

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

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

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

Every drug dispensed pursuant to prescription, whether for a legend drug or not, shall carry on the label the following information: The prescription number; the date of filling; the patient's name; directions for use; the name and strength of the drug and the amount dispensed, including either the brand name of the drug or, if a generic and therapeutically equivalent drug is dispensed, it shall be in accordance with section 13781; the name of the practitioner prescribing the drug; and the name, address and telephone number of the pharmacy where the prescription was compounded and dispensed.

Sec. 6. Allocation. The following funds are allocated from Other Special Revenue Accounts to carry out the purposes of this Act.

1988-89

PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF

Board of Commissioners of the
Profession of Pharmacy

Positions	(-1,5)
Personal Services	\$(44,090)
All Other	85,000
Capital Expenditures	5,000

Licensing and Enforcement

Positions	(3)
Personal Services	80,000

DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
TOTAL

\$125,910

Sec. 7. Transition.

1. Funds transferred. All liabilities and assets shall remain with the Board of Commissioners of the Profession of Pharmacy and the Department of Professional and Financial Regulation.

2. Personnel transferred. All employees of the Board of Commissioners of the Profession of Pharmacy shall become employees of the Department of Professional and Financial Regulation. The accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement of these personnel shall remain with those personnel.

3. Rules and procedures. All rules and procedures currently in effect and operations pertaining to any unit and which are in compliance with the provisions of this Act shall remain in effect until rescinded or amended as provided by state law.

4. Members. Members of the Board of Commissioners of the Profession of Pharmacy who have been appointed to terms extending beyond the effective date of this Act shall continue to serve in their appointed terms of office under the Board of Commissioners of the Profession of Pharmacy and shall serve until their successors are appointed and qualified.

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

Effective April 11, 1988.

CHAPTER 711

S.P. 982 — L.D. 2610

AN ACT to Enable the Creation of Watershed Districts.

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

38 MRSA c. 23 is enacted to read:

CHAPTER 23

LAKE WATERSHED DISTRICTS

§2001. Watershed districts authorized

Watershed districts may be created pursuant to this section to protect, restore and maintain the water quality of great ponds and to manage and conserve the land and water resources of watersheds of great ponds within the jurisdictions of these districts. The terms "watershed district" and "lake management district" are used interchangeably in this chapter.

§2002. Formation

1. Application. The municipal officers of the municipality or municipalities, or portions thereof, or the residents of unorganized territory that desire to form a watershed district shall file an application with the Board of Environmental Protection on a form or forms to be prepared by the board, setting forth the name or names of the municipality or municipalities, or portions thereof, or, in the case of residents of unorganized territory, the names of those residents that propose to be included in the district and they shall furnish such other data as the board may determine necessary and proper. The application shall contain, but not be limited to, a description of the territory of the proposed district, the name proposed for the district which shall include the words "watershed district" or "lake management district" and a statement showing the existence in such territory of the need for a coordinated approach to lake watershed management as provided in this chapter.

2. Application by referendum. Residents of a municipality or municipalities, or portions thereof, that desire to form a watershed district may petition the municipal officers to file an application for a watershed district with the Board of Environmental Protection. The petition shall contain a description of the territory of the proposed district.

Upon receipt of a written petition signed by at least 10% of the number of voters voting for the gubernatorial can-

didates at the last statewide election in that proposed district, the municipal officers shall submit the question to the voters of the proposed district at the next general, primary or special election within the proposed district. The referendum question shall read as follows:

"Shall the municipal officers representing the proposed watershed district, consisting of (describe the territory of the proposed district), file an application for a watershed district with the Board of Environmental Protection on behalf of the residents of the proposed district?"

If the referendum question is approved by a majority of the legal voters voting at the election, provided that the total number of votes cast for and against the referendum question equals or exceeds 20% of the total number of votes cast in the proposed district in the last gubernatorial election, the municipal officers representing the residents of the proposed watershed district shall file an application for that proposed district in accordance with subsection 1.

