elected, said trustees shall hold a meeting in the town of Limestone and organize by the election of a president and a clerk, adopt a corporate seal, choose a treasurer and, when necessary, all other needful officers and agents who, with the treasurer, shall serve at their pleasure

and whose compensation shall be fixed by the trustees. The trustees shall meet monthly and specially as may be necessary and each shall receive compensation of \$10 for each regular or special meeting attended; provided, however, that the total annual compensation of each shall not exceed \$300. They shall publish an annual report. Whenever a vacancy occurs in the office of president, clerk or treasurer it shall be filled promptly by said board of trustees. At said first meeting they may determine by agreement or failing to agree they shall determine by lot, the term of office of each trustee so that one shall retire each year and the term of office of the first trustee to expire shall end at the end of the municipal year of the town of Limestone following the acceptance of this act; and thereafter the term of office of a trustee shall expire with the end of each municipal year. When any trustee ceases to be a resident of the town of Limestone, he vacates the office of trustee. They may also ordain and establish such by-laws as are necessary for their convenience and the proper management of the affairs of the district. Said trustees may procure an office and incur such expense as may be necessary. The treasurer shall furnish bond in such sum and with such sureties as they may approve. Members of the board of trustees may be eligible to any office under the board, and shall be sworn into office by a justice of peace, notary public or the clerk of the town of Limestone.

**Sec. 9. Authorized to acquire property and franchise of Limestone Water and Sewer Company.** Said district is hereby authorized and empowered to acquire by purchase or by the exercise of eminent domain, which right is hereby expressly delegated to said district for said purpose, the entire plant, properties, franchises, rights and privileges, except cash assets and accounts receivable, owned by Limestone Water and Sewer Company, including all lands, waters, water rights, dam structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or useable in supplying water and sewerage facilities and drainage in the territory served by the said Limestone Water and Sewer Company. If and when so acquired, the said district, in addition to the powers conferred by this act, shall have and enjoy and be entitled to exercise all of the rights, privileges and franchises of said Limestone Water and Sewer Company, and may do and perform any and all of the acts and things authorized by the charter of the said Limestone Water and Sewer Company insofar as they are not inconsistent with the provisions of this act.

**Sec. 10. Valid contracts of Limestone Water and Sewer Company to be assumed by District.** All valid contracts now existing between the Limestone Water and Sewer Company and said town or other towns and persons or corporations for supplying water, sewerage or drainage in the town of Limestone or elsewhere shall in the event of such acquisition be assumed and carried out by the said Limestone Water and Sewer District.

**Sec. 11. Procedure in case trustees fail to agree on terms of purchase.** In case the trustees fail to agree with the Limestone Water and Sewer Company upon the terms of purchase of said properties on or before January 1, 1959, said district, through its trustees aforesaid, is hereby authorized to take the entire plant, property and franchises of the said Limestone Water and Sewer Company, as for public uses, by petition therefor in the manner hereinafter provided. Said district, through its trustees, is hereby authorized after Janu-

ary 1, 1959 and before July 1, 1959, to file its petition in the clerk's office of the Superior Court for the county of Aroostook, in term time or in vacation, addressed to any Justice of said Court, who after due notice to the said Limestone Water and Sewer Company and its mortgagees shall, after hearing and within 30 days after the date at which said petition is returnable, appoint 3 disinterested appraisers, one of whom shall be learned in the law and none of whom shall be residents of Aroostook county, for the purpose of fixing a valuation of said plant, property and franchises. At the hearing aforesaid, such Justice, upon motion of the petitioner, may order the production and filing in court, for the inspection of the petitioner, of all books and papers pertinent to the issue and necessary for a full understanding of the matter to be heard by said appraisers, the terms and conditions of so producing and filing such books and papers to be determined by the Justice in his order therefor and to be enforced from time to time as any Justice of the said Superior Court, in term or in vacation, upon motion of either party, may deem reasonable and proper in the premises. At such hearing, such Justice upon motion of the petitioner may fix a time at which the said company shall file in the clerk's office of the Superior Court for the county of Aroostook for the inspection of the petitioner, the following: (1), schedule showing the names, residence and character of service of all its customers on the 1st day of January, 1959, with the rate charged therefor; (2), copies of all contracts in force on said 1st day of January, 1959; (3), an itemized statement of the gross income earned during the last complete fiscal year and up to said 1st day of January, 1959, and all operating expenses and fixed charges, paid or incurred during such period and properly chargeable thereto; (4), a memorandum of all real estate, water rights or interest therein owned or controlled on said 1st day of January, 1959, with such brief description thereof as will reasonably identify the same; (5), brief descriptions, specifications and plans of all reservoirs, mains, pipes, service pipes, hydrants, gates, gate boxes, shutoff boxes, fixtures and machinery, meters, lines and other facilities for providing water and sewerage services where located showing streets, roads and ways; and (6), an itemized list of all tools, apparatus, appliances and supplies used or useable in maintaining said water and sewerage system on said 1st day of January, 1959. Such orders may be enforced from time to time by any Justice of said Superior Court, in term time or in vacation, upon motion of either party, as such Justice may deem reasonable and proper in the premises. At such hearings the Justice then sitting may, upon motion of the petitioner, make all such decrees as he deems reasonable and proper to enable the petitioner, through its servants and employees, to ascertain the true condition of the physical properties of the said Limestone Water and Sewer Company in the presence of the officers or agents of said company, the entire expense thereof to be borne by said district.

