

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
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JULY 14, 1994

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
1993

by a referee or referees, and shall render judgment for just compensation, with interest when interest 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 Mount Desert, 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 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. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act takes effect when approved but only for the purposes of permitting its submission to the legal voters of the Town of Mount Desert 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:

"Do you favor creating the Mount Desert Water District?"

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 Mount Desert and the due certificate of the results filed by the clerk with the Secretary of State.

This Act takes effect for all purposes immediately upon its acceptance by a majority of the legal voters of the Town of Mount Desert 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.

Effective pending referendum.

CHAPTER 84

S.P. 605 - L.D. 1703

An Act Concerning the Payment of Medical Expenses in Controverted Workers' Compensation Cases

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

Sec. 1. Report. The Superintendent of Insurance shall report to the joint standing committee of the Legislature having jurisdiction over banking and insurance matters on or before January 15, 1995 regarding the payment of medical expenses in controverted workers' compensation cases. The report must include controverted workers' compensation cases in which the injured person claims health care benefits under a health benefits plan offered through the same employer and under a health benefits plan that is not offered through the same employer and must include options for legislation. The report must include information on liabilities between different insurance companies and options for legislation.

See title page for effective date.

CHAPTER 85

H.P. 1336 - L.D. 1799

An Act to Expand the Powers of the Great Salt Bay Sanitary District

Mandate preamble. This measure requires one or more local units of government to expand or

modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, the residents of the Great Salt Bay Sanitary District are in immediate need of having a quasi-municipal entity established to supply them with potable water; 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. Great Salt Bay Sanitary District; additional purposes; expanded powers. The Great Salt Bay Sanitary District, formed under the Maine Revised Statutes, Title 38, chapter 11 and referred to in this Act as "the district," is granted additional powers, rights, privileges and obligations as provided in this Act for the purpose of allowing the district to supply the towns and inhabitants and others within the territory of the district with potable water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes. All authority and powers of the Great Salt Bay Sanitary District as previously granted continue in full force and effect. The board of trustees of the district as presently elected and constituted may exercise all additional powers, rights, privileges and obligations granted by this section in the same manner as currently empowered for the affairs of this district.

Sec. 2. Additional powers of district. The district, for the purposes specified in section 1, 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 district and from any other source from which the Consumers Maine Water Company, or its successors, Damariscotta and Newcastle Division, may take water on the effective date of this Act. It may also locate, construct and maintain aqueducts, pipes, conduits, dams, wells, reservoirs, standpipes, hydrants, pumping stations and other necessary structures and equipment therefor, and do anything necessary to

furnish water for public purposes and for the public health, comfort and convenience of the inhabitants and others of the district, or to contract to do any and all of the foregoing things.

All incidental powers, rights and privileges necessary to the accomplishment of the objectives set forth in this Act are granted to the district.

Notwithstanding section 1 and other provisions of this section, the district may not provide service to any person or business within the territory served by the Consumers Maine Water Company, or its successors, Damariscotta and Newcastle Division unless the district acquires, pursuant to section 11 of this Act, the plants, properties, franchises, rights and privileges owned by the Consumers Maine Water Company, or its successors, Damariscotta and Newcastle Division or unless the provision of service is approved by the Public Utilities Commission pursuant to the Maine Revised Statutes, Title 35-A, section 2102.

Sec. 3. Authorized to lay mains, pipes, conduits and other water conveyances through public ways and across private lands. The district may lay in, along, under and through the streets, roads, ways, highways, bridges, tidal waters, lakes, ponds, rivers and water courses in the territory of the district and across private lands in the territory of the district and maintain, repair and replace pipes, mains, conduits, aqueducts and fixtures and appurtenances as necessary and convenient for the purposes specified in section 1 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 the district's own expense, without necessary delay, shall cause the earth and pavement removed by the district to be replaced in proper condition.

Sec. 4. Authorized to erect dams and reservoirs; to cross navigable waters; to supply water to utilities. The district, for the purposes specified in section 1, may erect and maintain all dams, reservoirs and structures necessary and convenient for those 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 Lincoln County, subject to the consent of the Public Utilities Commission.

Sec. 5. 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 con-

sent 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. 6. Authority to acquire property; rights of eminent domain. The district, for the purposes specified in section 1, may take and hold, 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 5 or section 11.

Sec. 7. Annual report. The trustees of the district shall make and publish an annual report concerning the operations of the district pursuant to this Act, including a report of the treasurer.

Sec. 8. District and towns authorized to make and assume contracts. The district, through its trustees, in order to carry out the objectives set forth in this Act, may contract with persons, districts, municipalities, utilities or corporations. The district may contract with the Town of Newcastle, the Town of Nobleboro and the Town of Damariscotta and those towns may contract with the district for the supply of water for municipal purposes.

Sec. 9. Authorized to receive government aid; borrow money; issue bonds and notes. For accomplishing the purposes of this Act, the district, through its trustees, without vote of the inhabitants, may receive state and federal aid or 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, whether incurred by the district or by the Town of Nobleboro, the Town of Newcastle or the Town of Damariscotta, the district being authorized to reimburse the towns for any such expense incurred by the towns 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 associated interest payments. The district, through its trustees, may also issue, from time to time, in accordance with the Maine Revised Statutes, Title 35-A, section 6304, bonds, notes or other evidences of indebtedness of the district in an amount not to exceed 3% of the total state valuation of the Town of Nobleboro, the Town of Damariscotta and the Town of Newcastle, bearing interest at such rate or rates, selling at par or at a discount or a premium, to be sold in such manner, at public or private sale, and having such other terms and provisions as the trustees determine, except that loans running for one year or less do not require the approval of the Public Utilities Commission.