3. Public hearing. Upon receipt of the application, the Board of Environmental Protection shall cause a public hearing to be held on the application in one of the municipalities within the proposed district or, in the case of an application made solely by residents of unorganized territory, at some convenient place within the boundaries of the proposed district.

4. Approval of application. After the public hearing on the evidence received at the hearing, the board shall make findings of fact and conclusions and determine of record whether or not the conditions requisite for the creation of a watershed district exist in the territory described in the application. If the board finds that such conditions do exist, it shall issue an order approving the proposed district as conforming to the requirements of this chapter and designating the name of the proposed district. The board shall give notice to the municipal officers within the municipality or municipalities involved and, when unorganized territory is involved, to the persons signing the application mentioned in subsection 1 and the commissioners of the county in which the unorganized territory is located of a date, time and place of a meeting of the municipal officers of the municipality or municipalities involved and, when unorganized territory is involved, a joint meeting of all the persons signing the application mentioned in subsection 1 and the commissioners of the county in which the unorganized territory is located. The notice shall be in writing and sent by registered or certified mail, return receipt requested, to the addresses shown on the application mentioned in subsection 1 and, in the case of county commissioners, to the addresses of those commissioners obtained from the county clerk. A return receipt properly endorsed shall be evidence of the receipt of notice. The notice shall be mailed at least 10 days prior to the date set for the meeting.

5. Denial of application. If the board, after that pub-

lic hearing, determines that the creation of a watershed district in the territory described in the application is not warranted for any reason, it shall make findings of fact and conclusions and enter an order denying its approval. The board shall give notice of that denial by mailing certified copies of the decision and order to the municipal officers of the municipality or municipalities involved and, when unorganized territory is involved, to the persons signing the application mentioned in subsection 1 and the commissioners of the county in which the unorganized territory is located. No application for the creation of a watershed district, consisting of exactly the same territory, may be entertained within one year after the date of the issuance of an order denying approval of the formation of that watershed district, but this provision shall not preclude action on an application for the creation of a watershed district embracing all or part of the territory described in the original application, provided that another municipality or fewer municipalities, or other or fewer sections thereof, are involved or that a different area of unorganized territory is involved or, in the case of an application made solely by residents of unorganized territory, that an allegation of change in circumstances from those existing on the date of the previous application must be furnished to the board with the resubmitted application.

6. Joint meeting. The persons to whom the notice described in subsection 3 is directed shall meet at the time and place appointed. When more than one municipality or unorganized territory is involved, the persons shall organize by electing a chairman and a secretary. No action may be taken at any such meeting unless, at the time the meeting is convened, there are present at least 1/2 of the total number of municipal officers eligible to attend and participate at the meeting and, when the proposed district includes or is composed solely of unorganized territory, at least 2/3 of the persons signing the application mentioned in subsection 1 and at least 2 commissioners of the county in which the unorganized territory is located, other than to report to the Board of Environmental Protection that a quorum was not present and to request the board to issue a new notice for another meeting. The purpose of the meeting shall be to determine a fair and equitable number of trustees, subject to section 2004, to be elected by and represent each participating municipality or, in the case of unorganized territory, the residents of that territory within the bounds of the proposed district. When a decision has been reached on the number of trustees and the number to represent each municipality or the residents of the unorganized territory within the bounds of the proposed district, subject to the limitations provided, this decision shall be reduced to writing by the secretary and must be approved by a 2/3 vote of those present. When 2 or more municipalities are, or unorganized territory is, involved, the vote so reduced to writing and the record of the meeting shall be signed by the chairman and attested by the secretary and filed with the board. When a single municipality is involved, a copy of the vote of the municipal officers duly attested by the clerk of the municipality shall be filed with the board.

