

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

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
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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

All Other	415,167	1,087,231
Capital Expenditures	273,599	195,000
Fund Total	1,019,110	1,621,166
Island Ferry Service Fund		
Positions - Other Count	(61.0)	(61.0)
Personal Services	1,875,609	1,913,882
All Other	1,188,737	1,259,969
Fund Total	3,064,346	3,173,851
Augusta State Airport		
Positions - Other Count	(10.5)	(10.5)
Personal Services	265,358	272,260
All Other	132,897	136,515
Fund Total	398,255	408,775
Marine Ports Fund		
Positions - Other Count	(5.0)	(5.0)
Personal Services	158,245	163,349
All Other	82,474	94,908
Fund Total	240,719	258,257
Highway Garage Fund		
Positions - Other Count	(82.0)	(82.0)
Personal Services	3,292,313	3,398,977
All Other	19,165,487	19,736,198
Fund Total	22,457,800	23,135,175
Maine State Retirement Fund		
All Other	154,521,000	169,723,000
Fund Total	154,521,000	169,723,000
CURRENT SERVICES		
Positions - Legislative Count	(1,916.5)	(1,916.5)
Positions - Other Count	(1,513.5)	(1,513.5)
Personal Services	109,050,627	111,466,237
All Other	293,601,591	315,046,458
Capital Expenditures	101,865,070	120,704,644
Part Total	504,517,288	547,217,339

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect July 1, 1989.

Effective July 1, 1989.

CHAPTER 51

H.P. 1200 - L.D. 1667

An Act Creating the St. Francis Water District

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

Whereas, it is vitally urgent that the inhabitants of St. Francis have a safe, reliable and adequate supply of pure water; 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 13, the inhabitants and territory within the Town of St. Francis in Aroostook County shall be and hereby are constituted a public municipal corporation under the name of "St. Francis Water District" for the purpose of supplying the inhabitants of the district with pure water for domestic, sanitary, manufacturing and municipal purposes.

Sec. 2. Source of supply. The water district, for the purposes of its incorporation, is authorized to take, collect, store, hold, divert, use, flow, detain and distribute water from any lake, pond, stream or river and from any surface or underground brook, spring or vein of water in the Town of St. Francis and from any other source from which the town is now authorized to take any water, including sources outside of the town.

Sec. 3. Right of eminent domain conferred. The district, for the purposes of its incorporation, is authorized to take and hold, as for public uses, by purchase, gift or by exercise of the right of eminent domain, which right is expressly delegated to the water district for those purposes, any lands or interests therein or water rights necessary for erecting and maintaining dams, for flowage, for power, for pumping its water supply through its mains, for reservoirs and standpipes, for preserving the purity of the water and watershed, for laying and maintaining aqueducts, mains and other structures for taking, distributing, purifying, discharging and disposing of water and for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, standpipes, mains, aqueducts, structures and lands. Nothing contained in this Act shall be construed as authorizing the water district to take by right of eminent domain any of the property or facilities of any other public service corporation or district used or acquired for future use by the owner thereof in the performance of a public duty, unless expressly authorized in this Act or by subsequent Act of the Legislature, or as provided in section 7.

Sec. 4. Authorized to lay mains, pipes, conduits, etc., 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 St. Francis and across private lands in the Town of St. Francis, 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 delay, cause the earth and pavement removed by it to be replaced in proper condition.

Sec. 5. Authorized to erect and maintain dams, reservoirs, etc. The district is authorized, for the purposes of its incorporation, to erect and maintain all dams, pumping stations, with all necessary appliances required therefor, reservoirs, standpipes and structures necessary and convenient for its corporate purposes.

Sec. 6. Procedure in exercising rights of eminent domain; assessment of damages; appeal procedure. The water district is liable for all damage that is sustained to property by the taking of any land or interest therein whatsoever, for water, or by flowage, or by excavating through any land for the purpose of laying pipes, aqueducts or mains, building dams or constructing reservoirs or any other construction necessary to the taking, distributing, purifying, discharging and disposing of water for its users.

