

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.

Twin City Printery
Lewiston, Maine
1989

**PRIVATE AND
SPECIAL LAWS**

OF THE

STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the

ONE HUNDRED AND THIRTEENTH LEGISLATURE

1987

Sec. 6. Reserve fund. The corporation may establish a reserve fund, not to exceed \$250,000 an amount equal to 7.50% of the corporation's last full state valuation, for the purposes specified in section 5, which reserve fund shall be established, administered and subject to the provisions of the general law for the reserve fund of a municipality.

Sec. 4. Referendum. The proposed charter revision contained in sections 2 and 3 of this Act shall be placed before those persons who are qualified to vote on matters concerning the corporation at its next annual meeting. If rejected at that time, they may not be voted on again under the provisions of this Act. Notices concerning this meeting shall contain an appropriate warrant for the purpose of considering the referendum. Voting by absentee ballot shall be allowed and shall follow the form prescribed for municipal elections.

The ballot questions shall be: "Shall the charter of Frye Island Municipal Services Corporation be revised to increase the allowable indebtedness of the corporation from the current \$100,000 to 7 1/2% of the last full state valuation?" and "Shall the charter of Frye Island Municipal Services Corporation be revised to increase the reserve fund limit from its present level of \$250,000 to 7 1/2% of the last full state valuation?" At the time of presentation of these questions to the voters, the voters shall be informed what the resulting debt limit and reserve limit would be in dollars in the year in which the referendum is conducted. At the conclusion of the voting, all ballots, including absentee ballots, shall be counted, reported and declared in open meeting and, if a majority of all legal voters voting at the meeting or by absentee ballot vote in favor of accepting either amendment, it shall take effect immediately, providing that the total number of those voting is at least equal to 30% of the persons qualified to vote on matters concerning the corporation. If less than 30% of the voters are represented in the voting, the matter may be brought before the voters one additional time in 1988 or 1989 at a special meeting of the corporation called according to the provisions of the charter and following the provisions of this section.

Certification of the approval of these amendments to the charter shall be filed by the clerk with the Secretary of State within 10 days of acceptance.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, but sections 2 and 3 shall take effect only for the purposes of permitting their submission to the voters of the corporation. Sections 2 and 3 of the Act shall take effect for all purposes when approved by the voters in a manner consistent with the requirements of this Act.

Effective April 7, 1988, unless otherwise indicated.

CHAPTER 109

S.P. 987 — L.D. 2615

AN ACT to Authorize the Creation of the Freeport Water District.

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

Whereas, the Town of Freeport wishes to establish a water district and to purchase the assets of the Maine Water Company, Freeport Division; and

Whereas, the Town of Freeport must act immediately to purchase the Maine Water Company, Freeport Division; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Territorial limits; corporate name; purposes. The inhabitants and territory of the Town of Freeport in the County of Cumberland, excluding the inhabitants and territory of the South Freeport Water District, shall constitute a body politic and corporate under the name of "Freeport Water District" for the purpose of supplying the town and the inhabitants and others of the district with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes.

Sec. 2. Powers of Freeport Water District. The Freeport Water District, for the purposes of its incorporation, may take, collect, store, flow, use, divert, distribute and convey to the district, or any part of the district, water from any source approved by the Department of Human Services, natural or artificial, within the area of the district or within the area of the Town of Freeport and from any other source from which the Maine Water Company, Freeport Division, may take water. It may also locate, construct and maintain aqueducts, pipes, conduits, dams, wells, reservoirs, standpipes, hydrants, pumping stations and other necessary structures and equipment therefor, and do anything necessary to furnish water for public purposes and for the public health, comfort and convenience of the inhabitants and others of the district, or to contract to do any and all of the foregoing things.

All incidental powers, rights and privileges necessary to the accomplishment of the main objectives set forth in this Act are granted to the district created by this Act.

