

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE

AS PUBLIC LAWS AND CONSTITUTIONAL RESOLUTIONS

at the

**THIRD SPECIAL SESSION**

September 15, 1988 to September 16, 1988

and the

**FOURTH SPECIAL SESSION**

November 28, 1988

AND

AS PRIVATE AND SPECIAL LAWS AND RESOLVES

at the

**FIRST REGULAR SESSION**

December 3, 1986 to June 30, 1987

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987

**SECOND REGULAR SESSION**

January 6, 1988 to May 5, 1988

**THIRD SPECIAL SESSION**

September 15, 1988 to September 16, 1988

and the

**FOURTH SPECIAL SESSION**

November 28, 1988

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

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Twin City Printery  
Lewiston, Maine  
1989

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**PRIVATE AND  
SPECIAL LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
SECOND REGULAR SESSION

of the

ONE HUNDRED AND THIRTEENTH LEGISLATURE

1987

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al thereto, to the extent that the Maine Revised Statutes, Title 35-A and the amendments thereto affect the operations of the district.

**Sec. 16. Separability clause.** If any section or part of a section of this charter shall be held invalid by a court of competent jurisdiction, the holding shall not affect the remainder of this charter, with the intention that the remaining portions of this charter shall stand, notwithstanding the unconstitutionality or invalidity of any section, sentence, clause or phrase.

**Sec. 17. Referendum; effective date.** This Act shall take effect when approved only for the purpose of permitting its submission to the legal voters of the district at a special election or elections called and held for the purpose. The election shall be called by the municipal officers of the Town of Fayette and shall be held at the regular voting places; the dates of the elections shall be determined by the municipal officers, but the first meeting of the town shall not be later than December 1, 1988. These special elections shall be called, advertised and conducted according to the law relating to municipal elections, provided that the board of registration is not required to prepare, nor the town clerk to post, a new list of voters. For this purpose, the board of registration shall be in session on the 3 secular days next preceding the elections, the first and 2nd days to be devoted to registration of voters and the last day to enable the board to verify the corrections of the lists and to complete and close up their records of the session. The town clerk shall reduce the subject matter of this Act to the following question:

"Shall 'The Act to Incorporate the Fayette Water District' passed by the 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. This Act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters of the district voting at the elections, but only if the total number of votes cast for and against the acceptance of this Act in the special elections equals or exceeds 20% of the total number of names on the check list of voters of the town provided for in this Act, which check list shall be used at such elections, but failure of approval by the necessary majority or percentage of voters shall not prevent subsequent elections.

The result of these elections shall be declared by the municipal officers of the town and due certificates 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 pending referendum.

## CHAPTER 91

H.P. 1675 — L.D. 2294

### AN ACT to Incorporate the Pembroke Utilities District.

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

Whereas, the present water system is inadequate and in need of immediate improvement and repair to protect the quality of the water, health and well-being of the inhabitants of the Town of Pembroke; and

Whereas, an adequate supply of pure water is essential to the health and well-being of the inhabitants of the Town of Pembroke; and

Whereas, it is desirable that a public district be formed in Pembroke to be able to supply water to the people of the area; and

Whereas, it is vital that this be done at once for the benefit of the people of the area; 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; name; purposes.** The territory comprising the Town of Pembroke and the inhabitants of the town are created a body politic and corporate under the name of "Pembroke Utilities District" for the purpose of supplying inhabitants and others elsewhere with pure water and sewage disposal services for domestic, sanitary, commercial, industrial, agricultural or municipal purposes and for selling to the inhabitants and others in the district or elsewhere. All incidental rights, powers and privileges necessary to the accomplishment of the main objectives set forth in this Act are granted to the Pembroke Utilities District.

**Sec. 2. Powers.** The district, for the purposes of its incorporation, may take, hold, divert, use and distribute or sell water from any source in Pembroke, natural or artificial, approved by the Department of Human Services. The district may not take, withdraw or divert water from any source for those purposes set forth in this Act, unless it has filed a written petition and obtained the approval of the Public Utilities Commission. The petition shall include a plan for the taking, withdrawal or diversion. The petition and plan shall set forth adequate information upon which findings may be made regarding the nature, capacity, safe yield and recharge-

ability of the source, the amount of water to be taken over time and other existing and projected uses and demands on the source. The commission may by rule or order prescribe other information to be contained in the petition and plan. The commission may not approve a petition unless it finds that the plan ensures that adequate water remains in the source to meet the reasonable needs of existing and projected demands on the source. The commission may impose reasonable terms, conditions or other requirements on the plan. The commission shall issue its order approving or disapproving the plan within 9 months after it determines the petition to be complete.

