

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

STATE LAW LIBRARY

NINETY - NINTH LEGISLATURE

Legislative Document

No. 362

H. P. 251

House of Representatives, February 3, 1959

Referred to the Committee on Public Utilities, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Mathews of Berwick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-NINE

AN ACT to Incorporate the South Berwick Water District.

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

**Sec. 1. Territorial limits; name; purpose.** That part of the Town of South Berwick within the area hereinafter described, and the inhabitants of the Town of South Berwick within that area, are created a body politic and corporate under the name of "South Berwick Water District" for the purposes of supplying inhabitants and others in the district and the Town of South Berwick with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes. All incidental rights, powers and privileges, necessary to the accomplishment of the main objects herein set forth, are granted to the said South Berwick Water District.

The area within said Town of South Berwick comprising the said district is bounded and described as follows:

"Beginning at the junction of the South Berwick and Berwick town line with the Salmon Falls River; thence in a southerly direction by the Salmon Falls River to the junction of the Great Works River; thence in a southeasterly direction by the Great Works River to the Great Works Bridge, so called; thence in a northerly direction a distance of 8,000 feet, more or less, to the Agamenticus Road at a point which is 3,775 feet easterly from the junction of Portland Street and Agamenticus Road; thence in a northwesterly direction 3,075 feet, more or less, to the junction of Portland Street, called Route 4, and the Berwick-South Berwick town line; thence northwesterly along the town line 1,950 feet, more or less, to the Boston & Maine Railroad; thence in a southwesterly direction by the Boston & Maine Railroad to the point of beginning."

**Sec. 2. Powers.** The said district for the purposes of its incorporation is authorized to take, hold, divert, use and distribute water from any river, lake, pond, stream, brook, spring, well or other source, natural or artificial, in said towns of South Berwick and Berwick.

**Sec. 3. Eminent domain.** The said district, for the purposes of its incorporation, is authorized to take and hold as for public uses, real estate and personal estate and any interest therein necessary for such purposes, by purchase, lease or otherwise, and is authorized to exercise the right of eminent domain as hereinafter provided, to acquire for such purposes any lands or interest therein or water rights necessary for erecting and maintaining dams, plants and works, for florage for power, for pumping, for supplying water through its mains, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining mains, aqueducts and other structures for taking, distributing, discharging and disposing of water, for forming basins and reservoirs, for erection of buildings for pumping works for use therein, for laying pipes and maintaining same, and for laying and maintaining conduits for carrying, collecting and discharging water, for filtering, rectifying and treating plants, works and facilities, for such other objects necessary, convenient and proper for the purposes of its incorporation and for right-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures, plants, works, facilities and lands.

The said district is authorized to lay in and through the streets, roads, ways and highways within the Towns of South Berwick and Berwick, 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 any of its corporate purposes and authorities, and whenever said district shall lay or install any pipes, aqueducts or fixtures in any street, road, way 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 so replaced as to leave the surface in proper condition.

Nothing herein contained shall be construed as authorizing said water district to take by right of eminent domain any of the property or facilities of any other public service corporation or district 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. Procedure in exercising right of eminent domain; assessment of damages; appeal procedure.** In exercising any rights of eminent domain that are conferred upon said district, the district shall file for record in the Registry of Deeds in York County plans of the location of lands or interest therein to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective or uncertain, it may, at any time, correct and perfect such location and file a new description thereof; and in such case, the district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any act which would have been justified if the original taking had been

lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of 10 days from such filing; whereon possession may be had of all such lands or interest therein so taken, but title thereto shall not vest in said district until paid for.

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 York 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.

**Sec. 5. Procedure if public utility must be crossed.** In case of any crossing of any public utility, unless consent is given by the company owning or operating such public utility as to place, manner and conditions of the crossing within 30 days after such consent is requested by said district, the Public Utilities Commission upon petition by the district 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 or as prescribed by the Public Utilities Commission, but at the expense of the district.

**Sec. 6. Trustees: how elected; meetings; officers.** All of the affairs of said district shall be managed by a board of 5 trustees, residents therein, who shall be chosen as hereinafter provided.

As soon as may be after the acceptance of this act as hereinafter provided, the municipal officers of the Town of South Berwick shall appoint 5 trustees of said district to hold office as follows: 2 to serve until the first annual meeting of said district following the acceptance of this act; 2 to serve until the 2nd annual meeting of said district following such acceptance; and one to serve until the 3rd annual meeting of said district following such acceptance. At each annual meeting of said district, beginning with the first annual meeting after the acceptance of this act, one or more trustees shall be elected by the district by ballot as hereinafter provided to serve until the annual meeting of said district occurring 3 years thereafter and until his or their successor or successors are elected and qualified. Whenever any trustee ceases to be a resident of said district, he vacates the office of trustee. All trustees, if residents of said district, shall be eligible for reelection. Vacancies in the office of trustee shall be filled for the unexpired term at a special meeting of the district, unless said vacancy shall occur within 3 months prior to the next annual meeting of said district, at which annual meeting such vacancies shall be filled.

As soon as convenient after their appointment, the first board of trustees shall hold a meeting at some convenient place in the district, to be called by any member thereof in writing, designating the time and place and delivered in hand to the other 4 members, not less than 2 full days before the meeting; provided that they may meet by agreement without such notice. They shall then organize by electing from their own number a chairman and a clerk and, not necessarily from their own number, a treasurer. They shall adopt a corporate seal and may adopt by-laws and perform any other acts within the powers delegated to them by law.

Following each annual meeting of said district, the trustees shall elect from their own number a chairman and a clerk and, not necessarily from their own number, a treasurer to serve until the next annual meeting of said district and until their respective successors are elected and qualified.

