

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 7, 1994 to June 30, 1995**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 29, 1995**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

obligations of said town, and shall be legal investments for savings banks.

**Sec. 2. Emergency clause; referendum; effective date.** In view of the emergency cited in the preamble, this Act takes effect when approved only for the purpose of permitting its submission to the legal voters within the Town of Madison at the next regular town meeting or at a special town meeting to be called and held for that purpose by January 1, 1996. 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 town clerk to post a new list of voters. The registrar of voters must be in session on the secular day next preceding the election. The town clerk of the town shall prepare the required ballots, on which the town clerk shall reduce the subject matter of this Act to the following question:

"Do you favor increasing the short-term borrowing authority of the Madison Department of Electric Works from \$50,000 to \$1,200,000?"

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 Madison and due certificate of the results filed by the town clerk with the Secretary of State.

This Act takes effect immediately upon its acceptance by a majority of the legal voters voting at the election.

Effective pending referendum.

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**CHAPTER 16**

**S.P. 220 - L.D. 562**

**An Act to Increase Compensation of Trustees of the Gray Water 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.

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

**Sec. 1. P&SL 1929, c. 33, §9, next to last sentence,** as amended by P&SL 1977, c. 25, is further amended to read:

~~Each~~ Notwithstanding the Maine Revised Statutes, Title 35-A, sections 6303 and 6306, each member shall is entitled to receive in full compensation for services as trustee an allowance of ~~\$200~~ \$504 per year, and no more; ~~provided, however except that,~~ if any trustee ~~shall be~~ is elected and ~~serve~~ serves as treasurer, ~~he~~ the trustee may be paid for ~~his~~ his services in that capacity ~~not exceeding \$720~~ an amount not to exceed \$950 per year.

See title page for effective date.

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**CHAPTER 17**

**S.P. 256 - L.D. 694**

**An Act to Create the Franklin Utility 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,** a portion of the Town of Franklin is in immediate need of a water supply system to provide potable water to the inhabitants of that portion of the Town of Franklin; 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 of that part of the Town of Franklin in Hancock County, comprised of the area starting at a point in West Franklin at the intersection of Grist Mill Stream and the tidewaters of Taunton Bay; proceeding easterly along the northern shore of Taunton Bay and Hog Bay to a point in East Franklin

where the tidewaters of Hog Bay intersect Card Mill Stream; proceeding northerly along the western shore of Card Mill Stream to the intersection with the southern border of Lot 29, Map 7, Property Map of Franklin; thence proceeding westerly along the southern border of Lot 29 to its intersection with Route 182; thence diagonally in a southwesterly direction to the northwest border of Lot 66, Map 7; thence northwesterly along the northern border of Lot 66, Map 7, until its intersection with Lot 38, Map 6; thence westerly along the northern border of Lot 38, Map 6, to the intersection at the southeast corner of Lot 3, Map 9; thence northerly and westerly along the border of Lot 3, Map 9, until its intersection with Lot 4, Map 9; thence northeasterly and northwesterly along the border of Lot 4 until its intersection with Lot 4-1, Map 9; thence northerly and westerly along the border of Lot 4-1, Map 9 until the intersection with the Georges Pond Road; thence northerly along the Georges Pond Road until the intersection with the Bunkers Beach Camp Road; thence northerly and westerly along the southern border of the Bunkers Beach Camp Road until the intersection of the southern border of Lot 41, Map 17; thence westerly along the southern border of Lot 41 until the intersection with the eastern border of Lot 40, Map 17; thence northerly along the eastern border of Lot 40 until the intersection with Georges Pond; thence westerly following the shore of Georges Pond until the intersection of the northeast corner of Lot 20, Map 9; thence westerly along the northern border of Lot 20 until the intersection of Lot 19, Map 9; thence southerly and westerly along the border of Lot 19 until the southwest corner of Lot 19, Map 9; thence westerly along the southern borders of Lots 4, 3, 2, 46, 42, Map 8 until its intersection with the Grist Mill Stream; thence following the eastern shore of Grist Mill Stream to the point of the beginning constitute a body politic and corporate under the name of "Franklin Utility District," referred to in this Act as the "district." The district is created and established for the purposes of supplying the Town of Franklin, its inhabitants and others of the district with potable water and sewage treatment and disposal services.

