

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

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1992

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

SECOND REGULAR SESSION

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ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

for the purposes of this Part, the Maine Municipal Bond Bank is authorized to issue its bonds and notes in anticipation of the receipt of revenues, grants or funds by the Department of Transportation as specified under section 1 of this Part.

Sec. F-4. Maine Municipal Bond Bank; additional powers. In addition to the powers conferred under the Maine Revised Statutes, Title 30-A, section 5953, subsection 1, and solely for the purposes of this Part, the Maine Municipal Bond Bank may borrow money and make the borrowing proceeds available to the Department of Transportation at terms agreed upon by the bank and the Department of Transportation.

Sec. F-5. Maine Municipal Bond Bank; specific additional powers. In addition to the powers conferred under the Maine Revised Statutes, Title 30-A, section 5955, and solely for the purposes of this Part, the Maine Municipal Bond Bank may issue its bonds or notes in anticipation of the receipt of revenues, grants or loans of funds or money by the Department of Transportation from the Federal Government and, in connection therewith:

A. Enter into any contracts or agreements necessary, convenient or desirable for the bank to make available to the Department of Transportation through loan arrangements all or any portion of the proceeds of such bonds or notes and impose and collect charges for the bank's costs and services in consideration of servicing the contracts or agreements; and

B. Accept pledges, security grants, assignments or transfers of, or rights to receive revenues, grants or money by the Department of Transportation from the Federal Government.

Sec. F-6. State servicing agreement and federal aid pledge authorized. The Department of Transportation is empowered to enter into any contract or agreement or other loan arrangements with the Maine Municipal Bond Bank as provided in this Part and in connection therewith, to pledge, assign or transfer to the bank any revenues, grants or money from the Federal Government or the rights to receive the same or both; provided, however, that no such contract or agreement constitutes any indebtedness or liability on behalf of or payable by the State or a loan of the credit of the State.

Sec. F-7. Bonds authorized. In addition to the authority conferred under the Maine Revised Statutes, Title 30-A, section 6003, subsection 1, and solely for the purposes of this Part, the Maine Municipal Bond Bank may issue its bonds from time to time in any principal amounts that it considers necessary to make funds available to the Department of Transportation in anticipation of the receipt of revenues, grants or money for the payment of its bonds. These bonds may be secured solely by a pledge of any revenues, grants or money received

by the Department of Transportation from the Federal Government for the projects specified in this Part.

Sec. F-8. Reserve requirements. With respect to bonds issued under this Part that are secured by a capital reserve fund for which the resolution authorizing the issuance of those bonds states that the provisions of the Maine Revised Statutes, Title 30-A, section 6006, subsection 5 apply, the required minimum reserve must be, as of any date of computation, an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the Maine Municipal Bond Bank and its holders of the bonds to be raised in the then current or any succeeding bond year for the payment of interest on the outstanding bonds. The required minimum reserve for bonds secured by a capital reserve under this Part may be less than that required by this Part or by Title 30-A, section 6006, subsection 1-A, paragraph C if the Maine Municipal Bond Bank so determines and only when the reserve is applied to any bond or note sold in anticipation of the receipt of any revenues, grant or money as provided in this Part.

Sec. F-9. Limitations on deposits into fund. Nothing contained in the Maine Revised Statutes, Title 30-A, section 6013-A requires that the Maine Municipal Bond Bank deposit in the Maine Municipal Bond Insurance Fund amounts in anticipation of which the bank has issued its bonds or notes as provided in this Part.

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

Effective April 6, 1992.

CHAPTER 103

H.P. 1736 - L.D. 2424

An Act to Create the Fort Kent Utilities District

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

Whereas, the Town of Fort Kent is in great need of installation of a sewer treatment plant and the improvement of its water and sewer system; and

Whereas, it is important that a sewer treatment plant be constructed at the earliest possible opportunity to supply a water and sewer system to the inhabitants of Fort Kent; 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 corporate limits of the Town of Fort Kent constitute a body politic and corporate under the name of "Fort Kent Utility District" for the purpose of supplying the inhabitants of the district with pure water and sewage treatment and disposal services for domestic, sanitary, commercial, industrial, agricultural, fire protection and municipal purposes. All incidental rights, powers, and privileges necessary to the accomplishment of the main objectives set forth in this Act are granted to the Fort Kent Utility District referred to in this Act as the "district."

Sec. 2. Powers of Fort Kent Utility District. The Fort Kent Utility District is authorized for the purposes of its incorporation to take, collect, store, flow, use, divert, distribute and convey to the Town of Fort Kent or any part of the Town of Fort Kent water from any lake, pond, stream or river or from any surface or underground brook, spring or vein of water, natural or artificial, in the town. It may also locate, construct and maintain aqueducts, pipes, conduits, dams, wells, reservoirs, standpipes, hydrants, pumping stations, drains, treatment plants and other necessary structures and equipment, and do anything necessary to furnish water and sewage treatment and collection facilities for public purposes and for the public health, comfort and convenience of the inhabitants and others of the district. The district may contract to do any and all of the foregoing things.

