

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

December 12, 1991 to January 7, 1992

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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 FIFTEENTH LEGISLATURE

1991

Sec. 1. P&SL 1921, c. 159, §5, as repealed and replaced by P&SL 1979, c. 84, §4, is amended by amending the last paragraph to read:

The trustees may also ordain and establish the by-laws, not inconsistent with the laws of the State, as are necessary for their own convenience and the proper management of the affairs of the district. The terms of office of the trustees shall begin on the first Monday of ~~April~~ July. The trustees shall make and publish an annual report and include therein the report of the treasurer. Each trustee shall receive in full compensation for ~~his~~ the trustee's services an allowance of \$200 per year.

Sec. 2. Transition. Any trustee serving the district during 1992 whose term commenced on the first Monday of April, unless otherwise removed, remains as trustee, duly authorized to conduct the affairs and business of the district for the remainder of the trustee's 3-year term and for the additional period ending the day immediately preceding the first Monday of July.

See title page for effective date.

CHAPTER 80

H.P. 1593 - L.D. 2247

An Act to Create the Waterboro Water District

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

Whereas, wells in the Waterboro area have become contaminated with petroleum and pose a serious threat to the health and well-being of residents of that area; and

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

Whereas, it is desirable that a public district be formed in Waterboro 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 15, the inhabitants and terri-

tory of that part of the Town of Waterboro in York County comprised of the area beginning at the Waterboro, Lyman and Alfred town line; thence running northwest along the Waterboro and Alfred town line to a point 500 feet beyond Federal Street; thence turning north and running parallel to Federal Street to the West Road; thence crossing West Road to a point 500 feet from the intersection of West Road and Ossipee Hill Road; thence turning northeast and running parallel to the Ossipee Hill Road to a point 500 feet from the McLucas Road; thence turning northwest and running parallel to the McLucas Road to the southeastern shore of Little Ossipee Pond; thence turning northeast and running along the southeastern shore of Little Ossipee Pond to a point 500 feet beyond the outlet stream of the Big Rock Trout Pond; thence turning east and running parallel to the outlet stream of the Big Rock Trout Pond to a point 500 feet from the Townhouse Road; thence turning northeast and running parallel to the Townhouse Road to the Waterboro and Hollis town line; thence turning south and running along the Waterboro and Hollis town line to the Waterboro and Lyman town line; thence turning southwest and running along the Waterboro and Lyman town line to the point of beginning constitutes a body politic and corporate under the name of "Waterboro Water District" for the purposes 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 Waterboro Water District.

The Waterboro 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 Waterboro and from any other source from which the Waterboro Water District 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 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, aqueducts, fixtures and appurtenances 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 Waterboro and across private lands in the Town of Waterboro and maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures and appurtenances as may be nec-

essary 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; 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 for the pipes and fixtures, subject to the laws of the United States. The district may supply water to any public utility now supplying water in York 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 in real estate and personal estate 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.

The right of eminent domain granted in this section is subject to the Maine Revised Statutes, Title 35-A, chapter 67.

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 prop-

erty 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. The district, in exercising, from time to time, any right of eminent domain in the taking of land, interests in the land or water rights, shall file in the office of the county commissioners of York County and record in the York County Registry of Deeds plans of the location of all property to be taken, with an appropriate description and the names of the owners, if known. Notice of the filing 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 that 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 in the lands or water rights so taken, but title does not vest in the district until payment has been made.

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 for the taking, either party, upon petition to the county commissioners of York 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 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 and this section.

1. First board. Within 14 days after the acceptance of this Act, the municipal officers of the Town of Waterboro, who are especially appointed for this purpose, shall appoint 3 trustees. After the selection of the first board, the only eligibility requirements for the office of trustee of the district are residence within the district and eligibility to vote, and all subsequent trustees are elected by the residents of the district as provided in

the Maine Revised Statutes, Title 35-A, chapter 63 in an annual election to be held the 2nd Saturday of June in each year.

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 bylaws as necessary for the proper management of the affairs of the district.

4. Vacancy. Whenever the term of office of a trustee expires, the trustee's successor must be elected by a plurality vote by the inhabitants of the district. 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 municipal officers 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 municipal officer in the Town of Waterboro 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 Waterboro, 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 that list and from all checklists the legal voters who are resident outside the territorial limits of the 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 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 Waterboro.

Sec. 11. District and town authorized to make and assume contracts. The district, through its trustees, may contract with persons and corporations, including the Town of Waterboro, and that town may contract with the district for the supply of water for municipal purposes.

On the effective date of this Act pursuant to section 16, the Waterboro Water District, as successor to the responsibilities and powers of the Town of Waterboro with regard to the provision of water services to that area of the town in which there are contaminated wells, assumes, is bound by and enjoys all privileges, rights, obligations and liabilities established under the terms of the following contracts as they relate to the Town of Waterboro:

1. Primary contract. The September 19, 1989 contract between the State, acting through the Department of Environmental Protection, and the Town of Waterboro regarding the South Waterboro water system;

2. Special service contracts. Subsequent related Contract for Special Services agreements; and

3. Further contracts. Any further contracts entered into prior to the creation of the district between the State, acting through the Department of Environmental Protection, and the Town of Waterboro for the purposes of providing citizens of South Waterboro relief from wells contaminated by gasoline hydrocarbons or hazardous substances.