The said appraisers shall have the power of compelling attendance of witnesses and the production of all books, accounts and the papers pertinent to the issue and necessary for a full understanding by them of the matter in question and may administer oaths, and any witness or person in charge of such books and accounts and papers refusing to attend or to produce the same shall be subject to the same penalties and proceedings so far as applicable, as witnesses summoned to attend the Superior Court. Depositions may be taken as in civil actions. The appraisers so appointed shall, after notice and hear-

ing, fix the valuation of said plant, property and franchises at what they are fairly and equitably worth, so that said company shall receive just compensation for all and the same. The 1st day of January, 1959, shall be the date as of which the valuation aforesaid shall be fixed, from which date interest on said award shall run and all rents and profits accruing thereafter shall belong to said district. The report of said appraisers or a majority of them shall be filed in said clerk's office, in term time or in vacation, as soon as may be after their appointment, and such single Justice, or in case of his inability to act, any Justice of said Court appointed by the Chief Justice may, after notice and hearing, confirm or reject the same or recommit it if justice so requires.

Before a commission is issued to said appraisers, either party may ask for instructions to said appraisers, and all questions of law arising upon requests for instructions, or upon any other matters in issue may be reported to the Law Court for determination before appraisers proceed to fix the valuation of the property, plant and franchises of said company. Upon the confirmation of said report, the Court so sitting shall thereupon after hearing make final decree upon the entire matter, including the application of the purchase money and transfer of property, jurisdiction over which is hereby conferred, and with the power to enforce said decree as in equity cases. All findings of fact by said court shall be final, but any party aggrieved may take exception as to any ruling of law so made, the same to be accompanied by so much of the case as may be necessary to a clear understanding of the questions raised thereby. Such exceptions shall be claimed on the docket within 10 days after final decree is signed, entered and filed and notice thereof has been given to the parties or their counsel, and said exceptions so claimed shall be made up, allowed and filed within said time unless further time is granted by the Court or by agreement of the parties. They shall be entered at the next term of the Law Court to be held after the filing and entry of said decree and there heard unless otherwise agreed; or the Law Court for good cause shall order further time for hearing thereon.

Before said plant, property and franchises are transferred in accordance with such final decree and before payment therefor as hereinbefore provided, such Justice shall, upon motion of either party, after notice and hearing take account of all receipts and expenditures properly had or incurred by the company, from and after said 1st day of January, 1959, and all net rents and profits accruing thereafter, and shall order the net balance to be added to or deducted from, the amount to be paid under such final decree, as the case may be. All findings of fact by such Justice at such hearings shall be final. On payment or tender by said district of the amount so imposed by said Court, the entire plant, property and franchises of said Limestone Water and Sewer Company used and useable in supplying water and sewerage facilities in the Town of Limestone or elsewhere shall become vested in said district. Either party may file and prosecute motions and petitions relating to the premises at any state of the proceedings, and the proceedings shall not be discontinued except upon consent of both parties. If a vacancy occurs at any time in said board of appraisers from any cause, such sitting Justice, or in case of his inability to act, any Justice of said Court appointed by the Chief Justice may after notice and hearing appoint a new appraiser or appraisers and make all such orders for hearing said cause by the appraisers, anew or for any extension of time for making their award,

or otherwise, as the circumstances of the case may require. Nothing herein contained shall preclude said district from acquiring said properties from said company at any time by mutual agreement.

