

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1990

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

SECOND REGULAR SESSION

of the

ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

In order to address questions that have been raised about the efficacy of the November 8, 1988, special town meeting to satisfy the condition of approval at the next regular municipal election, the Legislature finds that the purpose of the referendum approval required by Private and Special Law 1987, chapter 117, to determine the will of a majority of the voters of Greenville on the annexation was fulfilled by the election held on November 8, 1988.

The Legislature further finds that in fact the results of that election were declared by the municipal officers of the town and a due certificate of the results was filed by the town clerk with the Secretary of State within 10 days of the date of the vote.

Sec. 2. Referendum; ratification. The issuance of warrants for and the holding of a special town meeting or election by and for the Town of Greenville on November 8, 1988, to vote on the proposition "Shall the Town of Greenville annex a portion of Cove Point Township in Piscataquis County?" in the manner and form in which such actions were taken by the Town of Greenville and the vote certified to the Secretary of State are ratified and approved as compliance with the referendum requirement and all other requirements for the taking effect of Private and Special Law 1987, chapter 117; that from and after November 8, 1988, Private and Special Law 1987, chapter 117, has been in effect; and from and after such date the lot or parcel of land described in that law has been annexed to the Town of Greenville.

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

Effective April 10, 1990.

CHAPTER 117

S.P. 917 - L.D. 2323

An Act to Create the Winter Harbor 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 imperative that the Town of Winter Harbor establish a water district as soon as possible in order to purchase the Winter Harbor Water Company and take necessary action to comply with requirements of the federally mandated water quality standards without further delay; 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 Winter Harbor in the County of Hancock shall constitute a quasi-municipal corporation under the name of "Winter Harbor 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 Winter Harbor Water District. The Winter Harbor 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 Town of Winter Harbor and from any other source from which the Winter Harbor 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.

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 Winter Harbor and across private lands in the Town of Winter Harbor 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 Hancock, 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 must 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, the district, in exercising, from time to time, any right of eminent domain in the taking of land, interest therein or water rights, shall file in the office of the county commissioners of Hancock County and record in the Hancock 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 must 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 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

that would have been justified if the original taking had been lawful. Entry may not 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 does not vest in the district until payment therefor.

Sec. 8. Adjustment of damages; procedure as in laying out of highways. If any person sustaining damages by any taking pursuant to the right of eminent domain does not agree with the district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Hancock 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 are managed by a board of trustees composed of 3 members, all of whom must 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 Winter Harbor, who are especially appointed for this purpose, shall give notice of a special election of the Winter Harbor 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 must be published in one public and conspicuous place in the Town of Winter Harbor. The candidates for office shall obtain nomination papers from the clerk of the Town of Winter Harbor, who is appointed especially to act as clerk in this particular instance. The form of the nomination papers and the form of the ballot must 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 are residence within the district and eligibility to vote.

As soon as convenient after its 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 must 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 are established as follows: the member receiving the greatest number of votes serves for a term of 3 years; the member receiving the next highest number of votes serves for a term of 2 years; and the 3rd member serves for a term of one year. In the event of a tie vote, the terms of office of the members affected are determined by lot. Thereafter, trustees are elected to serve for 3-year terms.

2. Organization; conduct of business. Organization and powers of the board of trustees must be in

accordance with the Maine Revised Statutes, Title 35-A, chapter 63.

All decisions of the board of trustees must be by a majority of those present and voting. A quorum of the board of trustees is 2 trustees.

Trustees are entitled to compensation 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 must be called and held on the same date as the annual municipal election, 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 must 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 must be filled as provided in this section. All trustees are eligible for reelection, but a person who is a member of the town council in the Town of Winter Harbor is not eligible for nomination or election as trustee.

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

The trustees shall appoint a registrar of voters for the district, who may also be the registrar of voters for the Town of Winter Harbor, and fix the registrar's salary. It is 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, governs 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 must 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 Winter Harbor.

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

Sec. 12. Authorized to acquire property and franchises of Winter Harbor Water Company. The district, through its trustees, may acquire by purchase the entire plant, properties, franchises, rights and privileges owned by the Winter Harbor Water Company, located within the Town of Winter Harbor, 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 district may acquire by the exercise of the right of eminent domain, a right 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 Winter Harbor 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 Winter Harbor 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 therein taken. The trustees shall then serve upon the owner or owners of record a copy of the condemnation order and a check in the amount of the damages awarded and record a certified copy of the condemnation order in the Hancock County Registry of Deeds. In the event of multiple ownership, the check may be served on any one of the owners. This title passes to the district upon service of the order of condemnation and check or upon recordation in accordance with this Act, whichever occurs first. Acceptance and negotiation of the check do not bar an appeal under this Act.