Sec. 12. 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 for the money 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 Waterboro, the district being authorized to reimburse the Town of Waterboro 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 evidences of indebtedness of the district in such amount or amounts bearing inter-

est 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 "Waterboro 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. 13. 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 Waterboro, other than the normal payment of water charges for services rendered and the loan or loans for initial funds as set forth in section 12. 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.

The management and allocation of the Waterboro Water District of a contribution of funds by the State under the Maine Revised Statutes, Title 38, section 1364, subsection 5, and the income from those funds, are not subject to investigation or review by the Public Utilities Commission under Title 35-A, section 310, 1302 or 1303, except upon request by the Department of Environmental Protection.

Sec. 14. Existing laws not affected; rights conferred subject to provisions of law. Nothing con-

tained 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 of and amendatory acts to the Maine Revised Statutes, Title 35-A to the extent that that Title and its amendments affect the operations of the district.

Sec. 15. 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. 16. 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, 1994. The election must be called, advertised and conducted according to the law relating to municipal elections, except 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 must 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 list 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 Waterboro Water District be created?"

The voters shall indicate by a cross 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 Waterboro and the due certificate of the results filed by the clerk with the Secretary of State.

This Act takes effect upon its acceptance by a majority of the legal voters within the district voting at the special election. The total number of votes cast for and against the acceptance of this Act in the special election must equal or exceed 20% of the total number of names on the checklist of voters of the town provided for in this Act, which checklist must be used at such elections. Failure of the approval by the necessary majority of voters at any such election does not prevent a subsequent election or elections from being held for that purpose.

Sec. 17. Local referendum impact. Notwithstanding the Maine Revised Statutes, Title 30-A, section 5684, additional costs, if any, imposed on any municipality by the provisions of this Act providing for a local referendum are not funded by the State.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved only for the purpose of permitting its submission to the legal voters within the district.

Effective pending referendum.

CHAPTER 81

H.P. 1479 - L.D. 2091

An Act to Revise the Charter of the Boothbay Harbor Sewer District

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

Whereas, the Boothbay Harbor Sewer District is a quasi-municipal corporation organized and existing under the laws of the State; and

Whereas, the Boothbay Harbor Sewer District operates a wastewater treatment facility in Boothbay Harbor; and

Whereas, the existing primary wastewater treatment facility of the Boothbay Harbor Sewer District is not capable of complying with state and federal wastewater discharge laws; and

Whereas, the Boothbay Harbor Sewer District has entered into a consent agreement with the Department of Environmental Protection that requires the district to take action to control and abate discharges that exceed permissible limits; and

Whereas, it is anticipated that the Boothbay Harbor Sewer District will need to construct a wastewater treatment facility in order to comply with state and federal laws; and

Whereas, the anticipated costs for such construction exceed the existing debt limit set forth in the charter of the Boothbay Harbor Sewer 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 1961, c. 161, §17, 2nd sentence, as repealed and replaced by P&SL 1971, c. 54, is amended to read:

The total indebtedness of ~~said~~ the district at any one time outstanding ~~shall~~ may not exceed the sum of ~~\$1,500,000~~ \$5,500,000.

Sec. 2. P&SL 1961, c. 161, §17, 3rd sentence, as repealed and replaced by P&SL 1971, c. 54, is amended to read:

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 sewage plant or system or part ~~thereof~~ of a sewage plant or system, for renewals or additions or for other improvements in the nature of capital costs, the estimated cost of which singly or in the aggregate is ~~\$50,000~~ \$150,000 or more, but not for renewing or refunding existing indebtedness or to pay for maintenance, repairs or for current expenses, notice of the proposed debt, the general purpose or purposes for which it was authorized and of the date of a special district meeting for the purpose of voters of the district voting ~~thereon~~ shall must be given by the clerk by publication at least once in a newspaper having a general circulation in the Town of Boothbay Harbor.

Sec. 3. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, except as otherwise provided in this section, sections 1 and 2 of this Act take effect when approved only for the purpose of permitting their submission to the legal voters of the Boothbay Harbor Sewer District, resident in the district, at a district referendum to be called and held for the purpose by May 1, 1992. The election must be called, advertised and conducted according to the Maine Revised Statutes, Title 30-A, section 2354; provided, however, that the municipal officers of the town are not 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 must be in session on the secular day next preceding the special election. The district shall prepare the required ballots, on which the subject matter of section 1 of this Act must be reduced to substantially the following question, referred to in this section as "question A":

Question A.

"Shall the charter of the Boothbay Harbor Sewer District be revised to increase the total debt limit of the district to \$5,500,000?"

The subject matter of section 2 of this Act must be reduced to substantially the following question, referred to in this section as "question B":

Question B.

"Shall the charter of the Boothbay Harbor Sewer District be revised to increase the borrowing limit of the trustees to incur debt without voter participation to \$150,000?"