7. Submission. When the record of the municipality or the record of the joint meeting, when municipalities are, or unorganized territory is, involved, has been received by the board and found by it to be in order, the board shall order the question of the formation of the proposed watershed district and other related questions to be submitted to the legal voters residing within that portion of the municipality, municipalities or unorganized territory which falls within the proposed watershed district. The order shall be directed to the municipal officers of the municipality or municipalities which propose to form the watershed district and, when the proposed watershed district includes or is composed solely of unorganized territory, to the commissioners of the county in which the unorganized territory is located, directing them to call town meetings, city elections or a meeting of the residents of the unorganized territory within the bounds of the proposed watershed district for the purpose of voting in favor of or in opposition to each of the following articles or questions, as they may apply, in substantially the following form:

A. To see if the town (or city) of (name of town or city) will vote to incorporate as a watershed district to be called (name) Watershed District;

B. To see if the residents of the following described section of the town (or city) of (name of town or city) will vote to incorporate as a watershed district to be called (name) Watershed District: (legal description of the bounds of section to be included);

C. To see if the residents of the (following described section of) (name of town or city) (unorganized territory) will vote to join with the residents of the (following described section of) (name of town or city) (unorganized territory) to incorporate as a watershed district to be called (name) Watershed District: (legal description of the bounds of the proposed watershed district, except where the district is to be composed of entire municipalities);

D. To see if the inhabitants of the following described section of that unorganized territory known as Township (number), Range (number) will vote to incorporate as a watershed district to be called (name) Watershed District: (legal description of the bounds of the proposed watershed district);

E. To see if the residents of (the above described section of) (name of town or city) will vote to approve the total number of trustees and the allocation of representation among the municipalities (and included section of unorganized territory) on the board of trustees as determined by the municipal officers (and the persons representing the included area of unorganized territory) and listed as follows:

Total number of trustees shall be _____ and the residents of (the above described section of) (town or city) shall be entitled to _____ trustees (and the residents of the above described section of unorganized territory shall be entitled to _____ trustees); and

F. To choose (number) trustees to represent the residents of (the above described section) of (town or city) (unorganized territory) on the board of trustees of the (name) Watershed District.

At any such town meeting, city election or election by the residents of the proposed watershed district, trustees shall be chosen to represent the municipality or the unorganized territory within the proposed watershed district in the manner provided in section 2005.

§2003. Approval and organization

When the residents of the municipality or each municipality, when more than one is involved, or the unorganized territory within the proposed watershed district have voted upon the formation of a proposed watershed district and all of the other questions submitted therewith, the clerk of each municipality and, when the proposed district includes unorganized territory, the county clerk shall make a return to the Board of Environmental Protection in such form as the board determines. If the board finds from the returns that a majority of the residents within each of the municipalities involved and, when the proposed district includes unorganized territory, that a majority of the residents of the unorganized territory within the proposed watershed district, voting on each of the articles and questions submitted to them, have voted in the affirmative and have elected the necessary trustees and the names of those elected to represent each municipality, or the residents of the unorganized territory within the proposed watershed district, and that all other steps in the formation of the proposed watershed district are in order and in conformity with law, the board shall make a finding to that effect and record the same upon its records. The board shall, immediately after making its findings, issue a certificate of organization in the name of the watershed district in such form as the board determines. The original certificate shall be delivered to the trustees on the day that they are directed to organize and a copy of the certificate duly attested by the Commissioner of Environmental Protection shall be filed and recorded in the Office of the Secretary of State. The issuance of that certificate by the board shall be conclusive evidence of the lawful organization of the watershed district. The watershed district shall not be operative until the date set by the board under section 2006.

§2004. Trustees

1. Authorization. All the affairs of a watershed district shall be managed by an elected board of trustees which shall consist of not less than 3 trustees, or not less than 5 trustees in watershed districts involving more than one municipality or one or more municipalities and residents of an unorganized territory. The exact number of trustees shall be determined in accordance with section 2002. A watershed district may alter the number of trustees by submitting the proposed alteration to the voters in the same manner as provided in section 2002, subsection 7. No municipality nor unorganized ter-

ritory within any watershed district may have less than one trustee. A quorum of the trustees may conduct the affairs of the district even if there is a vacancy on the board of trustees.