**Sec. 3. Exclusions.** Man-made ponds, springs, wells supplying private dwellings and existing septic systems of residents of the Town of Pembroke are excluded from the powers set out in section 2.

**Sec. 4. Eminent domain.** The district, for the purposes of its incorporation, may take and hold within the area covered by the district for public uses real estate, personal property and any interest necessary for these purposes, by purchase, lease or otherwise. The district is authorized to acquire for these purposes any lands, interest in lands or water rights necessary for erecting and maintaining plants and works for flowage, pumping, supplying water through its mains; for forming basins and reservoirs, preserving the purity of the water; for laying and maintaining mains, aqueducts and other structures used for taking, distributing, discharging and disposing of water; for erection of buildings for pumping works; for laying pipes and maintaining them; 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 of roadways to its sources of supply reservoirs, mains, aqueducts, structures, plants, works facilities, distribution facilities and lands.

The district may lay pipes, mains, conduits, aqueducts and other fixtures in and through the streets, roads, ways and highways within the district and across private lands, and maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures as may be necessary and convenient for any of its corporate purposes and authorities. Whenever the district lays or installs any pipes, aqueducts or fixtures in any street, road, way or highway, it shall cause the same to be done with as little obstruction as practicable to the public travel and shall cause, at its own expense, without unnecessary delay, the earth and pavement removed by it to be replaced so as to leave the surface in proper condition.

Nothing contained in this Act may be construed as authorizing the district to take by right of eminent domain any of the property or facilities of any other public utility, district or cooperative or district used or acquired for future use by the owner in the performance of a public duty, unless expressly authorized or by subsequent

Act of the Legislature. Nothing contained in this Act may be construed to empower the district to take by eminent domain any dam, building or other improvement or the real estate on which any dam, building or other improvement is situated.

**Sec. 5. Procedure in exercising right of eminent domain; assessment of damage; appeal procedure.** In exercising the right of eminent domain in the taking of lands, interests in lands or water rights, the district shall file in the office of the county commissioners of Washington County and record in the Washington 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. If, 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. 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 in lands or water rights so taken, but title shall not vest in the district until payment is made.

If any person sustaining damages by any taking does not agree with the trustees of the district upon the sum to be paid, either party, upon petition to the county commissioners of Washington County, may have damages assessed by them. The procedure and all subsequent proceedings and the rights of appeal shall be had under the same restrictions, conditions and limitations as are or may be prescribed in the case of damages by the 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, district or cooperative owning or operating the 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 the crossing. All work on the property of the public utilities 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. 7. Trustees; how appointed; meetings; officers.** All of the affairs of the district shall be managed by a board of 5 trustees who shall be chosen as provided in the Maine Revised Statutes, Title 35-A, chapter 63. During each term of office no member of the Pembroke Board of Selectmen may serve as a trustee.

As soon as possible after the acceptance of this Act, the municipal officers of Pembroke shall appoint 5 trustees of the district to hold office as follows: One to serve until the first annual meeting of the district following the acceptance of the Act; 2 to serve until the 2nd annual meeting; and 2 to serve until the 3rd annual meeting. When the term of each trustee expires, a successor trustee shall be elected in accordance with the Maine Revised Statutes, Title 35-A, chapter 63, for a term of 3 years or until a successor is elected and qualified at the Pembroke town meeting on the last Monday in March. Whenever any trustee who was a resident of the district when elected ceases to be a resident of the district, he vacates the office of trustee. Vacancy in the office of trustee shall be filled for the unexpired term at a special town meeting in Pembroke unless the vacancy occurs within 3 months prior to the next annual town meeting.

Organization of the board of trustees shall be in accordance with the Maine Revised Statutes, Title 35-A, chapter 63. The trustees shall have the powers specified in the Maine Revised Statutes, Title 35-A, chapter 63.

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.

Trustees' compensation shall be set in accordance with the Maine Revised Statutes, Title 35-A, chapter 63.

**Sec. 8. Annual meeting of district.** After the acceptance of this charter and the organization of the board, the annual meeting of the district for seating of a trustee 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 and the newly elected trustee will be seated at this meeting.

**Sec. 9. District and town authorized to make contracts.** The district, through its trustees, may contract with persons and corporations, including Pembroke, and Pembroke may contract with them for the supply of water for municipal purposes. The Town of Pembroke, by vote at its town meeting, may loan the district a sum not exceeding \$5,000 to be used for engineering, accounting and legal expenses in connection with the organization of the district and to be repaid by the district from its initial long-term financing.