The district may not take, withdraw or divert water from any source for the above enumerated purposes, un-

less 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 the ability of the source to be recharged, 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. Authorized to lay mains, pipes, conduits and other water conveyances through public ways and across private lands. The district may lay in and through the streets, roads, ways, highways and bridges in the Town of Freeport and across private lands in the Town of Freeport and maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures and appurtenances as may be necessary and convenient for its corporate purposes and, whenever the district shall lay any pipes, mains, conduits, aqueducts and fixtures or appurtenances 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, at its own expense, without unnecessary delay, shall cause the earth and pavement removed by it to be replaced in proper condition.

Sec. 4. Authorized to erect dams and reservoirs; to cross navigable waters; to supply water to utilities. The water district, for the purposes of its incorporation, may erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes. The water district may lay, construct and maintain its pipes and fixtures in, over and under navigable waters and build and maintain structures therefor, subject to the laws of the United States. The water district may supply water to any public utility now supplying water in the County of Cumberland, subject to the consent of the Public Utilities Commission.

Sec. 5. Rights of eminent domain. The district, for the purposes of its incorporation, may take and hold, as for public uses, real estate and personal estate and any interest therein necessary or convenient for those purposes, by purchase, lease or otherwise and may exercise the right of eminent domain as provided in this Act, to acquire for those purposes any land or interest in land or water rights necessary for erecting and maintaining dams, plants and works, for flowage, power, pumping, supplying water through its mains; for reservoirs, preserving the purity of the water and watershed; for laying and maintaining aqueducts and other structures;

for taking, distributing, discharging and disposing of water; and for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands.

Nothing contained in this section 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 used, or acquired for future use, by the owner of that property or those facilities in the performance of a public duty, unless expressly authorized to do so by this section or by subsequent Act of the Legislature or as provided in section 6.

Sec. 6. Procedure if public utility must be crossed. In case of crossing of any public utility, unless consent is given by the company owning and operating the public utility as to place, manner and conditions of the crossing within 30 days after 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, 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. 7. Procedure in exercising of eminent domain. After the original acquisition for which provision is made in section 12 of this Act, the district, in exercising, from time to time, any right of eminent domain in the taking of land, interests therein or water rights, 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 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 for 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.

Sec. 8. Adjustment of damages; procedure as in laying out of highways. If any person sustaining damages by any taking pursuant to the right of eminent domain does not agree with the district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Cumberland County, may have the damages assessed by them. The procedure and all sub-

sequent proceedings and right of appeal shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

Sec. 9. Trustees; how elected; first board; meeting; officers. All of the affairs of the district shall be managed by a board of trustees composed of 3 members, all of whom shall be residents of the district and, after selection of the first board, elected as provided in Title 35-A, chapter 63.

1. **First board.** Within 14 days after the acceptance of this Act, the municipal officers of the Town of Freeport, who are especially appointed for this purpose, shall give notice of a special election of the Freeport Water District, for the purpose of selecting the first board of trustees, by posting a notice at least 30 days prior to the date set for election. The notice shall be published in one public and conspicuous place in the Town of Freeport. The candidates for office shall obtain nomination papers from the clerk of the Town of Freeport, who is appointed especially to act as clerk in this particular instance. The form of the nomination papers and the form of the ballot shall be as provided in this Act. After the selection of the first board, the only requirements for eligibility for the office of trustee of the district shall be residence within the district and eligibility to vote.

As soon as convenient after their appointment, the first board of trustees shall hold a meeting at a convenient place in the district, to be called by any member of the board in writing designating the time and place, and the notice shall be delivered in hand to the other 2 members not less than 2 full days before the meeting; provided that the trustees elected may meet by agreement without the notice and upon appropriate waiver. The terms of office of the members of the first board of trustees shall be established as follows: The member receiving the greatest number of votes shall serve for a term of 3 years; the member receiving the next highest number of votes shall serve for a term of 2 years; and the 3rd member shall serve for a term of one year. In the event of a tie vote, the terms of office of the members affected shall be determined by lot. Thereafter, trustees shall be elected to serve for 3-year terms.

2. **Organization; conduct of business.** Organization and powers of the board of trustees shall be in accordance with 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 2 trustees.

