

MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

FIRST REGULAR SESSION

of the

ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

same. This Act shall take effect immediately upon its acceptance by a majority of the legal voters voting at the election.

The result of the vote shall be declared by the municipal officers of the Town of Ogunquit and due certificate thereof shall be filed by the town clerk with the Secretary of State.

Effective pending referendum.

CHAPTER 45

H.P. 1227 - L.D. 1706

An Act to Create the Quantabacook 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 Harrington wishes to establish a water district so the district may purchase the assets of the Quantabacook Water Company; and

Whereas, the Town of Harrington must act immediately to purchase the Quantabacook Water Company; 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 Harrington in the County of Washington shall constitute a body politic and corporate under the name of "Quantabacook 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 Quantabacook Water District. The Quantabacook 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 Harrington and from any other source from which the Quantabacook Water Company 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.

Other than the water sources purchased from the Quantabacook Water Company, 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. 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 Harrington and across private lands in the Town of Harrington 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 Washington, 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 Washington County and record in the Washington County Registry of Deeds plans of the location of all 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, either party, on petition to the county commissioners of Washington County, may have the damages assessed by them. The procedure and all subsequent 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 the Maine Revised Statutes, Title 35-A, chapter 63.

1. First board. Within 14 days after the acceptance of this Act, the municipal officers of the Town of Harrington, who are especially appointed for this purpose, shall give notice of a special election of the Quantabacook 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 Harrington. The candidates for office shall obtain nomination papers from the clerk of the Town of Harrington, 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 reelection, but no person who is a member of the town council in the Town of Harrington may be eligible for nomination or election as trustee.

The trustees may procure an office and incur any 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 Harrington, 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 Harrington.

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 Harrington, and the Town of Harrington may contract with the district for the supply of water for municipal purposes.

Sec. 12. Authorized to acquire property and franchises of Quantabacook Water Company. This district, through its trustees, may acquire by purchase the entire plant, properties, franchises, rights and privileges owned by the Quantabacook Water Company, located within the Town of Harrington, 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 Quantabacook Water Company, 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 Quantabacook Water Company.

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 taken. The trustees shall then serve on 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 Washington 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 on service of the order of condemnation and check or on 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 under this Act may, within 60 days after service of the condemnation order and check, appeal to the Superior Court of Washington 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 due, and for costs in favor of the party entitled to just compensation. 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 any 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 Harrington, the district being authorized to reimburse the Town of Harrington for any 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, with 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 evidences of indebtedness of the district, not to exceed \$1,500,000, in an amount or amounts bearing interest at a rate or rates, selling at par or at a discount or a premium and having 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 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 any premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed on their face the words "Quantabacook 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 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 Harrington, 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 in that chapter.

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, 1989. 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 questions:

"Shall the Quantabacook Water District be created?"

"Shall the Quantabacook Water District establish a bonded indebtedness limit of \$1,500,000?"

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 Harrington 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 46

H.P. 1205 - L.D. 1675

An Act to Allow the Creation of the Megunticook Watershed District

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

Whereas, the citizens of the Hope, Lincolnville and Camden areas need to start the process of creating a watershed district 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