In exercising any right of eminent domain conferred upon it by law, from time to time, in the taking of lands or interests therein, or water rights, the district shall file in the office of the county commissioners of Aroostook County and record in the registry of deeds for Aroostook County, Northern District, plans of the location of all such lands or interests therein or water rights, 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 authorized to be taken, and which is described in that location, or 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 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 or interest therein or water rights so taken, but title shall not vest in the district until payment therefor.

If any person or corporation sustains damages by any taking and the water district does not mutually agree upon the sum to be paid therefor, either party, upon petition to the county commissioners of Aroostook County, may have those damages assessed by them; and 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 town ways.

Sec. 7. Procedures in crossing of railroads or utility rights-of-way. In case of any crossing of a railroad or the right-of-way occupied by the transmission or distribution lines of an electric company or telephone company, unless consent is given by the company owning or operating that railroad or transmission line, as to place, manner and conditions of the crossing, within 30 days after that consent is requested by the district, the Public Utilities Commission shall, upon petition setting forth a description of the premises and the reasons for the crossing, after notice given as the commission may prescribe, determine the place, manner and

conditions of that crossing; and all work within the limits of that railroad location or right-of-way shall be done under the supervision and to the satisfaction of the railroad company, telephone company or electric company, as the case may be, but at the expense of the district, unless otherwise ordered by the Public Utilities Commission, which shall award to the railroad, telephone company or electric company any damage suffered by it occasioned by the crossing.

Sec. 8. Board of trustees; election; compensation. All the affairs of the district shall be managed by an elected board of trustees composed of 3 members of the legal voters of the district. Except for the initial trustees, the trustees shall be elected at the annual town meeting in March for 3-year terms. The initial trustees shall be elected at a special district meeting called by the municipal officers of the town after approval of the referendum pursuant to section 19. The voters of the district from the Town of St. Francis shall elect 3 initial trustees: one for a term expiring at the following March town meeting, one for a term expiring a year later and one for a term expiring 2 years later. Elections shall be held in accordance with the requirements for municipal elections. In case any other vacancy arises, it shall be filled by an interim appointment ending at the following March town meeting by the appropriate municipal officers, followed by election to fill the unexpired term, if any. When any trustee ceases to be a resident of the municipality from which elected or appointed, that trustee vacates the office.

The trustees shall hold a meeting at the town office in St. Francis and organize by the election of a president and clerk, adopt a corporate seal, and when necessary may choose a treasurer and all other needful officers and agents for the proper conduct and management of the affairs of the district. The trustees may also ordain and establish such bylaws as are necessary for their own convenience and the proper management of the affairs of the district. The trustees may procure an office and incur such expenses as may be necessary. The treasurer shall furnish bond in such sum and with such sureties as the trustees may approve. The trustees, as such, shall receive as compensation for their services \$30 for each meeting attended, and reimbursement for travel and expenses each year up to a maximum of \$600 each, and the treasurer may be allowed such compensation as the trustees shall determine, but the treasurer shall not vote for the treasurer's own salary. A quorum of the board of trustees shall be 2 trustees. All decisions of the board of trustees shall be by a majority of those present and voting. The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member who shall serve as clerk or clerk pro tem.

Sec. 9. Temporary loans negotiated; issue of bonds. For accomplishing the purposes of this Act, the water district, through its trustees, may borrow money temporarily and issue therefor the negotiable notes of the district, and for the purpose of refunding the indebtedness so created, for paying any necessary expenses and liabilities incurred under the provisions of this Act, including the expenses incurred in the creation of a district, in securing sources of supply, taking water and land, paying damages, taking rights-of-way or other interests in real estate, by purchase or otherwise, laying pipes, aqueducts and mains,