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

3. **Bylaws.** The trustees may adopt and establish such bylaws as are necessary for their own convenience and the proper management of the affairs of the district.

4. **Vacancy.** Whenever the term of office of a trustee expires, the trustee's successor shall be elected by a plurality vote by the inhabitants of the district, and upon nomination made as provided in this section for the election of trustees. For the purpose of election, a special election shall be called and held on the annual municipal election in each year, the election to be called by the trustees of the district in the same manner as town meetings are called and for this purpose the trustees are vested with the powers of selectmen of towns. The trustee so elected shall serve the full term of 3 years. If any vacancy arises in the membership of the board of trustees, it shall be filled in like manner for the unexpired term by a special election to be called by the trustees of the district. When any trustee ceases to be a resident of the district, the trustee shall vacate the office of trustee and the vacancy shall be filled as provided in this section. All trustees shall be eligible for re-election, but no person who is a member of the town council in the Town of Freeport may be eligible for nomination or election as trustee.

The trustees may procure an office and incur such expenses as may be necessary.

The trustees shall appoint a registrar of voters for the district, who may also be the registrar of voters for the Town of Freeport, and fix the registrar's salary. It shall be the registrar's duty to make and keep a complete list of all the eligible voters of the district. The list prepared by the registrar, as provided by the laws of the State, shall govern the eligibility of any voter. In determining the eligible voters of the district, the registrar of voters shall exclude from those lists and from all checklists the legal voters who are resident outside the territorial limits of the water district as defined in this Act. All warrants issued for elections by the trustees shall be varied accordingly to show that only the voters resident within the territorial limits of the water district are entitled to vote.

Sec. 10. Annual report. The trustees shall make and publish an annual report, including a report of the treasurer. The report may be included in and published as part of the annual town report of the Town of Freeport.

Sec. 11. District and towns authorized to make and assume 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 the district for the supply of water for municipal purposes.

Sec. 12. Authorized to acquire property and franchises of Maine Water Company, Freeport Division. This district, through its trustees, may acquire by purchase the entire plant, properties, franchises, rights and privileges owned by the Maine Water Company, Freeport Division, located within the Town of Freeport, including all lands, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants, tools and all

apparatus and appliances used or usable in supplying water in the area of the district. The water district may acquire by the exercise of the right of eminent domain, which right is expressly delegated to the district for that purpose, the entire plant, properties, franchises, rights and privileges, except cash assets and accounts receivable, owned by the Maine Water Company, Freeport Division, including all lands, waters, water rights, dam structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in the area of the district, and if and when so acquired, the district, in addition to the powers conferred by this Act, shall have and enjoy and be entitled to exercise all rights, privileges and franchises of the Maine Water Company, Freeport Division.

In exercising the right of eminent domain under this Act, the trustees shall file with the district clerk a condemnation order that includes a detailed description of the property interests to be taken, the name or names of the owner or owners of record so far as they can be reasonably determined and the amount of damages determined by the trustees to be just compensation for the property or interest therein taken. The trustees shall then serve upon the owner or owners of record a copy of the condemnation order and a check in the amount of the damages awarded and record a certified copy of the condemnation order in the Cumberland County Registry of Deeds. In the event of multiple ownership, the check may be served on any one of the owners. This title shall pass to the district upon service of the order of condemnation and check or upon recordation in accordance with this Act, whichever occurs first. Acceptance and negotiation of the check shall not bar an appeal under this Act.

Any person aggrieved by the determination of the damages awarded to owners of property or interests therein under this Act may, within 60 days after service of the condemnation order and check, appeal to the Superior Court, Cumberland County. The court shall determine damages by a verdict of its jury or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for just compensation, with interest when such is due, and for costs in favor of the party entitled thereto. Appeal from the decision of the Superior Court may be had to the Law Court, as in other civil actions.

