

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
THIRD SPECIAL SESSION

of the

ONE HUNDRED AND THIRTEENTH LEGISLATURE

1987

3. To provide each year a sum equal to not less than 1% of the entire indebtedness created or assumed by the district, which sum shall be turned into the sinking fund to provide for the extinguishment of that indebtedness. The commissioners may, in their discretion and in lieu of the establishment of a sinking fund, issue the bonds of the district so that not less than 1% of the amount of the bonds so issued shall mature and be retired each year. If any surplus remains at the end of the year, it may be turned into the sinking fund.

The commissioners, on written application stating the grounds thereof, may make such reasonable abatements as they think proper of any rates or assessments.

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

Effective September 19, 1988.

CHAPTER 144

H.P. 1968 — L.D. 2665

AN ACT to Create the East Pittston Water District.

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

Whereas, wells in the East Pittston area have become contaminated with gasoline and pose a serious threat to the health and well-being of residents of that area; and

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

Whereas, it is desirable that a public district be formed in East Pittston to be able to supply water to 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; corporate name; purposes. Subject to section 15, the inhabitants and territory of that part of the Town of Pittston in Kennebec County comprised of the area beginning at the junction of the east and west branches of the Eastern River (approximately 600 feet east northeast of the crossing of the Eastern River by Route 194) in East Pittston, then going 900 feet S 10°W to a point, then going 900 feet S 30°W to a point, then going 975 feet S 42°W to a point, then going N 50°W to a point 550 feet N 50°W of the center line of the Dres-

den Road (also called the Kelly Road on some maps), then going directly north to the Eastern River, then following the Eastern River upstream to the point of beginning shall constitute a body politic and corporate under the name of "East Pittston Water District" for the purpose of supplying the inhabitants and others of the district with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes.

Sec. 2. Powers of East Pittston Water District. The East Pittston Water District is authorized, for the purposes of its incorporation, to take, collect, store, flow, use, divert, distribute and convey to the district, or any part of the district, water from any source, natural or artificial, within the area of the Town of Pittston. It is also authorized to 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. The district may not take, withdraw or divert water from any source for the above enumerated purposes, 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 of water. The petition and plan shall set forth adequate information upon which findings may be made regarding the nature, capacity, safe yield and rechargeability 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.

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.

Sec. 3. Authorized to lay mains, pipes, conduits, aqueducts, fixtures and appurtenances through public ways and across private lands. The district is authorized to lay in and through the streets, roads, ways, highways and bridges in the Town of Pittston and across private lands in the Town of Pittston, and to 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 shall, at its own expense, without unnecessary de-

lay, 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. The water district is authorized, for the purposes of its incorporation, to erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes. The water district is also authorized to lay, construct and maintain its pipes and fixtures in, over and under navigable waters and to build and maintain structures therefor.

Sec. 5. Rights of eminent domain. The district, for the purposes of its incorporation, is authorized to take and hold, as for public uses, real estate and personal property and any interest located in the Town of Pittston, necessary or convenient for those purposes, by purchase, lease or otherwise and is expressly authorized to exercise the right of eminent domain, as hereinafter provided, 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, 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.

The district is authorized, for the purposes of its incorporation, to erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes. 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 facilities in the performance of a public duty, unless expressly authorized to do so by this section, by subsequent Act of the Legislature or as provided in section 6. The right of eminent domain granted in this section is subject to the Maine Revised Statutes, Title 35-A, chapter 67.

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 right of eminent domain. In exercising the right of eminent domain in the taking of land, interests therein or water rights, the district shall file in the office of the county commissioners of Kennebec County and record in the Kennebec County

registry of deeds plans of the location of all such property to be taken, with an appropriate description and the names of the owners, if known. Notice of the filing shall be sent by mail to the owners at the address appearing on the tax records of the municipality in which the land is located. When for any reason the district fails to acquire the property which it is authorized to take, and which is described in that location, or if the location recorded is defective or uncertain, it may, at any time, correct and perfect that location and file a new description, and in such case the district is liable in damages only for property for which the owner had not previously been paid, to be assessed at 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 is received 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 shall not agree with the district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Kennebec County, may have the damages assessed by them. The procedure and all subsequent proceedings and right of appeal therefrom 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 elected as provided in the Maine Revised Statutes, Title 35-A, chapter 63 and this section.