constructing, installing, maintaining and operating reservoirs, standpipes, dams, pumping stations and whatever equipment may be necessary or incidental to the construction and installation of that system of waterworks and making renewals of or extensions, additions and improvements to the same, the district by votes of its board of trustees, without district vote except as provided in this Act, is also authorized to issue, from time to time bonds, notes or other evidences of indebtedness of the district in the amount or amounts, not exceeding the sum of \$1,500,000 outstanding at any one time, bearing interest at such rate or rates, and having such terms and provisions as the trustees determine; provided that in the case of a vote by the trustees to authorize bonds or notes to pay for the acquisition of property, for the cost of a water system or part thereof, for renewal or additions or for other improvements in the nature of capital costs, or for renewing or refunding existing indebtedness, notice of the proposed debt and of the general purpose or purposes for which it was authorized shall be given by the clerk by publication at least once in a newspaper having a general circulation in the town. No debt may be incurred under the vote of the trustees until the expiration of 7 full days following the date on which the notice was first published. Prior to the expiration of the period, the trustees may call a special district meeting for the purpose of permitting the voters of the district to express approval or disapproval of the amount of debt so authorized, and the trustees shall call a special district meeting if, within 7 days following the publication of the notice, there is filed with the clerk of the district a petition or petitions signed by not less than 20 qualified voters of the district requesting that a special meeting be called. If, at the district meeting, a majority of voters present and voting thereon express disapproval of the amount of debt authorized by the trustees, the debt may not be incurred and the vote of the trustees authorizing the same shall be void and of no effect. The bonds, notes and evidences of indebtedness may be issued to mature serially in annual installments of not less than 1% of the face amount of the issue and beginning not later than 2 years from the date thereof, or may be issued with equal annual payments, applied first to interest and the balance to principal, or made to run for such periods as the trustees may determine, but no issue 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 faces the words "St. Francis Water District," shall be signed by the treasurer and countersigned by the chair of the board of trustees of the district and, if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile of the 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, chapter 223, subchapter III, and as amended, and all provisions of this section shall be applicable thereto.

The district may, from time to time, issue its bonds, notes and other evidences of indebtedness for the purpose of paying, redeeming or refunding outstanding bonds, notes

or 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. The district is authorized and empowered to enter into agreements with the State or Federal Government, or any agency of either or any corporation, commission or board authorized by the State or Federal Government to grant or loan money to or otherwise assist in the financing of projects, such as the district is authorized to carry out, and to accept grants and borrow money from any government agency, corporation, commission or board as may be necessary or desirable to enforce this Act. All notes and bonds with the maturity of more than one year in connection with the water system shall first be approved by the Public Utilities Commission.

Sec. 10. Sinking fund provided for. In case any of the bonds or notes are made to run for a period of years, a sinking fund shall be established by the trustees of the district for the purpose of redeeming the bonds or notes when they become due and a sum equal to not less than 1% and not more than 5% of the aggregate principal of the outstanding bonds or notes, except for serial bonds issued on account of or in behalf of the district, shall be turned into the sinking fund each year to provide for the final extinguishment of the district funded debt.

The money set aside for the sinking fund shall be devoted to the retirement of the notes and bonds, and shall be used for no other purposes, and shall be invested in such securities as savings banks are allowed to hold.

Whenever any bonds of the district become due or can be purchased by the trustees on favorable terms, the trustees may, if sufficient funds have accumulated in the sinking fund, redeem or purchase the bonds and cancel them. In no case may bonds so canceled or redeemed be reissued.

In case the amount in the sinking fund is not sufficient to pay the total amount of the bonds falling due at any one time, the trustees may issue new bonds sufficient to redeem as many of the bonds as cannot be redeemed from the sinking fund.

In the event that the district, with the approval of bond counsel or a bonding organization, establishes a payment schedule that does not require the use of a sinking fund, the provisions of this section shall not apply.

