

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

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PRIVATE AND SPECIAL LAWS
OF THE

STATE OF MAINE

AS PASSED AT THE

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January 4, 1978 to April 6, 1978

fund to be made available as needed upon the recommendation of the State Budget Officer with the approval of the Governor.

Sec. 5. Intent. Notwithstanding any other provision of law, it is the intent of the Legislature that retired persons receiving benefits under Title 25, chapter 195, shall be adjusted by 7.1% effective with the start of the payroll period commencing nearest to July 1, 1978.

Sec. 6. Intent. Notwithstanding any other provision of law or rules, it is the intent of the Legislature that the provisions of the agreement between the State and the Maine State Troopers Association shall prevail during the term of the agreement.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 21, 1978

CHAPTER 98

AN ACT Concerning the Charter of the Guilford-Sangerville Water District.

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

Whereas, the Guilford-Sangerville Water Company is desirous of selling its assets; and

Whereas, the municipalities of Guilford and Sangerville are desirous of continued and uninterrupted water service; and

Whereas, the formation of the water district is urgently needed to assure that vitally needed water is supplied to many inhabitants of Guilford and Sangerville; and

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

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

Sec. 1. Territorial limits; corporate name; purposes. Subject to section 13, the inhabitants and territory within the Towns of Guilford and Sangerville in the County of Piscataquis shall be and hereby are constituted a public municipal corporation under the name of "Guilford-Sangerville Water District" for the purpose of supplying the inhabitants of the district with pure water for domestic, sanitary, manufacturing and municipal purposes.

Sec. 2. Source of supply. The water district, for the purposes of its incorporation, is authorized to take, collect, store, hold, divert, use, flow, detain and distribute water from any lake, pond, stream or river and from any surface or underground brook, spring or vein of water in the Towns of Guilford and Sangerville and from any other source from which the Guilford-Sangerville Water Company is now authorized to take water, including sources outside of the Towns of Guilford and Sangerville.

Sec. 3. Right of eminent domain conferred. The district, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, by purchase, gift or by exercise of the right of eminent domain, which right is hereby expressly delegated to the water district for those purposes, any lands or interests therein or water rights necessary for erecting and maintaining dams, for flowage, for power, for pumping its water supply through its mains, for reservoirs and standpipes, for preserving the purity of the water and watershed, for laying and maintaining aqueducts, mains and other structures for taking, distributing, discharging and disposing of water and for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, standpipes, mains, aqueducts, structures and lands. Nothing contained herein shall be construed as authorizing the 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, or as provided in section 7.

Sec. 4. Authorized to lay pipes, public ways and across private lands. The district is hereby authorized to lay in and through the streets, roads, ways and highways within the district and across private lands therein, and to maintain and replace all such pipes, aqueducts, mains and fixtures as may be necessary, and may excavate through any lands when necessary and convenient for its corporate purposes; and whenever the district shall lay any pipes, aqueducts or mains 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 replaced in proper condition.

Sec. 5. Authorized to erect and maintain dams, reservoirs, etc. The district is hereby authorized, for the purposes of its incorporation, to erect and maintain all dams, pumping stations, with all necessary appliances required therefor, reservoirs, standpipes and structures necessary and convenient for its corporate purposes.

Sec. 6. Procedure in exercising rights of eminent domain; assessment of damages; appeal procedure. The water district shall be liable for all damage that shall be sustained by any person or corporation in his or its property by the taking of any land or interest therein whatsoever, for water, or by flowage, or by excavating through any land for the purpose of laying pipes, aqueducts or mains, building dams or constructing reservoirs or standpipes.

In exercising any right of eminent domain conferred upon it by law, from time to time, in the taking of lands or interests therein, or water rights, the district shall file in the office of the county commissioners of Piscataquis County and record in the registry of deeds in that county plans of the location of all such lands or interests therein or water rights, with an appropriate description and the names of the owners thereof, if known. Notice of the filing shall be sent by mail to the owners at the address appearing on the tax records of the municipality in which the land is located. When for any reason the district fails to acquire the property authorized to be taken, and which is described in that location, or the location recorded is defective or uncertain, it may, at any time, correct and perfect that location and file a new description thereof, and in such case the district shall be 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 acts 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 that filing, whereupon possession may be had of all lands or interests therein or water rights so taken, but title shall not vest in the district until payment therefor.

If any person or corporation sustaining damages by any taking as aforesaid and the water district shall not mutually agree upon the sum to be paid therefor, either party, upon petition to the county commissioners of Piscataquis County, may have those damages assessed by them; and the procedure and all subsequent proceedings and right of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of town ways.