1. First board. Within 14 days after the acceptance of this Act, the selectmen of the Town of Pittston, who are especially appointed for this purpose, shall appoint 3 trustees. After the selection of the first board, the only eligibility requirements for the office of trustee of the district shall be residence within the district and eligibility to vote, and all subsequent trustees shall be elected by the residents of the district as provided in the Maine Revised Statutes, Title 35-A, chapter 63 in an annual election to be held on the first Saturday of March in each year.

Organization of the board of trustees and its specific powers shall be in accordance with the Maine Revised Statutes, Title 35-A, chapter 63. The first order of business shall be to draw by lot to fix the terms of the trustees. Of the original trustees, one shall serve for one year, one for 2 years and one for 3 years. Thereafter, trustees shall be selected to serve for 3-year terms.

2. Decisions of the board. 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.

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

4. **Vacancies; incompatible offices.** Whenever the term of office of a trustee expires, a 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; and for the purpose of election a special election shall be called and held on the first Saturday of March in each year, the election to be called by the trustees of the district in the same manner as town meetings are called. For this purpose, the trustees are vested with the powers of selectmen of towns. The trustees so elected shall serve the full term of 3 years and, in case any vacancy arises in the membership of the board of trustees, it shall be filled in like manner for the unexpired term by special election to be called by the trustees of the district. When any trustee ceases to be a resident of the district, that trustee shall vacate the office of trustee and the vacancy shall be filled as provided in this section. All trustees shall be eligible for reelection, but no person holding office of selectman or road commissioner in the Town of Pittston may be eligible for nomination or election as trustee.

5. **Additional powers.** 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 Pittston and fix the salary. It shall be the registrar's duty to make and keep a complete list of all the eligible voters of the district, and 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 the lists and from all checklists the legal voters who are resident outside the territorial limits of the water district as defined in this Act, and 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, and the report may be included in, and published as part of, the annual town report of the Town of Pittston.

Sec. 11. District and towns authorized to make and assume contracts. The district, through its trustees, is authorized to contract with persons and corporations, including the Town of Pittston, and the Town of Pittston is authorized to contract with it for the supply of water for municipal purposes.

Sec. 12. Authorized to receive governmental 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, is authorized to receive both state and federal aid grants; and to borrow money temporarily and to 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 Pittston, the district being authorized to reimburse the Town of Pittston for any such expense 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 the same and to cover interest payments during the period of construction. The district, through its trustees, is authorized to issue, in accordance with the Maine Revised Statutes, Title 35-A, chapter 63, from time to time, bonds, notes or other evidences 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 do 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 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 determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "East Pittston 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-A, section 5701, and all provisions of that section shall be applicable thereto.

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. 13. Rates; application of revenue; sinking fund. 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 to provide for the purposes set forth therein.

Sec. 14. Existing statutes 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 of the Maine Revised Statutes, Title 35-A, and all Acts amendatory thereof and additional thereto, to the extent that the Maine Revised Statutes, Title 35-A and the amendments thereto affect the operations of the district.

Sec. 15. 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. 16. 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 Pittston and shall be held at the regular voting places; the dates of the elections shall be determined by the municipal officers, but shall not be later than December 1, 1989. 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 its records of the session. The town clerk shall reduce the subject matter of this Act to the following question:

"Shall 'AN ACT to Create the East Pittston 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 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 145

S.P. 1016 — L.D. 2667

AN ACT to Increase the Borrowing Capacity of the Stonington 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 Stonington Water District needs to make improvements to its system in order to meet the requirements of the Department of Human Services; and

Whereas, it is necessary to increase the debt limit of the district in order to borrow funds to make the improvements; and

Whereas, it is strongly desired to begin improvements as soon as possible; 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:

P&SL 1907, c. 240, §11, first paragraph, as amended by P&SL 1973, c. 196, is further amended to read:

For accomplishing the purposes of this Act, and for such other expenses as may be necessary for the carrying out of said purposes, said company, through its trustees, is authorized to borrow money temporarily and to issue therefor its negotiable notes; and for the purpose of renewing and refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under this Act, 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 same, and to cover interest payments during the period of construction, said company, through its trustees, is also authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the company 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