Sec. 11. Authority to purchase property. The St. Francis Water District may acquire by purchase the entire plant, property, franchises, rights and privileges for providing water, to the Town of St. Francis located in or serving the town, including all land, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatuses and appliances used or usable in supplying water to the residents, whether the record title thereto is or is not in the Town of St. Francis. The town may sell, transfer and convey its franchises and property to the water district, subject to Public Utilities Commission approval.

Sec. 12. Procedure in case trustees and town fail to agree on terms of purchase. In case the trustees fail to agree with the town upon the terms of purchase, then the district, through its trustees, may take the properties, interest and franchises of the town, as set forth in section 11, in the manner provided in this Act, wherein the town and its mortgagees, if any, or those having an interest in any realty which is of record, shall be the parties' defendant. The district, through its trustees, may file a petition in the clerk's office of the Superior Court for the County of Aroostook, addressed to any justice thereof who, after notice to the defendant, shall, after hearing and within 60 days after the filing of the petition, appoint 3 disinterested appraisers for the purpose of fixing the valuations of the plant, property and franchises of the town described in section 11. The court may order under proper terms the production for inspection by the trustees or the appraisers of all books and papers pertaining to the issue, on petition by the petitioner, unless the same are voluntarily produced. The appraisers shall, after due notice and hearing, fix the valuation, as of the date of filing the petition, of the plants, properties and franchises at what they were fairly and equitably worth so that the town shall receive just compensation for the same. The report of the appraisers or of a majority of them, together with the report of a stenographer certified by the appraisers as correct, shall be filed in the clerk's office within 6 months after their appointment and any Justice of the Superior Court may, after notice and hearing, confirm or reject the same or recommit it if justice so requires. Upon the confirmation of the report, the court so sitting shall thereupon make final decree upon the entire matter, including the application of the purchase money and transfer of the property, jurisdiction over which is hereby conferred, and with the power to enforce the decree as in equity cases. All findings of fact by the court and the appraisers shall be final, but any party aggrieved may take exceptions as to any matters of law, the same to be accompanied by so much of the case as may be necessary to a clear understanding of the question raised. These exceptions shall be claimed on the docket within 10 days after the final decree is signed, entered, filed and notice thereof has been given by the clerk to the parties and the exceptions so claimed shall be made up, allowed and filed within that time unless further time is granted by the court or by agreement of the parties. They shall be entered at the next term of the Law Court to be held after the filing of these exceptions and there heard, unless otherwise agreed, or the Law Court for good cause shall order further time for hearing thereon. On payment or tender by the district of the amount determined by the final decree and the performance of all other terms and conditions imposed by the court, the plant, properties and franchises of the town as described in section 11, shall become invested in this district.

Sec. 13. Water rates. Individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of the district the rates established by the board of trustees for the water used by them; and the rates for water so supplied shall be uniform within the territory supplied by the district whenever the installation and maintenance of mains and the cost of service is substantially uniform, but nothing in this Act precludes the district from establishing higher rates than the regular rates in sections where for any reason the cost of construction and mainte-

nance or the cost of service exceeds the average, but these higher rates shall be uniform throughout the sections where they apply. The rates shall be so established as to provide revenue for the following purposes:

- A. To pay the current expenses for operating and maintaining the water system;
- B. To provide for the payment of the interest on the indebtedness created or assumed by the district;
- C. To provide each year a sum equal to not less than 1% and not more than 5% of the entire indebtedness created by the district, which sum shall be used to pay serial bonds or notes when due or be turned into a sinking fund and there kept to provide for extinguishment of the indebtedness. Money set aside for the sinking fund shall be devoted to the retirement of the obligations of the water district and invested in such securities as savings banks in this State are allowed to hold; and
- D. If any surplus remains at the end of the year, it may be turned into the sinking fund or used for such other purposes of the district as the trustees may determine.

The water rates, tools, charges and rents shall be filed with and subject to the approval of the Public Utilities Commission as required or permitted by the applicable statutes.

Sec. 14. District and town authorized to make contracts. The district through its trustees may contract with persons and corporations, including the Town of St. Francis, and the Town of St. Francis may contract with it for the supply of water for municipal purposes.

