

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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1979

PRIVATE AND SPECIAL LAWS
OF THE

STATE OF MAINE

AS PASSED AT THE

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January 4, 1978 to April 6, 1978

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

Whereas, uninterrupted collection and distribution of water is essential to the health and welfare of the inhabitants of the Town of Vinalhaven; and

Whereas, imminent interruption of that collection and distribution of water is likely if a water district is not created immediately; 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 and purpose. The inhabitants of the territory of the Vinalhaven Water District as defined herein are hereby created a body politic and corporate under the name of the "Vinalhaven Water District" for the purpose of supplying the district and the inhabitants thereof and others with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes. The territory of the district shall be comprised of all real property served by the Vinalhaven Water Company as of the day on which the referendum question, as defined in section 17, is accepted by the inhabitants of the district. All inhabitants of legal voting age served by the Vinalhaven Water Company shall be eligible to vote on the referendum question as defined in section 17. Following approval of the referendum question all inhabitants residing or doing business within the district and served by the district shall be deemed eligible voters of the district, except that anyone who moves outside the district and is no longer served by the district shall not be a legal voter or inhabitant of the district.

Sec. 2. Powers; authority to locate, construct and maintain. The district, for the purposes of its incorporation, is hereby authorized within its territory to take, collect, hold, divert, use and distribute to that district, or any part thereof, water from any lake, pond, stream, brook, spring, well or other source, natural or artificial; to locate pipes, mains, conduits, aqueducts, and fixtures, and to take up, replace, repair and maintain the same, in, along and through any public or private ways, public grounds or lands of any person or corporation as hereinafter provided; to erect, construct and maintain dams, reservoirs, aqueducts, pipes, standpipes, mains, wells, conduits, hydrants, pumping stations, treatment facilities and all other structures, equipment, fixtures and appurtenances necessary and convenient for those purposes; and, generally, to do any and all things and perform any and all acts necessary or incidental to accomplish the purpose of this Act.

Whenever the district shall enter, dig up or excavate any public way or other land in order to locate, take up, replace, repair or maintain any pipes, mains, conduits, aqueducts and fixtures, or for any other purpose, it shall cause the same

to be done with as little obstruction as practicable to the public travel, and shall, at the completion thereof, without unnecessary delay, restore or replace the way or land to its prior or other proper condition.

Sec. 3. Powers; authority of district and town to make contracts. The district, through its trustees, is hereby authorized to contract with persons and corporations, including the Town of Vinalhaven, and the Town of Vinalhaven is authorized to contract with it for the supply of water for municipal purposes.

Sec. 4. Powers; authority to acquire and hold property; eminent domain. The district, for the purposes of its incorporation, is hereby authorized and empowered to acquire and hold as for public uses real estate and personal estate necessary and convenient for the aforesaid purposes, and is expressly granted the right of eminent domain. The district is hereby authorized to take, use and hold by purchase, lease or otherwise, or by the exercise of eminent domain as hereinafter provided, any land or interest therein or water rights necessary for erecting and maintaining dams, plants and works for flowage, 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 rights-of-way or roadways to its sources of supply, dams, reservoirs, mains, aqueducts, structures, plants, works, facilities and lands.

Nothing herein contained shall be construed as authorizing the 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, therein, or by subsequent Act of the Legislature.

Sec. 5. Procedure as to the exercise of right of eminent domain. In exercising any rights of eminent domain that are herein conferred upon the district, the district shall file, for record in the registry of deeds in Knox 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 that location, or, if the location as recorded is defective or uncertain, it may, at any time, correct and perfect that location and file a new description thereof and, in that 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 that

filing, whereupon possession may be had of all those lands or interest therein so taken, but title thereto shall not vest in the district until payment therefor.

If any person sustaining damages by any taking as aforesaid shall not agree with the trustees of the district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Knox County, may have those damages assessed by them. The procedure and all subsequent proceedings and the rights of appeal therefrom 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. 6. 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 that public utility as to place, manner and conditions of the crossing within 30 days after the consent is requested by the district, the Public Utilities Commission, upon petition by the district, shall determine the place, manner and conditions of that crossing; and all work on the property of that public utility shall be done under the supervision and to the satisfaction of that public utility or as prescribed by the Public Utilities Commission, but at the expense of the district.

Sec. 7. Board of trustees. All of the affairs of the district shall be managed by a board of 3 trustees, resident of the district, who shall be elected by Australian ballot at a special district meeting as soon as possible following the acceptance of this Act.

The terms of the members of the board shall be as follows: One member shall serve for one year from the date of the first election following acceptance of this Act; one member shall serve for 2 years from the date of the first election following such acceptance; and one member shall serve for 3 years from the date of the first election following such acceptance. Following the expiration of each of the terms of the first 3 trustees of the district, their successors shall be elected for 3-year terms. The trustees shall serve until their successors are elected and qualified. Trustees shall be eligible for reelection.

Whenever any trustee ceases to be a resident in the water district, he vacates the office of trustee. Vacancies in the office of trustee shall be filled by a special district election, except that a vacancy occurring within 6 months of the expiration of a trustee's term of office may be filled by appointment by the municipal officers of a successor residing in the district to serve the unexpired portion of the term in which the vacancy occurs.

Sec. 8. Trustees; how appointed; vacancies. As soon as convenient after their election, 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 members, not less than 2 full days before the meeting; provided that they may meet by agreement without such notice. They shall 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 bylaws and perform any other acts within the powers delegated to them by law.

Following each annual election of the 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 annual district meeting and until their respective successors are elected and qualified.

The trustees shall have the same powers and perform the same duties as otherwise are exercised and performed by the selectmen of towns for the calling and holding of district elections and for the correction and preparation of lists of persons qualified to vote in the district.

All meetings of the district shall be presided over by the chairman of the board of trustees who shall have the same authority as moderators of town meetings. District meetings shall be conducted in the same manner as town meetings.

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 be compensated by a sum not to exceed \$200 per year, which sum shall be set by the selectmen.

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 tempore. They shall make and publish an annual report, including a report of the treasurer, and such other reports as required by law.

Sec. 9. Annual meeting of district. After the acceptance of this Act and the organization of the board of trustees as hereinbefore provided, the annual meeting of the district shall be held within the district on the first Monday of each April, at such hour and place as may be designated by resolution of the board of trustees as provided in the bylaws. 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.

Sec. 10. Powers; authority to acquire certain property of Vinalhaven Water Company. The district, through its trustees, is hereby authorized to acquire by purchase all or part of the entire plant, properties, franchises, rights and privileges owned by Vinalhaven Water Company, 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 district; and the company is hereby authorized to sell, transfer and convey their plants, properties, franchises, rights and privileges to the district.

Sec. 11. Procedure in case trustees and Vinalhaven Water Company fail to agree on terms of purchase. In case the trustees fail to agree with the Vinalhaven 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 Vinalhaven Water Company as set forth in section 10, in the manner hereinafter provided wherein the Vinalhaven 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 Knox, 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 Vinalhaven Water Company described in section 10. 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 same by the petitioner, unless 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 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 Vinalhaven Water Company, as described in section 10, shall become vested in this district.

Sec. 12. Powers; authority 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 those purposes, the district, through its trustees,

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 municipality, the district being authorized to reimburse the municipality for any such expense incurred by it, and in acquiring properties, paying damages, laying pipes, mains, aqueducts, 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, the district, through its trustees, 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, the amount or amounts, not exceeding the sum of \$400,000 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 Vinalhaven. 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 expresses 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 or made to run for such periods as the trustees may determine, but none of them shall run for a period longer 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 "Vinalhaven 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 bonds, notes and evidences of indebtedness so issued by the district shall be

legal obligations of the district, which is hereby declared to be a quasi-municipal corporation within the meaning of the Revised Statutes, Title 30, section 5053, and all provisions of that section shall be applicable thereto. The 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 the district shall be legal investments for savings banks in the State of Maine and shall be tax exempt.