2. Recall. Trustees may be recalled under the following provisions.

A. The qualified electors of the watershed district may petition for the recall of any trustee after the first year of the term for which the trustee is elected by filing a petition with the municipal clerk, or the county commissioners in unorganized territory, demanding the recall of the trustee. A trustee may be subject to recall for misfeasance, malfeasance or nonfeasance in office. The petition shall be signed by electors of the political subdivision which that trustee represents equal to at least 25% of the vote cast for the office of Governor at the last gubernatorial election within the political subdivision of the trustee being recalled. The recall petition shall state the reason for which removal is sought.

B. Within 3 days after the petition is offered for filing, the official with whom the petition is left shall determine by careful examination whether the petition is sufficient and so state in a certificate attached to the petition. If the petition is found to be insufficient, the certificate shall state the particulars creating the insufficiency. The petition may be amended to correct any insufficiency within 5 days following the affixing of the original certificate. Within 2 days after the offering of the amended petition for filing, it shall again be carefully examined to determine sufficiency and a certificate stating the findings shall be attached. Immediately upon finding an original or amended petition sufficient, the official shall file the petition and call a special election to be held not less than 40 days nor more than 45 days from the filing date. The official shall notify the trustee, against whom the recall petition is filed, of the special election.

C. The trustee against whom the recall petition is filed shall be a candidate at the special election without nomination, unless the trustee resigns within 10 days after the original filing of the petition. There shall be no primary. Candidates for the office may be nominated under the usual procedure of nomination for a primary election by filing nomination papers, not later than 5 p.m., 4 weeks preceding the election and have their names placed on the ballot at the special election.

D. The trustee against whom a recall petition has been filed shall continue to perform the duties of office until the result of the special election is officially declared. The person receiving the highest number of votes at the special election shall be declared elected for the remainder of the term. If the incumbent receives the highest number of votes, the incumbent shall continue in office. If another receives the highest number of votes, that person shall succeed the incumbent, if qualified, within 10 days after receiving notification.

E. After one recall petition and special election, no further recall petition may be filed against the same trustee during the term for which the trustee was elected.

§2005. Election of trustees

Trustees shall be nominated and elected in the same manner as municipal officers are nominated and elected under Title 30, or in accordance with a municipal charter, whichever is applicable; or, in the case of unorganized territory, in accordance with the procedure for the organization of larger townships set forth in Title 30, section 5602. Upon receipt of the names of all the trustees, the Board of Environmental Protection shall set a time, place and date for the first meeting of the trustees, notice of the meeting to be given to the trustees by certified or registered mail, return receipt requested, mailed at least 10 days prior to the date set for the meeting, to determine the length of their terms. The terms shall be determined by lot in accordance with the following table:

Total number of trustees	TERM		
	1 year	2 years	3 years
5	1	2	2
6	2	2	2
7	2	2	3
8	2	3	3
9	3	3	3
10	3	3	4
11	3	4	4
12	4	4	4
13	4	4	5
14	4	5	5
15	5	5	5
16	5	5	6
17	5	6	6
18	6	6	6

The trustees shall enter on their records the determination so made. The trustees shall serve their terms as determined at the organizational meeting, except that, in the case of trustees representing a municipality, those trustees shall serve an additional period until the next regular election of the municipality and, thereafter, those trustees' terms of office shall date from the time of each regular municipal election; and except that, in the case of trustees representing residents of unorganized territory, those trustees shall serve until an election to fill the vacancies caused by the expiration of their terms shall be called by the county commissioners. The commissioners shall call the election in the same manner provided for the initial election of trustees and cause that election to be held on a date as closely following the date upon which the terms expire.