Sec. 15. Incidental rights and privileges. All incidental rights, powers and privileges necessary to the accomplishment of the main object set forth in this Act are granted to the municipal corporation created by this Act.

Sec. 16. Existing statutes not affected; rights conferred subject to provisions of law. Nothing in this Act is intended to repeal, or shall be construed as repealing, the whole or any part of any existing statute 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 or additional thereto.

Sec. 17. Certain sections inoperative on failure to acquire town plant. If the water district fails to acquire the plant, property, franchises, rights and privileges owned by the town and used or usable in supplying water to the town now served or to be served by the town, or to file a petition pursuant to section 12 for taking the same within 2 years after approval of creation of the district, then this Act shall be inoperative.

Sec. 18. Acceptance subject to referendum; effective date. This Act shall take effect when approved only

for the purpose of permitting its submission to the legal voters within the district at an election to be specially called and held for that purpose on or before December 31, 1989. The special 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 clerks 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 voters and the last day to enable the registrar to verify the lists and to complete the records of these sessions. The subject matter of this Act shall be reduced to the following questions:

Question No. 1: "Shall the St. Francis Water District be created?"

Question No. 2: "Shall the debt limit of the St. Francis Water District be set at \$1,500,000?"

The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same.

The results shall be declared by the municipal officers and 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 held in the municipality. Failure of 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 within the time limitation of this section.

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

Effective pending referendum.

CHAPTER 52

S.P. 609 - L.D. 1703

An Act to Amend the Charter of the Canton 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 existing water system of the Town of Canton is inadequate for the needs of the inhabitants of the town; and

Whereas, that inadequacy is injurious to the health, welfare and safety of the inhabitants of that town; and

Whereas, it is imperative that action be taken at the earliest possible moment to relieve that inadequacy; and

Whereas, this legislation is immediately necessary to enable the inhabitants of the Town of Canton to take steps to remedy that inadequacy; 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 1957, c. 44, §1 is repealed and the following enacted in its place:

Sec. 1. Territorial limits; name; purposes. The territory and the inhabitants of that part of the Town of Canton which is bounded and described as follows: all areas west of the Androscoggin River; north and east of the Hartford town line; south of the Peru town line; and north and west of the Livermore town line is created a body politic and corporate under the name of the "Canton Water District" for the purpose of supplying the inhabitants of that district and the Town of Canton with pure water for domestic, sanitary, commercial and municipal purposes.

Sec. 2. P&SL 1957, c. 44, §2 is amended to read:

Sec. 2. Source of supply. The ~~said~~ district, for the purposes of its incorporation, is ~~hereby~~ authorized to take, hold, divert, use and distribute water from any river, lake, pond, stream, brook, well, spring or other source of water, natural or artificial, within the ~~town~~ Town of Canton ~~or to contract to do any or all of the foregoing things.~~

Sec. 3. P&SL 1957, c. 44, §3 is amended to read:

Sec. 3. Right of eminent domain. The ~~said~~ district, for the purposes of its incorporation, is ~~hereby~~ authorized to take and hold, as for public uses, real estate and personal estate, and any interest ~~therein in the estates,~~ necessary or convenient for ~~such those~~ purposes, by purchase, lease or otherwise, and is ~~hereby~~ expressly authorized to exercise the right of eminent domain as ~~hereinafter~~ provided in this Act to acquire for ~~such those~~ purposes any land or interest ~~therein~~ or water rights necessary for erecting and maintaining dams, plants and works, for flowage, for power, for pumping, for supplying water through its mains, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining mains, 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 ~~said~~ district is ~~hereby~~ authorized to lay in and through the streets, roads, ways and highways of the ~~town~~ Town of Canton, and across private lands ~~therein in the town,~~ and to maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures as may be necessary and convenient for its corporate purposes, and whenever ~~said~~ the district shall lay or install any pipes, mains, conduits,