The district may, for the purposes outlined in this Act, do any and all things necessary to provide water and sewage treatment and collection systems for public purposes and for the health, comfort and convenience of the inhabitants of the district either by construction, eminent domain or purchase of any existing facilities.

Upon approval of this Act by the voters of the Town of Fort Kent, the town shall convey by deed or other appropriate means of conveyance its title to all property previously used by the town for water and sewer utility purposes.

Sec. 3. Authorized to lay mains, pipes, conduits and other water and sewer 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 Fort Kent and across private lands in the Town of Fort Kent 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 Aroostook County, subject to the consent of the Public Utilities Commission.

Sec. 5. Eminent domain. The district, for the purposes of its incorporation, may take and hold within the area covered by the district for public uses real estate, personal property and any interest necessary for these purposes, by purchase, lease or otherwise. The district is authorized to acquire for these purposes any lands, interest in lands or water rights necessary for erecting and maintaining plants and works for flowage, pumping, supplying water through its mains; for forming basins and reservoirs, preserving the purity of the water; for laying and maintaining mains, aqueducts and other structures used for taking, distributing, discharging and disposing of water; for erection of buildings for pumping works; for laying pipes and maintaining them; for laying and maintaining conduits for carrying, collecting and discharging water; for filtration, rectification and treatment plants, works and facilities; for such other objects necessary, convenient, and proper for the purposes of its incorporation; and for rights-of-way for roadways to its sources of supply reservoirs, and for mains, aqueducts, structures, plants, works facilities, distribution facilities and for lands.

Nothing contained in this Act may be construed as authorizing the district to take by right of eminent domain any of the property or facilities of any other public utility, district or cooperative or district used or acquired for future use by the owner in the performance of a public duty, unless expressly authorized by subsequent Act of the Legislature. Nothing contained in this Act may be construed to empower the district to take by eminent domain any dam, building or other improvement or the real estate on which any dam, building or other improvement is situated.

The district may, for the purposes outlined in this section, do any and all things necessary in providing a water supply and a system of sewage treatment and collection and drainage for public purposes and for the health, comfort and convenience of the inhabitants of the district.

Sec. 6. Procedure in exercising right of eminent domain; assessment of damage; appeal procedure. In exercising any right of eminent domain in the taking of lands, interests in lands or water rights, the district shall file in the office of the County Commissioners of Aroostook County and record in the Northern Aroostook 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 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 that it is authorized to take and that is described in the 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 inland or water rights so taken, but title does not vest in the district until payment is made.

If any person sustaining damages by any taking does not agree with the trustees of the district upon the sum to be paid, either party, upon petition to the county commissioners of Aroostook County, may have damages assessed by the county commissioners. The procedure and all subsequent proceedings and the rights 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. 7. Procedure if public utility must be crossed. In case of any crossing of any public utility, unless consent is given by the company, district or cooperative owning or operating the public utility as to place, manner and conditions of the crossing within 30 days after the 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. 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. 8. Trustees; how elected; meetings; officers. All of the affairs of the district must be managed by a board of 5 trustees who are chosen as provided in the Maine Revised Statutes, Title 35-A, chapter 63. A municipal officer of the Town of Fort Kent may not serve as a trustee.

After the acceptance of this Act, the municipal officers of the Town of Fort Kent shall hold an election

not later than December 1, 1992, to elect 5 trustees of the district to hold office as follows: one to serve until the next annual district meeting; 2 to serve until the annual district meeting thereafter; and 2 to serve until the next annual district meeting thereafter. When the term of each trustee expires, a successor trustee is elected in accordance with the Maine Revised Statutes, Title 35-A, chapter 63, for a term of 3 years or until a successor is elected and qualified at the annual district meeting. Whenever any trustee who was a resident of the district when elected ceases to be a resident of the district, the trustee vacates the office of trustee. Vacancy in the office of trustee is filled for the unexpired term by vote of the trustees, and the interim trustee serves until the next annual district meeting.

Organization of the board of trustees is in accordance with the Maine Revised Statutes, Title 35-A, chapter 63. The trustees have the powers specified in the Maine Revised Statutes, Title 35-A, chapter 63.

All decisions of the board of trustees are by a majority of those present and voting. A quorum of the board of trustees is 3 trustees.

Trustees' compensation is \$500 annually.

Sec. 9. Annual meeting of district. After the acceptance of this Act and the organization of the first board, the district shall hold annual meetings within the district for the election of trustees, at a time and place designated by resolution of the board of trustees as provided in the bylaws. The trustees shall give 7 days' notice to the voters of the district of the time and place of the meeting.

The trustees may establish such bylaws as are necessary for their own convenience and the proper management of the affairs of the district. The trustees may procure an office and incur such expenses as may be necessary. The treasurer shall furnish bond in such sum and with such sureties as trustees may approve. Members of the board shall be eligible for any office under the board.