Sec. 7. Procedures in crossing of railroads or utility rights-of-way. In case of any crossing of a railroad or the right-of-way occupied by the transmission or distribution lines of an electric company or telephone company, unless consent is given by the company owning or operating that railroad or transmission line, as to place, manner and conditions of the crossing, within 30 days after that consent is requested by the district, the Public Utilities Commission shall, upon petition setting forth a description of the premises and the reasons for the crossing, after notice given as the commission may prescribe, determine the place, manner and conditions of that crossing; and all work within the limits of that railroad location or right-of-way shall be done under the supervision and to the satisfaction of the railroad company, telephone company or electric company, as the case may be, but at the expense of the district, unless otherwise ordered by the Public Utilities Commission, which shall award to the railroad, telephone company or electric company any damage suffered by it occasioned by the crossing.

Sec. 8. Board of trustees; appointment; compensation. All the affairs of the district shall be managed by a board of trustees composed of 6 members, 3 to be appointed by the municipal officers of the Town of Guilford and 3 to be appointed by the municipal officers of the Town of Sangerville, within 30 days after the acceptance of this Act by the inhabitants of the district as hereinafter provided, but none of the selectmen of either of the towns shall be appointed to the board of trustees. As soon as convenient after the members of the board have been appointed, the trustees shall hold a meeting in the Town of Guilford and organize by the election of a president and clerk, from their own membership, adopt a corporate seal and 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. Whenever a vacancy occurs in the office of president, clerk or treasurer, it shall be promptly filled by the board of trustees. At the 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 shall end at the end of the municipal year of the Town of Guilford following the acceptance of this Act, and thereafter, the term of office of a trustee shall expire with the end of each municipal year. Whenever the term of office of a trustee expires, the body which appointed that trustee shall appoint a successor to serve the full term of 6 years, and in case any other vacancy arises from any cause, it shall be filled in like manner for the unexpired term. When any trustee ceases to be a resident of the town from which he received his appointment, he vacates the office of trustee. They may also ordain and establish such bylaws as are necessary for their own convenience and the proper management of the affairs of the district. The 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 shall not be eligible to any office under the board, except that of president and clerk. The trustees, as such, shall receive as compensation for their services an amount to be determined by them not to exceed \$500 each per year; but the treasurer may be allowed such compensation as the trustees shall determine. A quorum of the board of trustees shall be 4 trustees. All decisions of the board of trustees shall be by a majority of those present and voting.

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.

Sec. 9. Temporary loans negotiated; issue of bonds. For accomplishing the purposes of this Act, the water district, through its trustees, is authorized to borrow money temporarily and to issue therefor the negotiable notes of the district, and for the purpose of refunding the indebtedness so created, for paying any necessary expenses and liabilities incurred under the provisions of this Act, including the expenses incurred in the creation of a district, in securing sources of supply, taking water and land, paying damages, taking rights-of-way or other interests in real estate, by purchase or otherwise, laying pipes, aqueducts and mains, constructing, installing, maintaining and operating reservoirs, standpipes,

dams, pumping stations and whatever equipment may be necessary or incidental to the construction and installation of that system of water works and making renewals of or extensions, additions and improvements to the same, the district by votes of its board of trustees, without district vote except as hereinafter provided, is also authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in the amount or amounts, not exceeding the sum of \$1,500,000 outstanding at any one time, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine; provided that in the case of a vote by the trustees to authorize bonds or notes to pay for the acquisition of property, for the cost of a water system or part thereof, for renewal or additions or for other improvements in the nature of capital costs, the estimated cost of which, singly or in the aggregate included in any one financing is \$30,000 or more, or for renewing or refunding existing indebtedness, notice of the proposed debt and of the general purpose or purposes for which it was authorized shall be given by the clerk by publication at least once in a newspaper having a general circulation in the Town of Guilford and the Town of Sangerville. No debt may be incurred under the vote of the trustees until the expiration of 7 full days following the date on which the notice was first published. Prior to the expiration of the period, the trustees may call a special district meeting for the purpose of permitting the voters of the district to express approval or disapproval of the amount of debt so authorized, and the trustees shall call a special district meeting if, within 7 days following the publication of the notice, there shall have been filed with the clerk of the district a petition or petitions signed by not less than 50 qualified voters of the district requesting that a special meeting be called. If at the district meeting a majority of voters present and voting thereon express disapproval of the amount of debt authorized by the trustees, the debt shall not be incurred and the vote of the trustees authorizing the same shall be void and of no effect. The bonds, notes and evidences of indebtedness may be issued to mature serially in annual installments of not less than 1% of the face amount of the issue and beginning not later than 2 years from the date thereof, or may be issued with equal annual payments, applied first to interest and the balance to principal, or made to run for such periods as the trustees may determine, but no issue shall run for a longer period than 40 years from the date of original issue. 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 "Guilford-Sangerville Water District," shall be signed by the treasurer and counter signed 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 of the signature of the treasurer. All 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 1964, Title 30, section 5053, and as amended, and all provisions of this section shall be applicable thereto. The district may, from time to time, issue its bonds, notes and other evidences of indebtedness for the purpose of paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness and each authorized issue

shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by the district shall be legal investments for savings banks in the State of Maine and shall be tax exempt. The district is authorized and empowered to enter into agreements with the State or Federal Government, or any agency of either or any corporation, commission or board authorized by the State or Federal Government to grant or loan money to or otherwise assist in the financing of projects, such as the district is authorized to carry out, and to accept grants and borrow money from any government agency, corporation, commission or board as may be necessary or desirable to enforce this Act. All notes and bonds with the maturity of more than one year in connection with the water system shall first be approved by the Public Utilities Commission.

Sec. 10. Sinking fund provided for. In case any of the bonds or notes are made to run for a period of years, a sinking fund shall be established by the trustees of the district for the purpose of redeeming the bonds or notes when they become due and a sum equal to not less than 1% of the aggregate principal of the outstanding bonds or notes issued on account of or in behalf of the district, as aforesaid, shall be turned into the sinking fund each year to provide for the final extinguishment of the district funded debt.

The money set aside for the sinking fund shall be devoted to the retirement of the notes and bonds, and shall be used for no other purposes, and shall be invested in such securities as savings banks are allowed to hold.

Whenever any bonds of the district become due or can be purchased by the trustees on favorable terms, the trustees may, if sufficient funds have accumulated in the sinking fund, redeem or purchase the bonds and cancel them. In no case shall bonds so canceled or redeemed be reissued.

In case the amount in the sinking fund shall not be sufficient to pay the total amount of the bonds falling due at any one time, authority to issue new bonds sufficient to redeem so many of the bonds as cannot be redeemed from the sinking fund is granted to the trustees.

In the event that the district, with the approval of bond counsel or a bonding organization, establishes a payment schedule that does not require the use of a sinking fund, the provisions of this section shall not apply.

Sec. 11. Authority to purchase property of Guilford-Sangerville Water Company. The Guilford-Sangerville Water District is authorized and empowered to acquire by purchase of the entire plant, property, franchises, rights and privileges of the Guilford-Sangerville Water Company located in or serving the Towns of Guilford and Sangerville, except its cash assets, including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by that company, whether the record title thereto is or is not in the Guilford-Sangerville Water Company. The company is authorized to sell, transfer and convey its franchises and property to the water district, subject to Public Utilities Commission approval.

Sec. 12. Procedure in case trustees and Guilford-Snagerville Water Company fail to agree on terms of purchase. In case the trustees fail to agree with the Guilford-Sangerville Water Company upon terms of purchase, then the district, through its trustees aforesaid, is hereby authorized to take the properties, interest and franchises of the Guilford-Sangerville Water Company as set forth in section 11, in the manner hereinafter provided wherein the Guilford-Sangerville Water Company and its mortgagees, if any, or those having an interest in any realty which is of record, shall be the parties defendant. The district, through its trustees, is hereby authorized to file a petition in the clerk's office of the Superior Court for the County of Piscataquis, addressed to any justice thereof who, after notice to the defendant aforesaid, shall, after hearing and within 60 days after the filing of the petition, appoint 3 disinterested appraisers for the purpose of fixing the valuations of the plant, property and franchises of the Guilford-Sangerville Water Company described in section 11. The court may order under proper terms the production for inspection by the trustees or the appraisers of all books and papers pertaining to the issue on petition for the same by the petitioner, unless the same are voluntarily produced. The appraisers shall have the power to administer oaths. The appraisers so appointed shall, after due notice and hearing, fix the valuation as of the date of filing the petition of the plants, properties and franchises at what they were fairly and equitably worth so that the company shall receive just compensation for the same. The report of the appraisers or of a majority of them, together with the report of a stenographer certified by the appraisers as correct, shall be filed in the clerk's office within 6 months after their appointment and any Justice of the Superior Court may after notice and hearing confirm or reject the same or recommit it if justice so requires. Upon the confirmation of the report, the court so sitting shall thereupon make final decree upon the entire matter, including the application of the purchase money and transfer of the property, jurisdiction over which is hereby conferred, and with the power to enforce the decree as in equity cases. All findings of fact by the court and the appraisers shall be final, but any party aggrieved may take exceptions as to any matters of law, the same to be accompanied by so much of the case as may be necessary to a clear understanding of the question raised thereby. These exceptions shall be claimed on the docket within 10 days after the final decree is signed, entered and filed and notice thereof has been given by the clerk to the parties and the exceptions so claimed shall be made up, allowed and filed within that 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 of these exceptions and there heard, unless otherwise agreed, or the law court for good cause shall order further time for hearing thereon. On payment of tender by the district of the amount determined by the final decree and the performance of all other terms and conditions imposed by the court, the plant, properties and franchises of Guilford-Sangerville Water Company, as described in section 11, shall become vested in this district.

