

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985
Chapters 384-End

AND AT THE

FIRST SPECIAL SESSION

November 13, 1985

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine
1985

**PRIVATE AND
SPECIAL LAWS**

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

5. Build and maintain a sewage system; and
6. Have the exclusive authority to grant permits for exhibitions or shows and to collect fees and penalties regarding those exhibitions or shows as authorized under municipal law?"

The result of the vote taken at the meeting shall be declared in open meeting by the assessors and a certificate of the result of the meeting shall be filed by the clerk with the Secretary of State.

If this Act is accepted by a majority of the legal voters voting at the meeting in person or by absentee ballot, then this Act shall take effect upon their acceptance.

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

Effective Pending Referendum.

CHAPTER 53

H.P. 1116 - L.D. 1626

AN ACT to Create the Twin Villages Water District.

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

Sec. 1. Territorial limits; name; purposes; Subject to section 16, the inhabitants and territory within the Towns of Newcastle and Damariscotta shall constitute a quasi-municipal corporation under the name of "Twin Villages Water District" for the purpose of supplying the inhabitants of the district with pure water for domestic, sanitary, manufacturing and municipal purposes. All incidental rights, powers and privileges necessary to the accomplishment of the main objectives set forth in this Act are granted to the Twin Villages Water District.

Sec. 2. Source of supply. The water district, for the purposes of its incorporation, may take, hold, divert, use and distribute water from any source in the Towns of Newcastle and Damariscotta and from any other source from which the Maine Water Com-

pany, Damariscotta Division, is now authorized to take water, including sources outside the Towns of Newcastle and Damariscotta.

Sec. 3. Eminent domain. The district may acquire and hold as for public uses, lands, interests therein and water rights. These may be acquired by purchase, gift or exercise of the right of eminent domain, which right is expressly delegated to the water district for use within the district and for the purposes of section 11. Nothing contained in this Act may 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 by subsequent Act of the Legislature or as provided in section 11.

Sec. 4. Authorized to lay pipes and fixtures through public ways and across private lands. Provided that the necessary easements or rights-of-way are acquired, the district may lay pipes, aquaducts, mains and fixtures as may be necessary, in and through the streets, roads, ways, highways and private lands in the district and maintain and replace the same. The water district may excavate through any lands when necessary and convenient for its corporate purposes. Whenever the district lays any pipes, aquaducts or mains in any street, road, way or highway, it shall do so with as little obstruction as practicable to the public travel and shall at its own expense without unnecessary delay replace in proper condition the earth and pavement removed.

Sec. 5. Authorized to erect and maintain dams, reservoirs, and similar facilities. Provided that the necessary property rights are acquired, the district may erect and maintain all dams, pumping stations, reservoirs, standpipes, treatment facilities and structures necessary and convenient for its corporate purposes.

Sec. 6. Procedure in exercising rights of eminent domain; assessment of damages; appeal procedure. In exercising the right of eminent domain in the taking of lands, interests therein or water rights, the district shall file in the office at the county commissioners of Lincoln County and record in the Lincoln County registry of deeds plans of the location of all such property to be taken, with an appropriate description and the names of the owners, 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 which it is authorized to take, and which is described in that location, or if the location recorded is defective or uncertain, it may, at any time, correct and perfect that location and file a new description, 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 is not liable for any acts which would have been justified if the original taking had been lawful. No entry may be made on any private lands, except to make surveys, until the expiration of 10 days from that filing, at which time possession may be had of all lands, interests therein or water rights so taken, but title shall not vest in the district until payment therefor.

If any person or corporation sustains damages by any taking and does not agree with the water district on the sum to be paid therefor, either party, upon petition to the county commissioners of Lincoln County, may have those damages assessed by them; and the procedure and right of appeal shall be the same as are prescribed in the case of damages by the laying out of town ways.

Sec. 7. Procedures for crossing of public utility lines. In case of any crossing of a public utility line or right-of-way, unless consent is given by the public utility as to place, manner and conditions of the crossing, within 30 days after that 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 the public utility shall be done under the supervision and to the satisfaction of the public utility or as prescribed by the Public Utilities Commission, but at the expense of the district.

Sec. 8. Board of Trustees. All of the affairs of the district shall be managed by a board of trustees composed of 5 members, 2 of whom shall be legal voters of the Town of Newcastle and 2 of whom shall be legal voters of the Town of Damariscotta and one of whom shall be a legal voter of either town chosen for the at-large seat. Each trustee shall serve for a term of 3 years, except that the initial appointed trustees shall serve only until the first elected trustees are qualified and the first elected trustees shall serve the following terms: From each town one trustee shall serve a term of one year; one trustee shall serve a term of 2 years; and the at-large