The trustees from time to time may choose and employ and fix the compensation of any other necessary officers and agents, who shall serve at their pleasure. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost thereof to be paid by the district. Members of the board of trustees shall be eligible to any office under the board. The trustees, as such, shall receive as compensation for their services an amount to be determined by them not to exceed \$100 each per year; but the treasurer may be allowed such compensation as the trustees shall determine.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member who shall serve as clerk or clerk pro tem. They shall make and publish an annual report, including a report of the treasurer, and such report may be included in, and published as part of, the Annual Town Report.

**Sec. 7. Annual meeting of district; qualification of voters of district.** After the acceptance of this charter and the organization of the board, the annual meeting of the district shall be held within the district on the first Monday of each March, at such hour and place as may be designated by resolution of the board of trustees as provided in the by-laws. Notice thereof, signed by the chairman or clerk of the board, shall be conspicuously posted in 2 public places within the district, not less than 7 days before the meeting. Special meetings may be called by the board in like manner at any time, and notice of special meetings shall state the business to be transacted thereat. Ten per cent of the voters qualified to vote in such meetings shall constitute a quorum. If for any reason a legally sufficient annual meeting is not held on the above date, a special meeting in lieu thereof may be called in like manner to be held within 3 months from said date. A complete report of the doings of the district shall be rendered at such annual meeting by the board of trustees, including a financial report.

All persons resident in said district and qualified to vote for Governor under the laws of this State shall be entitled to vote in any meeting of the district, including the meeting for acceptance of this charter.

**Sec. 8. Trustees granted certain powers of selectmen.** After the meeting of the voters of the district for acceptance of this charter, and after the organization of the board under section 6, the trustees shall have the same powers and perform the same duties as otherwise are exercised and performed by the selectmen of towns in correcting and preparing lists of the persons qualified to vote in said district, and for that purpose they shall be in session at the place designated for holding the meeting between the hours of 10 o'clock in the forenoon and 12 o'clock noon on the secular day next before the date of every meeting, and also 2 hours before the opening of the meeting, and notice thereof shall be given in the call of the meeting. All meetings of the district shall be presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings.

**Sec. 9. District and town authorized to make contracts.** Said district, through its trustees, is authorized to contract with persons and corporations, including the Town of South Berwick, and said Town of South Berwick is authorized to contract with it, for the supply of water for municipal purposes.

**Sec. 10. Authorized to acquire property of South Berwick Water Corp.** The said district, through its trustees, is authorized to acquire by purchase all or part of the entire plant, properties, franchises, rights and privileges owned by South Berwick Water Corp. located within the area of the South Berwick Water Corp., including all lands, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in the Town of South Berwick and said company is authorized to sell, transfer and convey its said plants, properties, franchises, rights and privileges to said district. Said district is also authorized to acquire by purchase the stock of said South Berwick Water Corp.

**Sec. 11. Authorized to borrow money, to issue bonds and notes.** For accomplishing the purposes of this act, and for such other expenses as may be necessary for the carrying out of said purposes, said district, through its trustees, without district vote, is authorized to borrow money temporarily and to issue therefor its negotiable notes; and for the purpose of renewing and refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this act, including organizational and other necessary expenses and liabilities whether incurred by the district or the Town of South Berwick, the district being authorized to reimburse said Town of South Berwick for any such expense incurred by it and in acquiring properties, paying damages, laying pipes, mains, aqueducts and conduits, constructing, maintaining and operating a water plant or system and making renewals, additions, extensions and improvements to the same and to cover interest payments during the period of construction, said district, through its trustees, without district vote, is also authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in one series, or in separate series, in such amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine; provided the total indebtedness of the said district shall not exceed the sum of \$100,000.

Said bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the trustees may determine, but none of them shall run for a longer period than 40 years from the date of original issue thereof. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same prior to maturity, and if callable, may be made callable at par or at such premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "South Berwick Water District", shall be signed by the treasurer and countersigned by the chairman of the board of trustees of the district, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer.

All such bonds, notes and evidences of indebtedness so issued by the district shall be legal obligations of the district, which is declared to be a quasi-municipal corporation within the meaning of the Revised Statutes of 1954, chapter 53,

section 137 and chapter 90-A, section 23, as enacted by the public laws of 1957, chapter 405, section 1 and all provisions of said sections shall be applicable thereto. The said district may refund and reissue, from time to time, in one or in separate series, its bonds, notes and other evidences of indebtedness, and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by said district shall be legal investments for savings banks in the State of Maine and shall be tax exempt.

**Sec. 12. Property tax exempt.** The property, both real and personal, rights and franchises of said district shall be forever exempt from taxation.

**Sec. 13. Water rates; application of revenue; sinking fund.** All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of said district the rates established by said board of trustees for the water used by them. Said rates shall be uniform within the territory supplied by the district and shall be subject to the approval of the Public Utilities Commission. Said rates shall be so established as to provide revenue for the following purposes:

**I.** To pay current expenses for operating and maintaining the water system and to provide for such extensions and renewals as may become necessary;

**II.** To provide for the payment of the interest on the indebtedness created 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 by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment 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 or fiduciaries or trustees in this State are now or hereafter allowed to hold. Provided, however, that 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. 14. 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 the Revised Statutes of 1954, chapter 44, and all acts amendatory thereof or additional thereto.

**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 South Berwick 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 first day of November, 1960. 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 are entitled to vote upon the 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 South Berwick Water District, passed by the 99th Legislature, be accepted?" 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 South Berwick and due certificates thereof filed by the town clerk with the Secretary of State.