

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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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

CHAPTER 53**H.P. 1126 - L.D. 1569****An Act Concerning the Teaching of Cosmetology**

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

Sec. 1. Study. The Board of Trustees of the Vocational-Technical Institute System shall study the issue of whether vocational-technical institutes should offer a program designed to prepare its students for employment as cosmetologists. The study shall include, but not be limited to, the issue of whether sufficient demand exists in the employment market to justify the offering of a program, whether existing programs provide adequate opportunity for persons who wish to be trained as cosmetologists, and what costs the system would incur in developing and offering such a program.

Sec. 2. Report. The Board of Trustees of the Vocational-Technical Institute System shall report its findings and recommendations to the Joint Standing Committee on Education by January 15, 1990.

See title page for effective date.

CHAPTER 54**H.P. 1064 - L.D. 1486****An Act Increasing Indebtedness of Berwick Sewer District**

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

Whereas, disposal and treatment of sewage is essential to the health and well-being of the inhabitants of the Town of Berwick; and

Whereas, it is imperative that action be taken at the earliest possible time to eliminate any danger to such health and well-being; and

Whereas, the 101st Legislature created the Berwick Sewer District with certain powers over sewers; and

Whereas, it has been determined that its borrowing capacity is inadequate in order to expand services to eliminate the pollution which exists within the confines of the district; 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 1963, c. 154, §11, 3rd sentence, as amended by P&SL 1973, c. 109, is further amended to read:

The Effective March 1, 1989, the total indebtedness of the district evidenced by bonds and notes at any one time outstanding shall not exceed the sum of \$1,750,000 \$5,000,000. Subject to a referendum, the total indebtedness of the district evidenced by bonds and notes at any one time outstanding shall not exceed the sum of \$8,000,000.

Sec. 2. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act shall take effect when approved, except that the increase of the total indebtedness from \$5,000,000 to \$8,000,000 shall take effect only for the purpose of permitting its submission to the legal voters of the Berwick Sewer District, resident in the district, at the next regular town meeting or at a special town meeting to be called and held for the purpose by December 31, 1989. The election shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the selectmen of the town shall not be required to prepare for posting, nor the town clerk to post, a new list of voters and for the purpose of registration of voters the board of voter registration shall be in session on the secular day next preceding the special election. The town clerk of the town shall prepare the required ballots, on which the town clerk shall reduce the subject matter of this Act to the following question:

"Shall 'An Act to Increase the Total Authorized Indebtedness of the Berwick Sewer District from \$5,000,000 to \$8,000,000,' passed by the 114th 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 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 Berwick and due certificate thereof shall be filed by the town clerk with the Secretary of State.

Effective pending referendum.

CHAPTER 55**S.P. 629 - L.D. 1723****An Act to Create the Deer Isle Consumer-owned Water Utility**

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

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

Whereas, the present water system is inadequate to protect the quality of the water, health and well-being of some of the inhabitants of the Town of Deer Isle; and

Whereas, it is desirable that a consumer-owned water utility be formed in part of Deer Isle 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 14 of this Act, the owners of real estate in that part of the Town of Deer Isle in Hancock County comprised of the area beginning at a point at the western edge of Route 15 and 70 feet due north of the center of the intersection of Route 15 and Route 15-A; from this beginning point following the western edge of Route 15 south a distance of 450 feet; thence due west to the Mill Pond shore; thence northwesterly along the Mill Pond shore to the causeway, thence directly across the causeway and following the coast in an easterly and northerly direction to a point intersecting a line bearing 40 degrees due west of north from the starting point; and thence from this point on the shore easterly to the starting point may form a quasi-municipal corporation under the name of the "Deer Isle Consumer-owned Water Utility" for the purpose of supplying the members of the utility with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes. Membership shall be open to any owner of real estate in the area defined in this section. The utility shall be subject to the provisions of the Maine Revised Statutes, Title 35-A, sections 6101, 6102 and 6104 to 6107 and other applicable laws and commission rules.