Sec. 13. Authorized to receive government aid; borrow money; 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 these purposes, the district, through its trustees, without vote of the inhabitants, may receive state and federal aid grants, borrow money temporarily and issue therefor its negotiable notes for the purpose of renewing and refunding the indebtedness so created, for 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 of Freeport, the district being authorized to reimburse the

Town of Freeport for any such expense incurred by the town 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 the water plant or system and to cover interest payments during the period of construction. The district, through its trustees, without the vote of its inhabitants, may also issue, from time to time, in accordance with the Maine Revised Statutes, Title 35-A, chapter 63, bonds, notes or other evidence of indebtedness of the district in such amount or amounts bearing interest at such rate or rates, selling at par or at a discount or a premium and having such other terms and provisions as the trustees shall determine, except that loans running for one year or less will not require the Public Utilities Commission's approval.

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 bonds, notes or evidences of indebtedness 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 "Freeport Water District," shall be signed by the treasurer and countersigned by the president of the board of trustees of the district, and if coupon bonds are issued, the interest coupon attached to the coupon bonds shall bear the facsimile signature of the treasurer.

All bonds, notes and evidences of indebtedness so issued by the district shall be legal obligations of the district, which is 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 to the district.

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 free from taxation.

Sec. 14. Rates. 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 Freeport, other than the normal payment of water charges for services rendered and the loan or loans for initial funds as set forth in section 13. 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 therein.

Sec. 15. Existing laws not affected; rights conferred subject to provisions of 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 and amendatory Acts of the Maine Revised Statutes, Title 35-A to the extent that this title and its amendments affect the operations of the district.

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

Sec. 17. Acceptance subject to referendum. This Act shall be submitted to the legal voters within the district at an election to be called for that purpose and held by December 31, 1988. The election shall be called, advertised and conducted according to the law relating to municipal elections, provided that the registrar of voters 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 verification of the lists and completion of the records of these sessions by the registrar. The subject matter of this Act shall be reduced to the following question:

"Shall the Freeport Water District be created?"

The voters shall indicate by a cross [x] 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 the due certificate thereof filed by the clerk with the Secretary of State.

This Act shall take effect for all the purposes thereof immediately upon its acceptance by a majority of the legal voters within the 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 or elections to be held for that purpose.

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

Effective pending referendum.

CHAPTER 110

H.P. 1800 — L.D. 2464

AN ACT to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1988-89.

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

Whereas, prompt determination and certification of the municipal cost components in the unorganized territory tax district is necessary to the establishment of a mill rate and the levy of the unorganized territory educational and services tax; 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 1987, c. 53, §4 is amended to read:

Sec. 4. Aroostook County. The amount authorized for Aroostook County includes an amount to cover the purchase of a trail groomer and the building of a shed located in the Township of Sinclair which will be used for maintaining snowmobile trails and other county purposes. ~~This equipment and shed is held in trust for the unorganized territory of Aroostook County.~~ The maintenance of this equipment and shed shall be financed solely from snowmobile grant reimbursements. The trail groomer ~~and shed shall~~ may be leased to the Sinclair Township Committee or provided for their use with the provision that the excess of the grant, after maintenance, will reimburse the unorganized territory county fund for the purchase of the ~~properties~~ groomer. After payment of the total price, the county commissioners shall transfer ownership of the groomer to the Sinclair Township Committee. The county commissioners are authorized to sell the trail groomer ~~and shed~~ to the Sinclair Township Committee for the remaining balance of the price at any time. ~~At no time may the county have any liability resulting from use of ownership of the property.~~ The Sinclair Township Committee county shall provide and maintain liability insurance for the property. The trail groomer may not be operated if insurance has not been procured.

Any payments made to associations, clubs or other organizations from funds obtained under the Maine Revised Statutes, Title 36, chapter 115, shall be made in quarterly installments.

Sec. 2. Municipal cost components for services rendered. In accordance with the Maine Revised Statutes, Title 36, chapter 115, the Legislature determines that the net municipal cost component for services and reimbursements to be rendered in fiscal year 1988-89 is \$7,721,806 as follows.

Audit — Report
— Fiscal Administrator

1988-89
\$ 3,000
69,345