Sec. 13. Property tax exempt. The real and personal property, rights and franchises of the district shall be forever exempt from taxation.

Sec. 14. Water rates; application of revenue; sinking fund. 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. These rates shall be uniform within the territory supplied by the district and shall, if required by law, be subject to the approval of the Public Utilities Commission. These rates shall be so established as to provide revenue for the following purposes:

1. Current expenses; extensions; renewals. To pay current expenses for operating and maintaining the water system and to provide for such extensions and renewals as may become necessary;
2. Interest payment. To provide for the payment of the interest on the indebtedness created 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 other than serial bonds and notes, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of the indebtedness, or if serial bonds or notes are issued, to pay the principal of those bonds and notes payable in that year. 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; 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 Public Law 1977, chapter 75.

Sec. 15. Special meetings. Special meetings of the district may be called by the board of trustees at any time and notice of special meetings, stating the place and time thereof and the business to be transacted thereat shall be signed by the chairman or clerk of the board of trustees and shall be conspicuously posted in at

least 2 public places within the district, not less than 7 days, inclusive of Sundays, before the meeting. Fifteen persons qualified to vote in the meetings shall constitute a quorum.

Sec. 16. Agreements. 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 only, shall first be approved by the Public Utilities Commission.

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, except those referred to in section 11, 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. Incidental powers granted. All incidental powers, rights and privileges necessary to the accomplishment of the main object herein set forth are granted to the Vinalhaven Water District.

Sec. 19. Effective date; referendum; certificate to Secretary of State. In view of the emergency cited in the preamble, this Act shall be submitted to the legal voters of the district at a special election or elections called and held for the purpose. This election shall be called by the municipal officers of the Town of Vinalhaven and shall be held at the regular voting places. The special election shall be called, advertised and conducted according to the law relating to municipal elections; provided the boards of registration shall not be required to prepare nor the town clerks to post a new list of voters; and for this purpose the boards of registration shall be in session on the 3 secular days next preceding that election, the first and second days thereof to be devoted to registration of voters and the last day to enable the boards to verify the corrections of the lists and to complete and close up their records of that session. The town clerk shall reduce the subject matter of this Act to the following question: "Shall 'An Act to Incorporate the Vinalhaven Water District,' passed by the Second Regular Session of 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. In view of the emergency cited in the preamble, this Act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters of that district voting at that election, but only if the total number of votes cast for and against the acceptance of this Act in that special election equals or exceeds 20% of the total number of names on the check list of voters in the water district in the Town of Vinalhaven provided for herein, which check list shall be used at that

election; but failure of approval by the necessary majority or percentage of voters shall not prevent subsequent elections.

The results of these elections shall be declared by the municipal officers of the Town of Vinalhaven and due certificate thereof filed by the town clerk with the Secretary of State.

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

Effective March 24, 1978

CHAPTER 100

AN ACT to Authorize Washington County to Raise Either \$1,200,000 for Construction or \$900,000 for Renovation of a Detention Center.

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

Sec. 1. Loan authorized. The treasurer of the County of Washington is authorized to procure, by loan on the faith and responsibility of that county, a sum of money not exceeding \$1,200,000 or \$900,000, as determined by the voters of Washington County under section 8, exclusive of and in addition to the loans authorized by existing statutes, for the purpose of building a detention center located in Machias, in the County of Washington, which may be either a renovation and enlargement of the present jail facilities or an entirely new jail facility at a different location, together with any land required therefor, as determined by the voters of Washington County under section 8.

Sec. 2. Procedure. The county commissioners are authorized to raise the sum of money necessary to carry out the purposes of this Act by following the provisions of either section 3, section 4 or section 5, or a combination thereof, as hereinafter provided.

Sec. 3. Aid from other sources. The county commissioners of the County of Washington are authorized to borrow any portion of the sums herein authorized from or through any agency or department of the State of Maine and of the United States Government. The county commissioners are authorized to receive grants of money and other assistance from or through any agency or department of the State of Maine and of the United States Government for any of the purposes herein authorized.