

# 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.

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J.S. McCarthy Company  
Augusta, Maine  
1990

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**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**

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mental to those powers or necessary for the performance of the following:

A. To acquire real or personal property or any interest in real or personal property, including rights or easements, on either a temporary or permanent basis, by gift, purchase, transfer, lease or otherwise. The county commissioners may acquire, for the location of the jail facility, any real property within the City of Portland, including property that does not abut existing county buildings, by eminent domain under the procedures established in the Maine Revised Statutes, Title 23, sections 2051 to 2058, provided that Title 23, section 7202, does not apply to any taking of land of any railroad corporation as long as no operating track is taken. Eminent domain proceedings under this paragraph must be initiated within one year of the effective date of this subsection. The county commissioners may improve, hold, sell, with or without public bidding, assign, lease, rent or otherwise dispose of any real or personal property, or any interest in real or personal property in connection with the project;

B. To prepare or cause to be prepared plans, specifications, designs and estimates of cost for the construction and equipment of the project and attendant facilities and by contract or contracts to construct, acquire, alter, repair, maintain and improve, furnish and equip the project or any portion of the project and any attendant facilities;

C. To provide financing or refinancing of indebtedness for the project or any portion of the project, to borrow money, to issue negotiable securities, to provide for the rights, security and remedies of the holders of those securities and to enter into agreements providing for credit enhancement and bond insurance;

D. To make and execute contracts and all other instruments, including trust agreements and other financial documents, and to enter into any necessary or convenient transactions; and

E. To provide by resolution, at one time or from time to time, for the issuance and sale of securities for the purpose of paying the costs or the refinancing of any indebtedness of the project or any part of the project. After issuance, all securities issued pursuant to this Act must be presumed to be fully and duly authorized and issued, and any person or governmental unit is prohibited from questioning their authorization, sale, issuance, execution or delivery. Except as otherwise provided, the manner of execution, the maturities, denominations, interest rate or rates, place of payment, the form and other details of the securities must be determined by the county commissioners.

**Sec. 2. P&SL 1989, c. 63, §3, first sentence is amended to read:**

To provide funds for the county jail facility costs of the project, the treasurer of Cumberland County, with the approval of the county commissioners, may borrow from time to time upon the full faith and credit of the county such sums, not exceeding in the aggregate \$25,000,000, as may be necessary and may issue bonds therefore which shall bear on their face the words "Cumberland County Capital Improvement Bonds Act of 1989."

**Sec. 3. Ratification by voters unnecessary.** This Act, including any provisions which authorize the issuance of bonds for any purposes other than construction of a new jail facility, need not be submitted to the legal voters of Cumberland County.

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

Effective April 10, 1990.

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## CHAPTER 121

S.P. 916 - L.D. 2322

### An Act Creating the Long Pond 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 creation of the Long Pond Water District must be voted on in town meetings that will be held before the expiration of the 90-day period; and

**Whereas,** it is necessary for the Long Pond Water District to undertake construction during the current construction season; 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 of those parts of the Town of Sullivan and the Town of Sorrento composed of the area beginning at a point 1,500 feet north of the intake pipe of Long Pond; thence easterly to a point intersecting with the western branch of Flanders Stream; thence in a southerly direction following Flanders Stream until the outlet in Flanders Bay; thence west following Flanders Bay to a point 500 feet east of the transmission main; thence south to the shore of Flanders Bay; thence following this shoreline in a southerly and southwesterly direction; thence northerly around Waukeag Neck; thence easterly to the

end of Long Cove; thence easterly to a point intersecting Route 185; thence northerly along Route 185 to the intersection of U.S. Route 1 and Route 185; thence easterly along U.S. Route 1 to a point 500 feet west of the intersection of the Pumpkinville Road and U.S. Route 1; thence northerly to the southern tip of Long Pond; thence north along the eastern shore to the point of beginning, constitute a quasi-municipal corporation under the name of "Long Pond Water District" for the purpose of supplying the inhabitants and others of the district with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes.