Sec. 2. Powers of Deer Isle Consumer-owned Water Utility. The Deer Isle Consumer-owned Water Utility is authorized, for the purposes of its incorporation, to take, collect, store, flow, use, divert, distribute and convey to the members of the utility, water from any source, natural or artificial, within the area of the Town of Deer Isle. 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, and do anything necessary to furnish water for public purposes and for the public health, comfort and convenience of the members of the utility, 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 utility created by this Act.

Sec. 3. Authorization to lay mains, pipes, conduits, aqueducts, fixtures and appurtenances through public ways and across private lands. The utility is authorized to lay in and through the streets, roads, ways, highways and bridges in the area delineated in section 1 and across private lands in the area delineated in section 1, and to maintain, repair and replace all pipes, mains, conduits, aqueducts and fixtures and appurtenances as may be necessary and convenient for its corporate purposes and, whenever the utility 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. 4. Authorization to erect dams and reservoirs; to cross navigable waters; to supply water to utilities. The utility 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 utility is also authorized to lay, construct and maintain its pipes and fixtures in, over and under navigable waters and to build and maintain structures.

Sec. 5. Rights of eminent domain. The utility, for the purposes of its incorporation, is authorized to petition the Public Utilities Commission to take and hold, as for public uses, real estate and personal property, and any interest therein, located in the area delineated in section 1 of this Act, necessary or convenient for those purposes, by purchase, lease or otherwise and is expressly authorized to exercise the right of eminent domain, as provided in this Act and subject to the provisions of the Maine Revised Statutes, Title 35-A, chapters 65 and 67, 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 and supplying water through its mains; for reservoirs; for 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.

The utility 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 utility 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.

Sec. 6. Procedure if public utility 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 utility, the Public Utilities Commission, upon petition by the utility, 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 utility.

Sec. 7. Utility meetings; quorum. The utility shall hold an annual meeting on the first Saturday in August. It may call a special meeting on the majority vote of the trustees or on a petition of 50% of its members. A quorum shall consist of 50% of the membership of the utility. For the purpose of obtaining a quorum, members may give their proxy to the board or any other member of the utility.

Sec. 8. Bylaws. By a two-thirds vote of any annual meeting, the members of the utility may establish bylaws determining the manner of electing trustees, date of an annual meeting, establishment of a quorum at an annual or special meeting of the utility and establishing membership dues. The bylaws of the utility shall be placed on file with the Public Utilities Commission.

Sec. 9. Trustees; election; first board; meeting; officers. All of the affairs of the utility shall be managed by a board of trustees composed of 3 members, all of whom shall be members of the utility and elected as provided in this section.

1. First board. Within one year after this Act takes effect, the selectmen of the Town of Deer Isle, who are especially appointed for this purpose, shall give notice of a special meeting of the owners of real estate in the area specified in section 1, for the purpose of establishing the Deer Isle Consumer-owned Water Utility, including the determination of the membership, selecting the first board of trustees, selecting a president and clerk from those selected as trustees. The clerk shall be a resident of the State. They may also select a treasurer who need not be a member of the board. The selectmen shall post a notice at least 30 days prior to the date set for the meeting. The notice shall be published in one public and conspicuous place in the Town of Deer Isle.

The first order of business of the board shall be to draw by lot to fix the terms of the trustees. Of the original trustees, one trustee shall serve for one year, one trustee for 2 years and one trustee for 3 years. Thereafter, trustees shall be selected to serve for 3-year terms.

2. Subsequent selection of trustees. After the first year, trustees whose terms expire shall be elected at the utility's annual meeting. Unexpired terms may be filled at the next annual meeting of the utility or at a special meeting called by the board of trustees.

3. Decisions of the board. All decisions of the board of trustees shall be by a majority of those present and voting subject to the approval of a majority of those present and voting at the next annual or special meeting of the utility. A quorum of the board of trustees shall be 2 trustees.

4. Compensation. Trustees shall serve without compensation. The trustees may establish a policy to pay the

expenses of members resulting from the conduct of their duties as trustees.

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

Sec. 10. Utility and town authorized to make and assume contracts. The utility, through its trustees, is authorized to contract with persons and corporations, including the Town of Deer Isle, and the Town of Deer Isle is authorized to contract with the utility for the supply of water for municipal purposes.