They shall organize by election from their own members a chairman, a vice-chairman, a treasurer and a clerk and choose, employ and fix the compensation of other necessary officers and agents who shall serve at their pleasure and they shall adopt a corporate seal. Prior to the election of the officers, each trustee shall be sworn to the faithful performance of the trustee's duties.

The trustees may from time to time adopt, establish and amend through bylaws consistent with the laws of the State and necessary for their own convenience and the proper management of the affairs of the district and perform any other acts within the powers delegated to them by law.

After the original organizational meeting, the trustees shall meet annually at a time determined by their bylaws for the purpose of electing from among the members a chairman, vice-chairman, treasurer and clerk to serve until the next annual election and until their successors are elected and qualified. The treasurer shall furnish bond in such sum and with such sureties as the trustees approve, the cost of the bond to be paid by the district. The chairman, vice-chairman, treasurer and clerk may receive compensation for serving in these capacities as the trustees determine. This compensation shall be in addition to the compensation payable to them as trustees. The trustees shall make and publish an annual report including a report of the treasurer.

At the expiration of the terms, the vacancy shall be filled for a term of 3 years and the trustees shall notify the municipal officers of the municipalities within the watershed district before the annual town meeting or before the regular city election if a city falls within the watershed district; or, in the case of unorganized territory, the trustees shall notify the commissioners of the county in which the unorganized territory, encompassed by the watershed district, is located of the fact that a vacancy will occur so that the municipal officers in these municipalities or the county commissioners may provide for the election of a trustee or trustees to fill the vacancy that will occur. All trustees shall serve until their successors are elected and qualified. The trustees shall receive compensation as recommended by them and approved by majority vote of the municipal officers in municipalities representing a majority of the population within the district, 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 based on the amount specified in the bylaws, each meeting actually attended and reimbursement for travel and expenses, with the total not to exceed the amount specified in the bylaws. Compensation schedules in effect on January 1, 1988 shall continue in effect until changed.

When a vacancy on the board of trustees occurs by reason of death, resignation or otherwise, the municipal officers of the municipality that the trustee represented shall fill the vacancy by electing a trustee from the municipality to serve until the municipality shall fill the vacancy at its next annual town meeting or next regular city election. In the case of a vacancy in the office of a trustee representing unorganized territory, the commissioners of the county in which the unorganized territory is located shall fill the vacancy by electing a trustee from the unorganized territory and resident within the boundaries of the watershed district until the next elec-

tion of trustees is held. The person so chosen shall serve until a successor is elected and qualified. If any member of the board of trustees moves from the municipality represented, or, in the case of a trustee representing unorganized territory, if that trustee moves outside the boundaries of the watershed district, a vacancy shall be declared to exist by the board of trustees and the municipal officers or the county commissioners shall choose another trustee as provided.

No member of the board of trustees may be employed for compensation or in any other capacity by the watershed district of which the member is a trustee, except as otherwise provided.

§2006. Operational date of watershed districts

On the date set by the Board of Environmental Protection as provided in section 2005, the watershed district shall become operative.

§2007. Powers

A watershed district has the following powers.

1. General. Any district organized under this chapter may sue and be sued; make contracts; accept gifts, purchase, lease, devise or otherwise acquire, hold or dispose of real or personal property; disburse money; contract debt; adopt rules; and do such other acts as necessary to carry out the purposes of the district.

2. Security required. The district may require that a contracting party give adequate security to assure performance of the contract and to pay all damages which may arise from inadequate performance.

3. Responsibilities. The district shall be responsible for:

A. Initiating and coordinating research and surveys for the purpose of gathering data on great ponds, related shorelands and watersheds within the territory of the district;

B. Planning lake restoration projects;

C. Contacting and attempting to secure the cooperation of municipal officials and state agencies for the purpose of enacting and enforcing ordinances and regulations necessary to further the purposes of the district;

D. Adopting and implementing lake protection, management and restoration plans; and

E. Adopting and implementing plans and programs to facilitate coordination of water level management and surface water use on great ponds within the territory of the district.