**Sec. 12. Authorized to negotiate temporary loans; and to issue notes and bonds; declared a quasi-municipal corporation; notes and bonds legal investments for savings banks.** For accomplishing the purposes of this act, said district, through its trustees, is authorized to borrow money temporarily in an amount not to exceed \$250,000, and to issue therefor the interest-bearing negotiable notes of the district and for the purpose of refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this act, including the expenses incurred in the creation of the district, in reimbursing said town, in acquiring the aforesaid properties, privileges and franchises of the Limestone Water and Sewer Company, its successors or assigns, by purchase or otherwise, or securing sources of supply, taking water and land, paying damages, laying pipes, constructing and maintaining and operating a water, sewerage and drainage system, and making extensions, additions and improvements to the same, the said district through its trustees may from time to time issue bonds of the district to an amount necessary in the judgment of the trustees therefor, maturing at one time or in uniform or varying installments with or without call provisions and at or without any premium. Said notes and bonds shall be legal obligations of said district, which is hereby declared to be a quasi-municipal corporation within the provisions of sections 136 and 137 of chapter 53 of the Revised Statutes of 1954 and all the provisions of said sections shall be applicable thereto. The said notes and bonds shall be legal investments for savings banks and exempt from taxation.

**Sec. 13. Property, tax exempt.** The property of said Limestone Water and Sewer District shall be exempt from all taxation in the town of Limestone.

**Sec. 14. Execution of instruments.** Any and all instruments to be executed by the district may, upon authorization by the board of trustees, be executed in its behalf by its president and treasurer who may impress its corporate seal and make any necessary acknowledgment thereof, except that upon interest coupons attached to any bond to be issued, the facsimile signature of the treasurer may be sufficient.

**Sec. 15. Rates, application of revenue, sinking fund.** All individuals, firms and corporations, whether private or public, shall pay to the treasurer of said district the rates established by said board of trustees for the services used by them, and said rates shall be uniform within the territory supplied by the district and subject to the approval of the Public Utilities Commission. Said rates shall be so established as to provide revenue for following purposes:

- I.** To pay the current expenses for operating and maintaining the water and sewer systems.
- II.** To provide for payment of the interest on the indebtedness created or assumed by the district.
- III.** To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created or assumed by the district, which sum shall be turned into a sinking fund and there kept to provide for the ex-



tinguishment of said indebtedness. The money set aside for the sinking fund shall be devoted to the retirement of the obligations of the district or invested in such securities as savings banks are allowed to hold. The trustees may, in their discretion and in lieu of the establishment of a sinking fund, issue the bonds of the district so that not less than 1% of the amount of the bonds so issued shall mature and be retired each year.

**IV.** If any surplus remains at the end of the year it may be turned into the sinking fund.

**Sec. 16. Existing statutes not affected; rights conferred subject to provisions of law.** Nothing herein contained is intended to repeal, or shall be construed as repealing, the whole or any part of any existing statute, and all the rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of chapter 44 of the Revised Statutes of 1954 and all acts amendatory thereof and additional thereto.

**Sec. 17. Lien to secure payment of rates; procedure.** There shall be a lien on real estate served by the sewers of the district to secure the payment of rates established and due under the provisions of section 15, which shall take precedence of all claims on such real estate, excepting only claims for taxes. Real estate for the purposes of this act shall bear the same definition as given in sections 4 and 5 of chapter 91-A of the Revised Statutes of 1954, as enacted by section 1 of chapter 399 of the public laws of 1955.

The treasurer of the district shall have the authority and power to collect the rates, and he is empowered to exercise the authority hereinafter set forth in enforcing the collection of any rates due and payable to the district.