Sec. 13. Property tax exempt. The property of the district shall be exempt from all taxation in the Towns of Guilford and Sangerville and in any other towns where any part of its plant may be located.

Sec. 14. Water rates. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of the district the rates established by the board of trustees for the water used by them; and the rates for water so supplied shall be uniform within the territory supplied by the district whenever the installation and maintenance of mains and the cost of service is substantially uniform, but nothing in this Act shall preclude the district from establishing higher rates than the regular rates in sections where for any reason the cost of construction and maintenance or the cost of service exceeds the average, but these higher rates shall be uniform throughout the sections where they apply. The rates shall be so established as to provide revenue for the following purposes:

1. **Current expenses.** To pay the current expenses for operating and maintaining the water system;

2. **Interest payment.** To provide for the payment of the interest on the indebtedness created or assumed by the district;

3. **Sinking fund.** 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 used to pay serial bonds or notes when due or be turned into a sinking fund and there kept to provide for the extinguishment of the indebtedness. Money set aside for the sinking fund shall be devoted to the retirement of the obligations of the water district and invested in such securities as savings banks in this State are allowed to hold; and

4. **Surplus.** If any surplus remains at the end of the year, it may be turned into the sinking fund or used for such other purposes of the district as the trustees may determine.

The water rates, tolls, charges and rents shall be subject to the approval of the Public Utilities Commission, unless the district qualifies to be exempt from rate review by the commission according to the Revised Statutes, Public Law 1977, chapter 75.

Sec. 15. District and town authorized to make contracts. The district through its trustees is authorized to contract with persons and corporations, including the Towns of Guilford or Sangerville, or both, and the Towns of Guilford or Sangerville, or both, are authorized to contract with it for the supply of water for municipal purposes.

Sec. 16. Incidental rights and privileges. All incidental rights, powers and privileges necessary to the accomplishment of the main object herein set forth are granted to the municipal corporation hereby created.

Sec. 17. 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, Title 35, and all acts amendatory thereof or additional thereto.

Sec. 18. Certain sections inoperative on failure to acquire Guilford-Sangerville Water Company plant. If the water district fails to acquire the plant, property, franchises, rights and privileges owned by the Guilford-Sangerville Water Company and used or usable in supplying water to the Towns of Guilford and Sangerville, then this Act shall be inoperative, null and void.

Sec. 19. Acceptance subject to referendum. Unless accepted and approved by a majority vote of the legal voters within the proposed water district voting at an election called and held for the purpose by the municipal officers of the Towns of Guilford and Sangerville, on the 2nd Tuesday of June, 1978, this Act shall forthwith become inoperative. The registrars of voters in Guilford and Sangerville shall be in session the 3 secular days next preceding that election for the purpose of revising the voting lists. The subject matter of this Act shall be reduced to the following question: "Shall 'AN ACT Concerning the Charter of the Guilford-Sangerville Water District,' passed by the 108th 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. The result shall be declared by the municipal officers of each town and due certificates thereof filed by the town clerks with the Secretary of State. In view of the emergency cited in the preamble, this Act shall take effect for all the purposes thereof immediately upon its acceptance by a majority of the legal voters in both Guilford and Sangerville voting at that election; provided that the total number of votes cast for and against the acceptance of this Act in each of the towns equals or exceeds 20% of the total vote for all candidates for Governor in those towns at the last gubernatorial election; but failure of approval by the necessary percentages of voters at any such election in either or both of those towns shall not prevent a subsequent election or elections to be held for that purpose within the time limitation of section 15.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 21, 1978

CHAPTER 99

AN ACT to Incorporate the Vinalhaven Water District.

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