4. Limits on jurisdiction. The limits on jurisdiction are as follows.

A. The district has no authority to set a water level regime for a body of water impounded by a dam which is exempt, under section 840, subsection 1, from the authority of the Board of Environmental Protection to set water level regimes.

B. The district's authority to set a water level regime for any water body within its boundaries and over any dams within its boundaries is subordinate to the authority of the Department of Environmental Protection under chapter 5, subchapter I, article 1, subarticle 1-B and article 3-A.

§2008. Budget meeting

The trustees of a watershed district shall annually before June 1st call a district budget meeting to approve the operating budget, reserve fund for a capital outlay purpose or capital outlay appropriations in the following manner.

1. Call and notice. Each district budget meeting shall be called by a warrant signed by a majority of the trustees. The warrant shall specify the time and place of the meeting and shall set forth the proposed budget and any other items of business. The warrant shall be directed to any resident of the district, by name, ordering that resident to notify all voters within the district to assemble at the time and place appointed. An attested copy of the warrant shall be posted by the person to whom it is directed in some conspicuous place in each of the municipalities within the district at least 7 days before the meeting. The person who gives notice of the meeting shall make a return on the warrant, stating the manner of notice in each municipality and the time when it was given.

2. Voting list. The trustees shall appoint a resident of the district to serve as registration clerk and to make and keep a voting list of all residents in the district eligible to vote. The registration clerk shall compile the district voting list from the voting lists of all municipalities lying within the district. At least 14 days before any budget meeting, the registration clerk shall bring that voting list up to date by comparing the list with those voting lists found in the municipalities within the district and by making such additions and deletions as necessary. No additions or deletions may be made within the 14-day period prior to the meeting.

3. Quorum; meeting rules. Each person whose name appears on the district voting list may attend and vote at a district budget meeting. Twenty-five registered voters constitute a quorum. When a quorum of voters is present, the chairman of the trustees shall open the meeting by calling for the election of a moderator, receiving and counting votes for moderator and swearing in the moderator. As soon as a moderator has been elected and sworn, the moderator shall preside at the meeting. The secretary of the district shall record accurately all votes of the meeting.

4. Budget approval. The trustees shall thoroughly explain the proposed budget and the voters of the district shall be given an opportunity to be heard. A budget must be approved by the voters of the district at the district budget meeting. At the district budget meeting, only those items dealing with the expenses necessary to operate the district, appropriations for a reserve fund and capital outlay shall be subject to change by the voters. If a budget for the operation of the district is not approved prior to July 1st in any year, the budget as submitted by the trustees for operational expenses, reserve fund and capital outlay purposes shall be automatically considered the budget approved for operational expenses in the ensuing fiscal year.

§2009. Exemption

The property, both real and personal, rights and franchises of any watershed district formed under this chapter and held within the boundaries of the district is forever exempt from taxation.

§2010. Assessments

Assessments shall be made as follows.

1. Method. Following adoption of the district budget, the trustees shall issue their warrants, in substantially the same form as the warrant of the Treasurer of State, for taxes to each participating municipality requiring it to pay its proportionate part of the district budget. Each municipality's proportionate part of the budget shall be based upon its percentage of shoreline frontage on the great ponds within the district's territory.

2. Fiscal year; payments. The fiscal year of the district shall be July 1st to June 30th. In the fiscal year in which the assessment is levied, the treasurer of each municipality shall pay the amount of the assessment in 3 equal installments to the treasurer of the district. Installments shall be paid by August 1st, December 1st and March 31st.

3. Water utility benefiting. Any water utility benefiting from the services of this district has the right to contribute funds to the district as a utility operating expense.

§2011. Liability

Any watershed district formed under this chapter is a governmental entity for the purposes of Title 14, chapter 741.

Effective August 4, 1988.

CHAPTER 712

S.P. 860 — L.D. 2248

AN ACT Relating to the Penobscot Indian Reservation.