

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

SECOND REGULAR SESSION
January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1992

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
1992

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

SECOND REGULAR SESSION

of the

ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

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

Whereas, the Maine Committee for Global Education has begun its work to promote and support school-based model programs in all regions of the State; and

Whereas, there is a need for additional legislative expertise on the Maine Committee for Global Education; and

Whereas, the immediate addition of 2 legislative members to the Maine Committee for Global Education will enable the committee to meet its mandate; 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. Resolve 1991, c. 34, §2, first ¶ is amended to read:

Sec. 2. Membership. Resolved: That the Maine Committee for Global Education consists of ~~15~~ 17 members appointed as follows:

Sec. 2. Resolve 1991, c. 34, §2, sub-§§11 and 12 are amended to read:

11. ~~One Senator serving~~ Two Senators appointed by the President of the Senate, one of whom must serve on the Joint Standing Committee on Education appointed by the President of the Senate; and

12. ~~One member~~ Two members appointed by the Speaker of the House of Representatives serving, one of whom must serve on the Joint Standing Committee on Housing and Economic Development appointed by the Speaker of the House of Representatives.

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

Effective March 23, 1992.

CHAPTER 85

H.P. 1687 - L.D. 2367

An Act to Create the Searsmont Village Water District

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

Whereas, residents within the proposed Searsmont Village Water District are in immediate need of adequate and safe drinking water supplies; 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, the inhabitants and territory within the Town of Searsmont in Waldo County comprised of the area starting at the intersection of Paul Road and Pond Road; thence northerly on Pond Road 440 feet, more or less, to a point at the southwest corner of Lot #15; thence 740 feet, more or less, in a northeasterly direction to Quantabacook Stream; thence following the Quantabacook Stream southerly 960 feet, more or less, to the intersection of Quantabacook Stream and the St. George River; thence continuing in a southerly direction along the St. George River 320 feet, more or less, to a sharp bend; thence 260 feet, more or less, in a southwesterly direction to the southerly edge of Lot #269-6; thence 350 feet, more or less, to the southeasterly line of Lot #34; thence in a westerly direction along the southerly line of Lot #34, 240 feet, more or less, to Route 131; thence 480 feet, more or less, in a northerly direction on Route 131 to the bridge crossing the St. George River; thence following the St. George River in a northerly direction 680 feet, more or less, to the southwest corner of Lot #269-5; thence 400 feet, more or less, in an easterly direction to the Paul Road following the northern edge of Lot #269-5; thence in a southerly direction 440 feet, more or less, to the point of beginning. Reference to lot numbers are taken from Property Map 10, Town of Searsmont, Waldo County, Maine and prepared by Raynold R. Holmes, dated February, 1990; and also all real properties of the Searsmont Water Company in the Town of Searsmont in the County of Waldo constitutes a quasi-municipal corporation under the name of "Searsmont Village Water District" for the purpose of supplying the inhabitants of the district with pure water for domestic, sanitary, manufacturing and municipal purposes.

Sec. 2. Powers of Searsmont Village Water District. The Searsmont Village 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 Searsmont and from

any other source from which the Searsmont 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 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 Searsmont and across private lands in the Town of Searsmont 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, 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 district, for the purposes of its incorporation, may erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes. The 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 Waldo 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 or 13.

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. 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 Waldo County and record in the Waldo 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 Waldo 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.

1. First board. Within 14 days after acceptance of this Act, the municipal officers of the Town of Searsmont shall give notice of a special election of the Searsmont Village 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 posted, in a conspicuous public place. The voters of the district shall elect 3 initial trustees; one for a term expiring at the following town meeting, one for a term expiring a year later and one for a term expiring 2 years later. 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 must be determined by lot. Thereafter, trustees are elected to serve for 3-year terms. Elections must be held in accordance with the requirements for municipal elections. Vacancies are filled pursuant to subsection 4.

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 Searsmont 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 Searsmont, 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 reports of the Town of Searsmont.

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 Searsmont, and the town may contract with the district for the supply of water for municipal purposes.

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, 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, 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 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 and except that no issuance of bonds, notes or other evidences of indebtedness need be approved by vote of the inhabitants of the district.

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 "Searsmont Village 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. Authorized to acquire property and franchises of Searsmont Water Company. The district, through its trustees, may acquire by purchase the entire plant, properties, franchises, rights and privileges owned by the Searsmont Water Company located in or serving the Town of Searsmont, 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 Searsmont 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 Searsmont 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 Waldo 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 Waldo 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. 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 Searsmont, 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.

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, except as otherwise expressly provided in this Act, 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. 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, 1993. 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 Searsmont Village 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 Searsmont 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. 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. 18. 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.

Effective pending referendum.

CHAPTER 86

H.P. 1667 - L.D. 2343

An Act to Amend the Charter of the Dexter Utility District

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

Sec. 1. P&SL 1971, c. 29, §14, 3rd ¶ is amended to read:

In addition to other methods previously established by law for the collection of the rates, the lien ~~herein created~~ may be enforced in the following manner. The treasurer, when a rate has become due and payable, may, after the expiration of 3 months and within one year after the date ~~said~~ the rate becomes due and payable, in the case of a person resident in the town where the rate is assessed, ~~give send by registered mail~~ to the person against whom the rate is assessed ~~or leave at his last and usual place of abode~~, a notice in writing signed by the officer stating the amount of such rate, describing the real estate upon which the lien is claimed, alleging that a lien is claimed on the real estate to secure the payment of the rate and demanding the payment of the rate within 10 days after the service of such notice. After the expiration of the 10 days and within ~~10 60~~ 60 days ~~thereafter, in the case of a resident, and in all other cases, within a year from the date, of the expiration~~ the treasurer shall record in the registry of deeds of Penobscot County a certificate signed by the officer setting forth the amount of such rate, a description of the real estate on which the lien is claimed and an allegation that a lien is claimed on the real estate to secure the payment of the rate, that a demand for payment of the rate has been made in accordance with the provisions of this section and that the rate remains unpaid. ~~In the case of a nonresident, the aforesaid notice of lien and demand for payment shall be given by certified or registered mail or by publication in a newspaper published in the Town of Dexter once a week for 2 successive weeks, and after the expiration of 10 days from the date of mailing said notice or after the expiration of 10 days from the last publication of said notice and within 10 days after said expiration periods, the treasurer shall record said certificate. The board of trustees may assess reasonable interest charges on unpaid rate charges as they may from time to time establish. No interest charged by the district on the late payment of any overdue rate charge may exceed the maximum interest charge that may be assessed by public utilities, as established by rule by the Public Utilities Commission. At the time of the recording of the certificate in the registry of deeds as herein provided in this section, in all cases such~~ the treasurer shall file in the office of the district a true copy of the certificate and also at the time of recording ~~as aforesaid~~, the officer shall mail by registered or certified mail to each record holder of a mortgage on ~~said~~ the real estate, addressed to ~~him~~ the record holder at ~~his~~ the record holder's last and usual place of abode ~~or place of business~~, a true copy of the certificate. The fee to be charged to the ratepayer for such notice and filing ~~shall not exceed \$6~~ is determined by the trustees and the fee to be charged by the register of deeds for such filing ~~shall not exceed \$3~~ is that sum required by the register for the recording of the lien certificate.

See title page for effective date.