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

Sec. 13. Authorized to receive government aid; borrow money; issue bonds and notes. For

accomplishing the purposes of this Act and for such other expenses as may be necessary for the carrying out of these purposes, the district, through its trustees, without vote of the inhabitants, may receive state and federal aid grants, borrow money temporarily and issue therefor its negotiable notes for the purpose of renewing and refunding the indebtedness so created, for paying any necessary expenses and liabilities incurred under this Act, including organizational and other necessary expenses and liabilities, whether incurred by the district or the Town of Winter Harbor, the district being authorized to reimburse the Town of Winter Harbor for any such expense incurred by the town and in acquiring properties, paying damages, laying pipes, mains, aqueducts and conduits, constructing, maintaining and operating a water plant or system and making renewals, additions, extensions and improvements to the water plant or system and to cover interest payments during the period of construction. The district, through its trustees, without the vote of its inhabitants, may also issue, from time to time, in accordance with the Maine Revised Statutes, Title 35-A, chapter 63, bonds, notes or other evidence of indebtedness of the district in such amount or amounts bearing interest at such rate or rates, selling at par or at a discount or a premium and having such other terms and provisions as the trustees 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 bonds, notes or evidences of indebtedness prior to maturity and, if callable, may be made callable at par or at such premium as the trustees determine. All bonds, notes or other evidences of indebtedness must have inscribed upon their face the words "Winter Harbor Water District," and be signed by the treasurer and countersigned by the president of the board of trustees of the district. If coupon bonds are issued, the interest coupon attached to the coupon bonds must bear the facsimile signature of the treasurer.

All bonds, notes and evidences of indebtedness so issued by the district, which is declared to be a quasi-municipal corporation, are legal obligations of the district within the meaning of the Maine Revised Statutes, Title 30-A, section 5701.

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 constitutes a separate loan. All bonds, notes and evidences of indebtedness issued by the district are legal investments for savings banks in the State and are free from taxation.

Sec. 14. Rates. The rates established pursuant to this section must 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 Winter Harbor, 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 must be established in accordance with the Maine Revised Statutes, Title 35-A, chapter 61, to provide for the purposes set forth therein.

Sec. 15. Existing laws not affected; rights conferred subject to provisions of law. Nothing contained in this Act is intended to repeal, or may be construed as repealing, the whole or any part of any existing law, and all the rights and duties mentioned in this Act must be exercised and performed in accordance with all the applicable provisions and amendatory Acts to 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 is held invalid by a court of competent jurisdiction, the holding does not affect the remainder of this Act, it being the intention that the remaining portions of this Act stand, notwithstanding the unconstitutionality or invalidity of any section, sentence, clause or phrase.

Sec. 17. Acceptance subject to referendum. This Act must be submitted to the legal voters within the district at an election called for that purpose and held by December 31, 1991. The election must be called, advertised and conducted according to the law relating to municipal elections, provided that the registrar of voters is not 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 must 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 is reduced to the following question:

"Shall the Winter Harbor Water District be created?"

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

The results must be declared by the municipal officers of the Town of Winter Harbor and the due certificate of the results filed by the clerk with the Secretary of State.

This Act takes 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 does 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 takes effect when approved.

Effective pending referendum.

CHAPTER 118

S.P. 939 - L.D. 2374

An Act to Create the Columbia Falls 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 Columbia Falls wishes to establish a water district and purchase the assets of the Allen Water Company; and

Whereas, it is imperative that the Town of Columbia Falls establish a water district, as soon as possible, in order to purchase the Allen Water Company and take whatever action is necessary to comply with requirements of the federally mandated water quality standards without further delay; 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 17 of this Act, the inhabitants and territory in that part of Columbia Falls comprised of the area beginning at a point 2,500 feet south of the intersection of Main Street and Point Street; thence westerly 250 feet; thence northerly to the center line of Main Street; thence northeasterly along the center line of Main Street to the brook; thence northerly along the brook to Pleasant River; thence following the Pleasant River to a point due east of the point of beginning; thence due west to the point of beginning, may form a quasi-municipal corporation under the name of "Columbia Falls Water District" for the purpose of supplying the members of the utility with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes.

Sec. 2. Powers of Columbia Falls Water District. The Columbia Falls 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 Columbia Falls and from any other source from which the Allen 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 or 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.

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 Columbia Falls and across private lands in the Town of Columbia Falls and maintain, repair and replace, all such pipes, mains, conduits, aqueducts and fixtures and appurtenances necessary and convenient for its corporate purposes and, whenever the district lays 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; cross navigable waters; 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, 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