trustee shall serve a term of 3 years. At their first meeting, the first elected trustees shall determine their terms of office by lot. Initially, 2 of the trustees shall be appointed by the municipal officers of Damariscotta and 2 of the trustees shall be appointed by the municipal officers of Newcastle and one of the trustees shall be appointed by the municipal officers of both towns together. The term of office of the trustees shall end on April 30th or until their successors are qualified. Whenever the term of office of a trustee will expire within the year, a successor shall be elected by secret ballot at the regular yearly municipal elections of Newcastle and Damariscotta. Notwithstanding the residency requirements for trustees, all voters of the district are eligible to vote for all members of the board of trustees. Nominations for trustees shall be in accordance with the procedures for municipal elections, but voters from either town may sign the petitions, which shall be verified by the registrar of voters in the town of residence, and the dates of notice and filing shall be determined based on the date of elections in the first of the towns to vote in the calendar year. There shall be a separate ballot for the election of trustees of the water district. If the municipal elections are not on the same date, the ballots for trustees from the first town shall be sealed and kept securely by the town clerk until the voters in the 2nd town have cast their ballots. Then, all the ballots shall be counted and the results certified by the clerks of both towns. In case any other vacancy arises, it shall be temporarily filled by appointment by the municipal officers of the town or towns in the same manner as the initial appointed trustees and shall be permanently filled for the unexpired term at the next regular annual municipal elections. When any trustee ceases to be a resident of the town or towns from which he was elected, he vacates the office of trustee.

No employee of the district may serve as trustee or be a candidate for that office while still an employee. No person may be employed by the district in any other capacity while holding the office of trustee.

Organization of the board of trustees shall be in accordance with the Maine Revised Statutes, Title 35, section 3223, subsection 3. The trustees shall have the powers specified in the Maine Revised Statutes, Title 35, section 3223, subsection 3.

All decisions of the board of trustees shall be by a majority of those present and voting. A quorum of the board of trustees shall be 3 trustees.

The trustees shall receive compensation as recommended by them and approved by a majority of the municipal officers of both municipalities together, including compensation for any duties they perform as officers, as well as for their duties as trustees. Certification thereof shall be recorded with the Secretary of State and recorded in the bylaws. Their compensation for duties as trustees shall be on the basis of a specified amount for each meeting actually attended and reimbursement for travel and expenses, with the total not to exceed such specific amount as may be specified in the bylaws.

Sec. 9. Authorized to receive governmental aid; to borrow money; to issue bonds and notes. For accomplishing the purposes of this Act, the district, through its trustees, without vote of the inhabitants, may receive municipal, state and federal aid grants. The district may reimburse the Towns of Newcastle and Damariscotta for any expense incurred for the benefit of the district.

The district, through its trustees, without the vote of its voters, may borrow money temporarily and issue therefor its negotiable notes, for the purpose of renewing and refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under this Act, including organizational and other necessary expenses and liabilities, whether incurred by the district or the Towns of Newcastle or Damariscotta.

The district, through its trustees, may issue bonds, notes or other evidences of indebtedness of the district, in such amounts, bearing such interest and having such terms as the trustees shall determine, provided that, except for the purposes specified in sections 10 and 11, issuance of bonds and notes shall be in accordance with this section.

In the event that the trustees vote to authorize bonds or notes, the estimated cost of which, singly or in the aggregate included in any one financing, is \$150,000 or more adjusted, relative to 1981 as the base year according to the annual Consumer Price Index, as defined in Title 5, section 1001, subsection 6-A, the trustees shall provide notice to the general public of the proposed bond or note issue and the purposes for which the debt is being issued. The notice shall be published at least once in a newspaper having general circulation in the district. The trustees shall give notice to each ratepayer by mail.

No debt may be incurred under the vote of the trustees until the expiration of 7 full days follow-

ing the date on which the notice was first published and mailed. Prior to the expiration of the period, the trustees shall call a special district meeting for the purpose of permitting the collection of testimony from the public concerning the amount of debt so authorized.

Except for indebtedness to fund projects specifically mandated by the State Government and Federal Government, for debts in excess of the amount specified in this section, if requested by petition of not less than 50 of the voters or 5% of the voters of the district, whichever is greater, filed with the clerk of the district on or before the date of the meeting, the meeting shall express approval or disapproval of the amount of debt authorized by the trustees. If a majority of voters present and voting expresses disapproval of the amount of debt authorized by the trustees, the debt shall not be incurred and the vote of the trustees authorizing it 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. Bonds, notes or evidences of indebtedness may be issued with or without provisions 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 faces the words "Twin Villages Water District," shall be signed by the treasurer, if any, and countersigned by the president of the district and, if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer or president.

All bonds, notes and evidences of indebtedness 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 Maine Revised Statutes, Title 30, section 5053, and all provisions of that section shall be applicable thereto.

The district may refund and reissue, 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 this State and shall be free from taxation.

The total debt of the district outstanding at any one time shall not exceed \$1,000,000.