Sec. 11. Authorization to receive governmental aid; borrow money; issue bonds and notes. For accomplishing the purposes of this Act and for other expenses as may be necessary for the carrying out of these purposes, the utility, through its trustees, with the approval of a majority of the members of the utility present and voting at the next annual or special meeting of the utility, is authorized to receive both state and federal aid grants. It may also borrow money temporarily and issue negotiable notes for the purpose of renewing and refunding the indebtedness created for paying any necessary expenses and liabilities incurred under this Act, including organizational and other necessary expenses and liabilities whether incurred by the utility or the Town of Deer Isle, the utility being authorized to reimburse the Town of Deer Isle for any such expense incurred 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 utility through its trustees, and with the approval of a majority of those present and voting at an annual or special meeting of the utility, is authorized to issue bonds, notes or other evidence of indebtedness of the utility, not to exceed \$500,000 in amount or amounts bearing interest at rate or rates, selling at par, discount or premium, and 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 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 a premium as the trustees determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "Deer Isle Consumer-owned Water Utility," shall be signed by the treasurer and countersigned by the president of the board of trustees of the utility and, if coupon bonds are issued, the interest coupon attached to the coupon bonds shall bear the facsimile signature of the treasurer.

The bonds, notes and evidences of indebtedness so issued by the utility shall be legal obligations of the utility, which is declared to be a quasi-municipal corporation.

The utility 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 utility shall be legal investments for savings banks in the State and shall be free from taxation.

Sec. 12. 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 utility 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 3 or 61, to provide for the purposes set forth in that chapter.

Sec. 13. 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 and additional to Title 35-A, to the extent that these laws affect the operations of the utility.

Sec. 14. Severability 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, with the intention that the remaining portion of this Act shall stand, notwithstanding, the unconstitutionality or invalidity of any section, sentence, clause or phrase.

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

Effective June 23, 1989.

CHAPTER 56

H.P. 1266 - L.D. 1761

An Act Transferring Concurrent Legislative Jurisdiction over Brunswick Naval Air Station

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

Sec. 1. Brunswick Naval Air Station; approval of transfer of legislative jurisdiction. The United States Department of the Navy having filed with the Governor by letter dated May 10, 1989, its notice of intention to both acquire concurrent legislative jurisdiction from the State of Maine over all areas of Brunswick Naval Air Station in which the United States presently holds a proprietary interest and to relinquish to the State of Maine that measure of its exclusive legislative jurisdiction over areas of Brunswick Naval Air Station in which the United States presently holds exclusive legislative jurisdiction necessary to establish concurrent legislative jurisdiction between the State of Maine and the United States, pursuant to the Maine Revised Stat-

utes, Title 1, section 8, the State of Maine hereby approves the transfers of legislative jurisdiction as proposed in the notice of intention.

Sec. 2. Brunswick Naval Air Station; description of land. The existing land so affected is the Brunswick Naval Air Station, inclusive of all land within the present boundaries of that station in the Towns of Brunswick and Topsham in Cumberland County.

Sec. 3. Brunswick Naval Air Station; concurrent legislative jurisdiction. This Act confers concurrent legislative jurisdiction between the State of Maine and the United States over all lands currently comprising Brunswick Naval Air Station as of the date of recordation of both this Act and the notice of intention.

See title page for effective date.

CHAPTER 57

S.P. 628 - L.D. 1722

An Act Modifying the Territory of the Lucerne-in-Maine Village Corporation

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

Whereas, it is the purpose of this legislation to transfer property that is located within the territorial limits of Lucerne-in-Maine Village Corporation to the Town of Dedham; and

Whereas, the Lucerne-in-Maine Village Corporation has already agreed to remove the school lot from Lucerne-in-Maine Village Corporation at its annual meeting on July 30, 1988; and

Whereas, the Town of Dedham would like to have the property transferred as soon as possible before the school year starts in September; 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:

Lucerne-in-Maine Village Corporation; territory amended. Private and Special Laws of 1927, chapter 43, as amended by Private and Special Laws of 1951, chapter 94, is further amended by removing and excluding the following described parcel of land from the territorial limits of Lucerne-in-Maine Village Corporation: