

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

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

**PRIVATE AND
SPECIAL LAWS**

OF THE

STATE OF MAINE

AS PASSED AT THE

SECOND REGULAR SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

CHAPTER 95

S.P. 672 - L.D. 1740

**AN ACT Relating to Financing the Capital
Improvement of Local Bridges.**

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

Sec. 1. P&SL 1983, c. 40, §2, last 4 lines, are repealed and the following enacted in their place:

<u>Highway-Local Bridge Improvements</u>	<u>1,500,000</u>	<u>1,500,000</u>
<u>Total Allocations</u>	<u>\$12,300,000</u>	<u>\$12,300,000</u>

Sec. 2. **Effective date.** This Act shall take effect 90 days after the adjournment of the Legislature or on July 1, 1986, whichever is later.

Effective July 16, 1986.

CHAPTER 96

S.P. 763 - L.D. 1927

**AN ACT to Allow the Freeport Sewer District
to Acquire the Freeport Branch of the
Maine Water Company.**

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

Whereas, the Freeport Sewer District is desirous of acquiring the Freeport Branch of the Maine Water Company; and

Whereas, the Charter of the Freeport Sewer District must be amended to allow the acquisition; and

Whereas, the Freeport Sewer District voted to make the acquisition on May 13, 1985, but it was too late to amend the charter in the First Regular Session of the 112th Legislature; and

Whereas, the acquisition will insure the continuation of safe and dependable water and sewerage services for the residents of the Town of Freeport; 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. P&SL 1947, c. 60, is amended by adding before section 1 the following:

PART I

Sec. 2. P&SL 1947, c. 60, Pt. II is enacted to read:

PART II

Sec. 1. Purposes. The district may supply its inhabitants 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 Part are granted to the district.

The water system, acquired and operated as provided in this section, shall constitute a separate department of the district and revenues of the department from water system rates, fees and charges shall be held by the district treasurer apart from other funds of the district. The revenue and any governmental grants or private gifts for water system purposes shall be applied by the treasurer without the need for specific appropriations by any town meeting only to the operation, maintenance, repair, reconstruction, improvement and extension of the water system and to the establishment of a water department sinking fund.

Sec. 2. Source of supply. The district may take, hold, divert, use and distribute water from any source in the Town of Freeport and from any other source from which the Maine Water Company, Freeport Division, is now authorized to take any water, including sources outside the Town of Freeport.

Sec. 3. Eminent domain. The district may acquire and hold, as for public uses, land, interest in land 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 dis-

trict. Nothing contained in this Part authorizes 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 by this section, by subsequent Act of the Legislature or as provided in section 10.

Sec. 4. Authorized to lay pipes, aqueducts, mains and fixtures through public ways and across private lands. The district may lay pipes, aqueducts, 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 those pipes, aqueducts, mains and fixtures. The district may excavate through any lands when necessary and convenient for its corporate purposes. Whenever the district lays any pipes, aqueducts 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 other structures. 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 of the county commissioners of Cumberland County and record in the Cumberland County Registry of Deeds plans of the location of all the 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 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

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 district on the sum to be paid therefor, either party, upon petition to the county commissioners of Cumberland 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. Authorized to receive governmental aid; borrow money; issue bonds and notes. For accomplishing the purposes of this Part, the district, through its trustees, without vote of the inhabitants, may receive municipal, state and federal aid grants. The district may reimburse the Town of Freeport for any expense incurred for the benefit of the district.

The district, through its trustees, without the vote of its inhabitants, may borrow money temporarily and issue therefore its negotiable notes, for the purpose of renewing and refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this Part, including organizational and other necessary expenses and liabilities, whether incurred by the district or the Town of Freeport.

The district, through its trustees, without the vote of its inhabitants, 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 9 and 10, issuance of bonds and notes shall be in accordance with the Maine Revised Statutes, Title 35, section 3224.

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 "Freeport Sewer District," shall be signed by the treasurer, if any, and countersigned by the chairman of the district and, if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer or chairman.

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.

Sec. 9. Authority to purchase property of Maine Water Company. The district may acquire by purchase the entire plant, property, franchises, rights and privileges of the Maine Water Company located in or serving the Town of Freeport, except its cash assets, mortgages, liens, encumbrances, accounts receivable and payable, 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 district, subject to the Public Utilities Commission approval.

Sec. 10. 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, the district, through its trustees, may take such plan, property, interests and franchises of the Maine Water Company, as set forth in section 9, 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 Cumberland 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 within 60 days after the filing of the petition, appoint 3 disinterested appraisers, one of whom shall be learned in the law, for the purpose of fixing the valuations of the plant, property, interests and franchises of the Maine Water Company described in section 9. 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 appraisers 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 make final decree upon the entire matter, including the application of the purchase money and transfer of the property, jurisdiction over which is confirmed, and with the power to enforce the decree as in equity cases. 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 9, 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. 11. Contingency Reserve Fund. The Contingency Reserve Fund shall be governed by the Maine Revised Statutes, Title 35.

Sec. 12. 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 in that section.

Sec. 13. District and town authorized to make contracts. The district through its trustees may contract with persons and corporations, including the Town of Freeport, and the Town of Freeport may contract with it for the supply of water for municipal purposes.

Sec. 14. Existing laws not affected; rights conferred subject to provisions of law. Nothing in this Part repeals any existing law and all the rights and duties mentioned in this Part shall be exercised and performed in accordance with all the applicable provisions of the laws of this State.

Sec. 15. Certain sections inoperative on failure to acquire Maine Water Company plant. If the 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 Town of Freeport, or file the petition referred to in section 10, this Part shall be inoperative December 31, 1987.

Emergency clause; referendum. In view of the emergency cited in the preamble, this Act shall take effect when approved for the sole purpose of permitting its submission to the legal voters within the Freeport Sewer District at an election to be called for that purpose and to be held prior to December 31, 1987. The election shall be called, advertised and conducted according to the law relating to municipal elections, provided that the registrar of voters in the municipality shall not be required to prepare or the clerk to post a new list of voters, and for this purpose the registrar 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 Freeport Sewer District be authorized to acquire the Freeport Branch of the Maine Water Company?"

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 Town of Freeport and due certificate thereof filed by the clerk 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 the Freeport Sewer District 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 97

H.P. 1417 - L.D. 2001

AN ACT to Amend the Charter of the Sewer District of the Town of Kennebunk.

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

Sec. 1. P&SL 1955, c. 69, §3, 2nd and 3rd ¶¶ are repealed and the following enacted in their place:

The terms of the trustees of the district in office on the date of this Act shall expire at midnight on the day of the annual town meeting of the Town of Kennebunk occurring in the year in which those terms would have expired under the law in effect at the time of their elections. Thereafter, the trustees of the district shall be elected at the annual town meeting of the Town of Kennebunk to serve until the annual town meeting occurring 5 years after their elections. Vacancies occurring after the effective date of this provision shall be filled for the unexpired term by the municipal officers of the Town of Kennebunk, unless the vacancy occurs within 3 months prior to the next annual town meeting, in which event