Sec. 10. District and town authorized to make contracts. The district, through its trustees, may contract with persons and corporations, including the Town of Fort Kent, and the Town of Fort Kent may contract with the trustees for the supply of water for municipal purposes and for the use of sewerage and drainage facilities.

All valid contracts between the Town of Fort Kent and other towns, persons or corporations for supplying water or sewerage services within the Town of Fort Kent that are in effect on the date of transfer by the Town of Fort Kent to the district of the town's plant, properties, rights and privileges used or useful in providing a water supply and sewerage system in the Town of Fort Kent

must be assumed and carried out by the Fort Kent Utility District.

Sec. 11. Authorized to borrow money, to 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 the purposes, the district, through its trustees, may accept state, federal or municipal grants and may borrow money temporarily and issue its negotiable notes. For the purpose of renewing and refunding the indebtedness so created, 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 Fort Kent, the district being authorized to reimburse the town for any expenses incurred by them and in acquiring properties; paying damages, laying pipes, mains, aqueducts and conduits; constructing, maintaining and operating a water or sewer plant or water or sewer system and making renewals, additions, extensions and improvements to them and to cover interest payments during the period of construction; the district, through its trustees, may also issue, from time to time, bonds, in one series or in separate series, in such amount or amounts, bearing interest at such rate or rates and having such terms and provisions as the trustees determine. The issuance of any bonds for water projects must be in accordance with the Maine Revised Statutes, Title 35-A, chapter 63.

The bonds, notes and evidences of indebtedness may be issued for water and sewer purposes, and may be made to mature serially or made to run for such periods as the trustees determine, but none of them may run for a longer period than 40 years from the date of original issue. Bonds, notes or evidences may be issued with or without provision for calling the same 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 "Fort Kent Utility District," and be signed by the treasurer and countersigned by the chair of the board of trustees of the district. If coupon bonds are issued, the interest coupons attached to the coupon bonds must bear the facsimile signature of the treasurer.

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

Sec. 12. Rates; application of revenue; sinking fund. 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 Fort Kent, other than the normal payment of water and sewer charges for services rendered. 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 and sewer service used by them. The water rates must be established in accordance with the Maine Revised Statutes, Title 35-A, chapter 61, to provide for the purposes set forth in that chapter. Sewer rates must be established in accordance with the Maine Revised Statutes, Title 38, section 1202.

Sec. 13. Property tax exempt. The property of the district is exempt from all taxation in the Town of Fort Kent.

Sec. 14. Existing laws not affected; rights conferred subject to 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 of the Maine Revised Statutes, Title 35-A, to the extent that Title affects the water 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 not later than December 1, 1992. The election must be called, advertised and conducted according to the law related 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 Fort Kent Utility 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 Fort Kent and 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 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 104

H.P. 1741 - L.D. 2429

An Act to Authorize Construction on a Wharf in Long Lake at Naples

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

Whereas, unless this legislation is enacted as an emergency measure, erection of a structure authorized in this Act may not be completed before the summer tourist 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. P&SL 1931, c. 132, 2nd ¶, first sentence is amended to read:

No building ~~shall~~ may be erected on ~~said~~ the wharf and no part of the wharf shall extend above the level of the adjacent highway.

Sec. 2. P&SL 1931, c. 132, as amended by P&SL 1955, c. 143, is further amended by adding after the 2nd paragraph a new paragraph to read:

A structure may be erected on the wharf only if the person erecting the structure has prior approval by and the applicable permits from the municipal planning board and any state agency having jurisdiction; except that, after May 1, 1993, a new building or structure may

not be erected on the wharf and no part of the wharf may extend above the level of the adjacent highway.

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

Effective April 6, 1992.

CHAPTER 105

H.P. 1745 - L.D. 2433

An Act to Clarify the Boundaries between the Towns of Howland and LaGrange and the Towns of Howland and Edinburg

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

Whereas, the 90-day period will not terminate before the tax year begins on April 1; and

Whereas, the boundaries between Howland and LaGrange and Howland and Edinburg must be fixed so that the Town of Howland may issue the proper property taxes; 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. Boundary line between the Town of Howland and the Town of LaGrange. The boundary line between the Town of Howland and the Town of LaGrange in Penobscot County is as follows:

Beginning at a large granite monument with chiseled markings "M""M""H""L" found at a point marking the common corner between the towns of Howland, LaGrange, Medford and Maxfield; said point of beginning also marking an angle point in the Penobscot-Piscataquis County line.

Thence S 11°41'15" E passing through intermediate monuments identified on the plan herein after referenced, a distance of 14,235.2 feet to a granite monument with aluminum disk marked in part "Town of Howland - Town of LaGrange Municipal Boundary" set at the southwest corner of the Town of Howland.

Bearings referenced herein are oriented to true north as determined by a survey of the above described boundary line depicted on a plan entitled "Survey Plan of the Mu-