### **Sec. 2. Powers of Long Pond Water District.**

The Long Pond 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 and from any other source from which the Long Pond Water Company may take water. The company 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 district and across private lands in the district 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 lays any pipes, mains, conduits, aqueducts and fixtures or appurtenances in any street, road, way or highway, the district 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 the district 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 Hancock County, 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.

This section may not 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 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 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 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; procedures 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 are 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 must be managed by a board of trustees composed of 5 members, 4 of whom are residents of Sorrento and one of whom is a resident of Sullivan 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 Sorrento and the Town of Sullivan, who are especially appointed for this purpose, shall give notice of a special election of the Long Pond 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 Sorrento and the Town of Sullivan. The candidates for office shall obtain nomination papers from the clerk of the Town of Sorrento and the Town of Sullivan, 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 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 4 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 2 members receiving the greatest number of votes shall serve for terms of 3 years; the 2 members receiving the next highest numbers of votes shall serve for terms of 2 years; and the 5th member shall serve for a term of one year. In the event of a tie vote, the terms of office of the members affected must 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 are in accordance with 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 shall be 3 trustees.

Trustees' compensation is 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 must 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, the vacancy 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 shall be eligible for reelection, but no person who is a member of the town council in the Town of Sorrento or the Town of Sullivan may be 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 registrars of voters for the district, who may also be the registrars of voters for the Town of Sorrento and the Town of Sullivan and fix the registrars' salary. It is the registrars' duty to make and keep a complete list of all the eligible voters of the district. The lists prepared by the registrars, as provided by the laws of the State, are used to determine the eligibility of any voter. In determining the eligible voters of the district, the registrars 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 Sorrento and the Town of Sullivan.

**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 Sorrento and the Town of Sullivan and those towns may contract with the district for the supply of water for municipal purposes.

**Sec. 12. Authorized to acquire property and franchises of Long Pond Water Company.** This district, through its trustees, may acquire by purchase the entire plant, properties, franchises, rights and privileges owned by the Long Pond Water Company, 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 Long Pond 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 Long Pond 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 must pass 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 may 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, 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 to damages. Appeal from the decision of the Superior Court may be made 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 Sorrento and the Town of Sullivan, the district being authorized to reimburse those towns 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 shall determine, except that loans running for one year or less will not require the approval of the Public Utilities Commission.

The bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such 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 such premium as the trustees may determine. All bonds, notes or other evidences of indebtedness must have inscribed upon their face the words "Long Pond Water District," must 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 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 Sorrento and the Town of Sullivan, 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.

**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 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 is held invalid by a court of competent jurisdiction, the holding may not affect the remainder of this Act, it being the intention that the remaining portions of this Act stands, 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 to be 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 in each town are not required to prepare or the clerk in each town to post a new list of voters and, for this purpose, each 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 question:

“Shall the Long Pond 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 Sorrento and the Town of Sullivan and the due certificate of the results filed by the clerk with the Secretary of State.

This Act, for all the purposes thereof, takes effect 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.

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## CHAPTER 122

H.P. 1788 - L.D. 2457

### An Act Concerning State Education Mandate Waivers

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

**Whereas,** reductions in school funding increase the property tax burden on local taxpayers; and

**Whereas,** state mandates can not be implemented without adequate funding; and

**Whereas,** a hardship is created for local taxpayers when the State imposes mandates for which the State does not provide funding; 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. Educational waivers; informational meetings.** The Commissioner of Educational and Cultural Services shall meet with appropriate organizations and professional associations to discuss the availability of educational mandate waivers and to disseminate information on the criteria and procedure for waiving implementation of educational mandates by school administrative units. Among the organizations and associations with whom the commissioner shall meet are the statewide organizations representing school superintendents, secondary and elementary school principals, school boards, teachers and municipal governments.

**Sec. 2. Informational letters.** Prior to July 1, 1990, the Commissioner of Educational and Cultural Services shall send an informational letter to school superintendents, school boards and municipal officials describing the criteria and procedure for granting waivers of state educational mandates.

**Sec. 3. Technical assistance.** The Commissioner of Educational and Cultural Services shall provide technical assistance to superintendents, principals and