Sec. 10. Authority to purchase property of Maine Water Company. The Twin Villages Water District may acquire by purchase the plant, property, franchises, rights and privileges of the Maine Water Company. located in or serving the Towns of Newcastle and Damariscotta, except its cash assets and mortgages, liens and encumbrances held by the company, including all land, 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 Maine Water Company. The company may sell, transfer and convey its franchises and property to the water district, subject to the Public Utilities Commission approval.

Sec. 11. Procedure in case trustees and Maine Water Company fail to agree on terms of purchase. If the trustees fail to agree with the Maine Water Company upon the terms of purchase, then the district, through its trustees, may take such plant, property, interest and franchises of the Maine Water Company as set forth in section 10 in the manner provided in this section. The district, through its trustees, may file a petition entitled "Notice of Condemnation and Taking" in the clerk's office of the Superior Court for the County of Lincoln, addressed to any justice, giving notice of its condemnation and taking of the plant, property, interests and franchises of the Maine Water Company. After notice to the Maine Water Company, the court shall, after hearing, and after consideration of names submitted by the parties, appoint 3 referees, one of whom shall be a lawyer, for the purposes of fixing the valuations of the plant, property, interests and franchises of the Maine Water Company described in section 10. This appointment shall be treated as a reference pursuant to the Maine Rules of Civil Procedure, Rule 53(b)(1), and in all other respects the procedure shall be governed by the provisions of that rule and the Maine Revised Statutes, Title 4, section 501, except that the referees shall be obligated to file their report in the clerk's office within 6 months after their appointment. Upon confirmation of the report, the court 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 confirmed, and with the power to enforce the decree as in equity cases. Unless the parties agree otherwise within 60 days of final judgment, the district shall tender to the Maine Water Company a check in the amount determined by the court to be just compensation for the plant, property, interests and franchises taken from the Maine Water Company. Upon tender by the district of

that amount and the performance of all other terms and conditions imposed by the court, including without limitation the effect of material additions or subtractions from the plant, the plant, property, interests and franchises of the Maine Water Company, as described in section 10, shall become vested in the district. Appeal from the decision of the Superior Court may be had to the Law Court as in other civil actions.

Sec. 12. Reserve fund. The contingency reserve fund shall be governed by the provisions of the Maine Revised Statutes, Title 35, concerning reserve funds for quasi-municipal water districts.

Sec. 13. Water rates. Individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer or other designated officer of the district the rates established by the board of trustees for the water used by them. The rates shall be established in accordance with the Maine Revised Statutes, Title 35, section 73, so as to provide revenue for the purposes set forth therein.

Sec. 14. District and town authorized to make contracts. The district through its trustees may contract with persons and corporations, including the Towns of Newcastle and Damariscotta, and the Towns of Newcastle and Damariscotta may contract with the district for the supply of water for municipal purposes.

Sec. 15. Existing laws not affected; rights conferred subject to provisions of law. Nothing in this Act is intended to repeal or may be construed as repealing any existing law and all the rights and duties mentioned in this Act shall be exercised and performed in accordance with all the applicable provisions of the laws of this State.

Sec. 16. Certain sections inoperative on failure to acquire Maine Water Company plant. If the water district fails to acquire the plant, property, franchises, rights and privileges owned by the Maine Water Company and used or usable in supplying water to the Towns of Newcastle and Damariscotta or to file the petition referred to in section 11, on or before July 1, 1987, this Act shall be void.

Sec. 17. Acceptance subject to referendum. This Act shall take effect 90 days after adjournment of the First Regular Session of the 112th Legislature for the sole purpose of permitting its submission to the legal voters within the district at an election to be called for that purpose and to be held prior to

December 31, 1986. The election shall be called, advertised and conducted according to the law relating to municipal elections, provided that the registrars of voters in each municipality shall not be required to prepare or the clerks to post a new list of voters, and for this purpose the registrars of voters shall be in session the 3 secular days preceding the election, of which the first 2 days will be devoted to registration of the voters and the last day to enable the registrars to verify the lists and to complete the records of these sessions. The subject matter of this Act shall be reduced to the following question.

"Shall the Twin Villages Water District be created?"

The voters shall indicate by a cross or check mark placed against the words "yes" or "No" their opinion of the same.

The results shall be declared by the municipal officers of the Towns of Newcastle and Damariscotta and due certificate thereof filed by the clerks with the Secretary of State.

This Act shall take effect for all its purposes immediately upon its acceptance by a majority of all legal voters in both Newcastle and Damariscotta voting at the special election. Failure of the approval by the necessary majority of voters at any such election shall not prevent a subsequent election to be held for that purpose.

Effective Pending Referendum.

CHAPTER 54

H.P. 1140 - L.D. 1648

AN ACT to Authorize Franklin County to Raise
\$800,000 for Renovations and
Additions to the Franklin County Court
House.

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

Whereas, the Franklin County Court House needs renovations and additions to meet the needs of the handicapped as mandated by law; and