In addition to other methods previously established by law for the collection of the rates, the lien herein created may be enforced in the following manner. The treasurer, when a rate has become due and payable, may, after the expiration of 3 months and within 1 year after the date said rate becomes due and payable, in the case of a person resident in the town where the rate is assessed, give to the person against whom the rate is assessed or leave at his last and usual place of abode, a notice in writing signed by the officer stating the amount of such rate, describing the real estate upon which the lien is claimed, alleging that a lien is claimed on the real estate to secure the payment of the rate and demanding the payment of the rate within 10 days after the service of such notice. After the expiration of the 10 days and within 10 days thereafter, in the case of a resident, and in all other cases within a year from the date, the treasurer shall record in the registry of deeds of Aroostook county a certificate signed by the officer setting forth the amount of such rate, a description of the real estate on which the lien is claimed and an allegation that a lien is claimed on the real estate to secure the payment of the rate, that a demand for payment of the rate has been made in accordance with the provisions of this section and that the rate remains unpaid. In the case of a nonresident, the aforesaid notice of lien and demand for payment shall be given by registered mail or by publication in a newspaper published in the town of Limestone once a week for 2 successive weeks, and after the expiration of 10 days from the date of mailing said notice or after the expiration of 10 days from the last publication of said notice

and within 10 days after said expiration periods, the treasurer shall record said certificate. At the time of the recording of the certificate in the registry of deeds as herein provided, in all cases such treasurer shall file in the office of the district a true copy of the certificate and also at the time of recording as aforesaid, the officer shall mail by registered letter to each record holder of a mortgage on said real estate, addressed to him at his last and usual place of abode, a true copy of the certificate. The fee to be charged to the ratepayer for such notice and filing shall not exceed \$1 and the fee to be charged by the register of deeds for such filing shall not exceed 50c.

The filing of the aforesaid certificate in the registry of deeds as aforesaid shall be deemed to create and shall create a mortgage on the real estate to the district, having priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and shall give to the district all the rights usually incident to a mortgagee, except that the mortgagee shall not have any right of possession of the real estate until the right of redemption herein provided for shall have expired.

If the mortgage, together with interest and costs, shall not have been paid within 12 months after the date of filing of the certificate in the registry of deeds as herein provided, the mortgage shall be deemed to have been foreclosed and the right of redemption to have expired.

The filing of the certificate in the registry of deeds shall be sufficient notice of the existence of the mortgage herein provided for.

In the event that the rate, interest and costs shall be paid within the period of redemption herein provided for, the treasurer of the district shall discharge the mortgage in the same manner as is provided for discharge of real estate mortgages.

**Sec. 18. Act void unless property of Limestone Water and Sewer Company is acquired.** If said district shall fail to purchase or file its petition to take by eminent domain before July 1, 1959, as in this act provided, the plant, properties, franchises, rights and privileges owned by the Limestone Water and Sewer Company and used or useable in supplying water and sewerage facilities in the town of Limestone or elsewhere, then this act shall become null and void.

**Referendum; effective date; certificate to Secretary of State.** This act shall take effect 90 days after adjournment of the Legislature, only for the purpose of permitting its submission to the legal voters of the district at a special election or elections called and held for the purpose. Said elections shall be called by the municipal officers of the town of Limestone and shall be held at the regular voting place in the town; the dates of said elections shall be determined by said municipal officers, but the first such election shall not be later than the 1st day of November, 1958. The board of registration shall prepare and furnish separate check lists for such of the voters within said district as are then legal voters of said town and reside in said district, and all notices, warrants or other proceedings shall be varied accordingly so as to show that only such voters as reside in said district as aforesaid are entitled to vote upon the above question.

Such special elections shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, the board of registration shall not be required to prepare nor the town clerk to post a new list of voters; and for this purpose said board of registration shall be in session on the 3 secular days next preceding said election, the 1st and 2nd days thereof to be devoted to registration of voters and the last day to enable the board to verify the correction of said lists and to complete and close up its records of said session. The town clerk shall prepare the required ballots on which he shall reduce the subject matter of this act to the following question: "Shall the Act Creating the Limestone Water and Sewer District, passed by the 98th Legislature, be accepted?" and the voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same. This act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at such election; but only if the total number of votes cast for and against acceptance of this act in said special election equals or exceeds 20% of the total number of names on the check list of voters of said district provided for herein, which check list shall be used at such election; but failure of approval by the necessary percentage of voters shall not prevent subsequent elections.

The result of such elections shall be declared by the municipal officers of the town of Limestone and due certificates thereof filed by the town clerk with the Secretary of State.