

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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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

CHAPTER 87

H.P. 1688 - L.D. 2368

An Act to Create the Dresden Mills 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 Dresden Mills area have become contaminated with petroleum and pose a serious threat to the health and well-being of residents in that area; and

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

Whereas, it is desirable that a public district be formed in Dresden Mills 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 16, the inhabitants and territory within the Town of Dresden in Lincoln County comprise of the area starting at the Route 27 bridge on the Eastern River at Dresden Mills; thence about 800 feet northeasterly by the southeast shore of the Eastern River to the entrance of a tributary stream; thence about 500 feet southeasterly up the tributary stream to intersect Blinn Hill Road at a point that is about 600 feet northeast along Blinn Hill Road from its entrance onto Route 27 in Dresden Mills; thence about 2100 feet northeasterly and easterly along Blinn Hill Road to the northeasternmost corner of Lot 54, Property Map U-1; thence about 2300 feet southerly and southwesterly along the southeast boundaries of Lots 54, 44 and 47, Property Map U-1, they being the common boundary between Property Maps U-1 and R-4, to intersect Route 27 at a point that is about 2200 feet southeast along Route 27 from the point of beginning at the Route 27 bridge; thence follow Route 27 southeast about 870 feet along the boundary of Lot 48, Property Map U-1, to the northeast corner of Lot 49, Property Map R-5; thence about 2500 feet southerly along the east boundaries of Lot 49 and Lot 1, Property Map R-5, to the southeast corner of Lot 1, Property Map R-5; thence about 3800 feet westerly along the south boundary of Lot 1, Property Map R-5, to the shore of the Eastern River, crossing Route 127/197 at a point

that is about 3600 feet southwest along Route 127/197 from its entrance onto Route 27 in Dresden Mills; thence about 4500 feet northeasterly by the southeast shore of the Eastern River to the point of beginning at the Route 27 bridge on the Eastern River at Dresden Mills constitutes a quasi-municipal corporation under the name of "Dresden Mills Water District" for the purpose of supplying the inhabitants of the district with pure water for domestic, sanitary, manufacturing and municipal purposes. Reference to lot numbers are taken from Dresden Property Maps No. U-1 and R-5, which are the official town tax maps as prepared by John E. O'Donnell and Associates in 1977.

Sec. 2. Powers of Dresden Mills Water District. The Dresden Mills 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 Dresden. 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 Dresden and across private lands in the Town of Dresden 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 supply-

ing water in Lincoln 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.

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 Lincoln County and record in the Lincoln 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 Lincoln 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 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 Dresden shall give notice of a special election of the Dresden Mills 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 Dresden 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 Dresden, 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 Dresden.

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 Dresden, and those towns may contract with the district for the supply of water for municipal purposes.

Contracts between the Town of Dresden and the Department of Environmental Protection, entered into prior to the creation of the district, dealing with contaminated water sources within the town are deemed contracts between the Dresden Mills Water District and the

Department of Environmental Protection. The district assumes, is bound by and enjoys all privileges, rights, obligations and liabilities established under the terms of the contracts as they relate to the Town of Dresden.

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.

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 "Dresden Mills 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 Dresden, 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 by the Dresden Mills 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 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. 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 Dresden Mills 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 Dresden 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. 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.

Effective pending referendum.

CHAPTER 88

H.P. 1606 - L.D. 2268

An Act Regarding the Time and Temperature Sign Located in Portland

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

Sec. 1. Time and temperature sign. Notwithstanding the Maine Revised Statutes, Title 23, chapter 21, the sign on top of 477 Congress Street in the City of Portland is not subject to Title 23, chapter 21 and may be maintained, repaired and operated with the same dimensions and in the same manner in which it was maintained, repaired and operated on and before January 1, 1992. If used for advertising or other informational purposes, that use is limited to the use of 2 words or groupings of characters not exceeding 4 letters or characters each, which must be displayed for 4 seconds each.

See title page for effective date.

CHAPTER 89

H.P. 1668 - L.D. 2344

An Act to Amend the Charter of the Portland Water District