Bonds, notes and evidences of indebtedness of the district issued under this Act may be issued to mature serially or made to run for a term of years as the trustees determine. These 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 issued under this Act must have inscribed upon their face the words "Great Salt Bay Sanitary 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 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 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 under this Act by the district are legal investments for savings banks in the State and are exempt from Maine income tax.

Sec. 10. Rates. The rates established pursuant to this section must be sufficient to provide revenue for the purposes of this Act, without the need for any

financial assistance from the Town of Nobleboro, the Town of Newcastle or the Town of Damariscotta, other than the normal payment of water charges for services rendered and the loan or loans for initial funds as set forth in section 9. 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. 11. Authorized to acquire property and franchises of the Consumers Maine Water Company, or its successors, Damariscotta and Newcastle Division. The district, through its trustees, may acquire by purchase all or part of the plant, properties, franchises, rights and privileges owned by the Consumers Maine Water Company, or its successors, Damariscotta and Newcastle Division, located within the territory of the district, 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 also acquire by the exercise of the right of eminent domain, a right expressly delegated to the district for that purpose, all or part of the plant, properties, franchises, rights and privileges except cash assets and accounts receivable, owned by the Consumers Maine Water Company, or its successors, Damariscotta and Newcastle Division, 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, may exercise all rights, privileges and franchises of the Consumers Maine Water Company, or its successors, Damariscotta and Newcastle Division.

In exercising the right of eminent domain under this section or section 6, 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 Lincoln County Registry of Deeds. In the event of multiple ownership, the check may be served on any one of the owners. 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 section or section 6 may, within 60 days after service of the condemnation order and check, appeal to the Superior Court of Lincoln County.

Sec. 12. Property tax exemption. Notwithstanding the Maine Revised Statutes, Title 38, section 1064, the property of the district acquired pursuant to this Act and used for the purposes of this Act is exempt from taxation to the extent provided in Title 36, section 651.

Sec. 13. Existing laws not affected; rights conferred subject to provisions of law; preservation of powers. 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 and amendatory acts to the Maine Revised Statutes, Title 35-A to the extent that title and its amendments affect the operations of the district. Powers granted in this Act are in addition to powers granted to the district under the provisions of Title 38, chapter 11, and nothing in this Act may be construed as limiting the authority of the district in carrying out the purposes of the district as provided in Title 38, section 1063.

Sec. 14. 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. 15. Acceptance subject to referendum; emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved only for the purposes of permitting its submission 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 registrars of voters are not required to prepare or the clerks to post a new list of voters and, for this purpose, the registrars 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 registrars. The subject matter of this Act is reduced to the following question:

"Do you favor expanding the powers of the Great Salt Bay Sanitary District to allow the district to provide water utility services within the district?"

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 Nobleboro, the Town of New-castle and the Town of Damariscotta and the due certificate of the results filed by the clerks with the Secretary of State.

This Act takes effect for all purposes immediately upon its acceptance by a majority of the legal voters in 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 prior to December 31, 1994.

Effective pending referendum.

CHAPTER 86

H.P. 1449 - L.D. 1978

An Act Authorizing the Kennebec County Commissioners to Issue Bonds in the Amount of \$1,500,000 for Renovation of the County Court House in Augusta

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

Whereas, the Kennebec County Court House is in need of substantial repairs and improvements; and

Whereas, the Kennebec County Budget Committee, the Kennebec County Commissioners and the Kennebec County Legislative Delegation have unanimously approved the request for issuance of bonds in the amount of \$1,500,000 to pay the cost of those repairs and improvements; and

Whereas, it is necessary that this legislation be enacted as an emergency measure in order to meet the financing deadlines of the Maine Municipal Bond Bank; 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. Bonds. To provide funds for repairs and improvements to the Kennebec County Court House located in Augusta, the treasurer of Kennebec County, with the approval of the county commissioners, may borrow from time to time upon the full faith and credit of the county such sums, not exceeding in the aggregate \$1,500,000, as may be necessary and may issue bonds therefor. Each authorized issue is payable in annual installments, beginning no earlier than October 1, 1995, so that each loan will be paid on or before December 31, 2016. The bonds must be signed by the county treasurer and countersigned by a majority of the county commissioners. The county may sell the securities at public or private sale upon terms and conditions that the county commissioners determine proper but at not less than par and accrued interest.

Sec. 2. Temporary notes. The county treasurer, with the approval of the county commissioners, may issue temporary notes of the county, payable in not more than 2 years from their date of issue, in anticipation of the issue of bonds under this Act and may renew the notes. The time within which the bonds become due and payable may not, by reason of the temporary notes, be extended beyond the term fixed by this Act. Any notes issued in anticipation of the bonds must be paid from the proceeds of the bonds.

Sec. 3. Referendum. The Kennebec County Commissioners may approve a bond issue for carrying out the purposes of this Act. A bond issue authorized by the county commissioners must be submitted to the voters of Kennebec County for approval.

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

Effective April 12, 1994.

CHAPTER 87

H.P. 1474 - L.D. 2002

An Act to Revise the Authorization of the Towns of Appleton, Camden, Hope, Lincolnville and Rockport to Form a Community School District

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