**Sec. 10. Authorized 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 the purposes, the district, through its trustees, may accept state, federal or municipal grants and may borrow money temporarily and issue 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 town, the district being authorized to reimburse the town for any such expenses incurred by them and in acquiring properties; paying damages; laying pipes, mains, aqueducts and conduits; constructing, maintaining and operating a water plant or system and making renewals, additions, extensions and improvements to them and to cover interest payments during the period of construction; the district, through its trustees, may also issue, from time to time, in accordance with the Maine Revised Statutes, Title 35-A, chapter 63, bonds, notes or other evidences of indebtedness of the district in one series, or in separate series, in such amount or amounts, bearing interest at such rate or rates and having such terms and provisions as the trustees shall determine.

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 longer period than 40 years from the date of original issue. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same prior to maturity, and if callable, may be made callable at par or at such premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "Pembroke Utilities 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 such 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. 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 and shall be tax exempt.

**Sec. 11. Water rates; application of revenue; sinking fund.** The rates established pursuant to this section shall be sufficient to provide revenue for the purposes of this Act and for all other purposes of the district, without the need for any financial assistance from the Town of Pembroke, other than the normal payment of water charges for services rendered and the loan or loans for initial funds as set forth in section 9. 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-A, chapter 61, so as to provide for the purposes set forth in that Title.

**Sec. 12. Existing laws not affected; rights con-**

ferred subject to law. Nothing contained in this Act is intended to repeal, or may be construed as repealing the whole or any part of 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 Maine Revised Statutes, Title 35-A, and all Acts that amend or are additional to that Title.

**Sec. 13. Separability clause.** If any section or part of a section of this charter shall be held invalid by a court of competent jurisdiction, the holding shall not affect the remainder of this charter, it being the intention that the remaining portions of this charter shall stand, notwithstanding the unconstitutionality or invalidity of any section, sentence, clause or phrase.

**Sec. 14. Referendum; effective date.** In view of the emergency cited in the preamble, this Act shall take effect when approved only for the purpose of permitting its submission to the legal voters of the district at a special election or elections called and held for the purpose. The election shall be called by the municipal officers of the Town of Pembroke and shall be held at the regular voting places; the dates of the elections shall be determined by the municipal officers, but the first meeting of the town shall not be later than the first day of December 1988. These special elections shall be called, advertised and conducted according to the law relating to municipal elections, provided that the board of registration shall not be required to prepare, nor the town clerk to post, a new list of voters. For this purpose, the board of registration shall be in session on the 3 secular days next preceding the elections, the first and 2nd days to be devoted to registration of voters and the last day to enable the board to verify the corrections of the lists and to complete and close up their records of the session. The town clerk shall reduce the subject matter of this Act to the following question:

"Shall 'The Act to Incorporate the Pembroke Utilities District' passed by the 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. This Act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters of the district voting at the elections, but only if the total number of votes cast for and against the acceptance of this Act in the special elections equals or exceeds 20% of the total number of names on the checklist of voters of the town provided for in this Act, which checklist shall be used at such elections, but failure of approval by the necessary majority or percentage of voters shall not prevent subsequent elections.

The result of these elections shall be declared by the municipal officers of the town and due certificates 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 pending referendum.

## CHAPTER 92

H.P. 1479 — L.D. 2014

### AN ACT to Make Additional Allocations from the Public Utilities Regulatory Fund for the Fiscal Years Ending June 30, 1988, and June 30, 1989.

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of the Public Utilities Commission will become due and payable on or before July 1, 1988; 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. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1987-88</u>	<u>1988-89</u>
<u>PUBLIC UTILITIES COMMISSION</u>		
Personal Services Provides funding for approved reclassification of Programmer Analyst to Utility Technical Analyst I.	\$ 500	\$ 1,920
All Other Deappropriates surplus funds to support approved reclassification.	( 560)	( 1,920)
Total	<u>\$ 0</u>	<u>\$ 0</u>

**Sec. 2. Allocation of Public Utilities Commission Regulatory Fund.** The Public Utilities Commission Regulatory Fund shall be allocated as designated in the following schedule.

	<u>1987-88</u>	<u>1988-89</u>
<u>PUBLIC UTILITIES COMMISSION</u>		
Personal Services Provides funding for approved reclassification of Utility Accountant II to Utility Accountant III.	\$ 2,840	\$ 3,067
All Other Capital Expenditures	( 2,840)	( 3,067) 300,472