**Sec. 2. Powers of Franklin Utility District.** The district, for the purposes of its incorporation, may take water from any source within the Town of Franklin. It may also, for the purposes of its incorporation, locate, construct and maintain pipes, dams, wells, reservoirs, pumping stations, treatment facilities and other necessary structures and equipment. The district may do anything necessary for those purposes to furnish water and provide sewage treatment and disposal services for the public health, comfort and convenience of the inhabitants and others of the district. The district may also 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.

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 Franklin, 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 Franklin and across private lands in the Town of Franklin 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 Hancock 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 and supplying water through its mains; for forming basins and reservoirs;

for 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 and reservoirs, and for mains, aqueducts, structures, plants, works facilities, distribution facilities and for lands.

This Act 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, 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. This Act may not 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.** Notwithstanding the Maine Revised Statutes, Title 35-A, chapters 65 and 67, the district may exercise the right of eminent domain under this Act in accordance with this section and section 5 of this Act. 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 Hancock County and record in the Hancock 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 in land 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 Hancock 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; first board meeting; officers.** All of the affairs of the district must be managed by a board of trustees composed of 5 members, all of whom must be residents of the district and, after selection of the first board, elected as provided in the Maine Revised Statutes, Title 35-A, chapter 63 and this section.

**1. First board.** Within 90 days after the acceptance of this Act, the municipal officers of the Town of Franklin, who are especially appointed for this purpose, shall appoint 5 trustees. One trustee serves for a term of one year, 2 trustees serve for a term of 2 years and 2 trustees serve for a term of 3 years. At the first meeting, the initial trustees shall determine by agreement or, failing agreement, by lot the term of office of each trustee. After the selection of the first board, the only eligibility requirements for the office of trustee of the district are residence within the district and eligibility to vote, and all subsequent trustees are elected by the residents of the district as provided in subsection 3.

**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.

**3. Vacancy.** Whenever the term of office of a trustee expires, the trustee's successor must be elected at large by a plurality vote by the inhabitants of the district. For the purpose of election, an election must be called and held on the 2nd Saturday of June or on such other date in June as the trustees establish, 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 Franklin 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 Franklin, 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.

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 3 trustees.

Trustees are entitled to compensation in accordance with the Maine Revised Statutes, Title 35-A, chapter 63.

**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. 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 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 are 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 Franklin, and the Town of Franklin 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 Franklin and other towns, persons or corporations for supplying water or sewerage services within the Town of Franklin that are in effect on the date of transfer by the Town of Franklin 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 Franklin must be assumed and carried out by the Franklin 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 Franklin, 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 of indebtedness 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 "Franklin 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 Franklin, 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. Existing laws not affected; rights conferred subject to law.** This Act is not intended to repeal or may not 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. 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. Emergency clause; referendum; effective date.** In view of the emergency cited in the preamble, this Act takes effect when approved but only for the purpose of permitting its submission to the legal voters of the district at an election called for that purpose and held not later than December 1, 1995. 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. 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 the creation of the Franklin Utility 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 Franklin and due certificate of the results filed by the clerk with the Secretary of State.

This Act takes effect for all purposes 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 the election does not prevent a subsequent election or elections from being held for that purpose.

Effective pending referendum.

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## CHAPTER 18

### H.P. 65 - L.D. 101

#### **An Act to Direct the Department of Human Services to Contract with the Next Step for Domestic Violence Family Crisis Services**

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

**Sec. 1. Contract with the Next Step.** The Department of Human Services shall contract with the Next Step, a domestic violence project in Hancock County, to provide domestic violence family crisis services. Funding for this contract must be provided