

# 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**

Maine State Retirement System, when determining the retirement allowance for a person who has been awarded and continues to receive disability benefits under the Maine Revised Statutes, Title 5, former section 1122 and for a participating local district that did not adopt the disability retirement plans established by Public Law 1989, chapter 409 or Public Law 1975, chapter 622, finds that a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between the disability beneficiary's retirement allowance and the disability beneficiary's average final compensation at retirement, then the disability beneficiary's allowance must be reduced to an amount that, together with the amount earnable by the disability beneficiary, equals the disability beneficiary's average final compensation at retirement. If the executive director finds that the disability beneficiary's earning capacity is later changed, then the executive director may modify the disability beneficiary's retirement allowance. The modified retirement allowance may not exceed the amount of the retirement allowance originally granted plus any cost-of-living adjustments the disability beneficiary would have been eligible to receive had the beneficiary continued to receive the full allowance from the date it was first awarded. For the purpose of this section, "retirement allowance" means the allowance payable without optional modification as provided in Title 5, section 17803 or section 18404.

**Sec. 2. Review for annual earnings.** The Maine State Retirement System shall review the annual earnings of a person who is the recipient of disability retirement benefits who receives compensation in any year from engaging in a gainful activity. If the Maine State Retirement System finds that the compensation exceeds the greater of \$10,000 or the difference between the recipient's disability retirement benefit for that year and the recipient's average final compensation at the time that the person became a recipient of a disability retirement benefit, then the retirement system must:

1. Reduce the disability or service retirement benefits by the excess for the next calendar year; and
2. Prorate the reduction on a monthly basis in an equitable manner prescribed by the Board of Trustees of the Maine State Retirement System over the year or part of the year during which the benefits are received.

The beneficiary shall reimburse the Maine State Retirement System for any excess not deducted by the retirement system.

**Sec. 3. Methodology.** The Maine State Retirement System is directed to devise a proposed methodology and plan that would consolidate the Section 1122, Article 3 and Article 3-A disability plans currently administered by the Maine State

Retirement System into a single pooled plan modeled after the Article 3-A plan. The proposed plan must include transition provisions for participating local districts that have not yet adopted Article 3 or Article 3-A disability plans. This new methodology and unified plan must be presented to the joint standing committee of the Legislature having jurisdiction over labor matters before adjournment of the 2nd Regular Session of the 117th Legislature and must contain proposed legislation to accomplish the consolidation of the 3 disability plans into one pooled plan.

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

Effective June 27, 1995.

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## CHAPTER 39

### S.P. 530 - L.D. 1447

#### An Act to Create the Hebron Village Water District

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

**Sec. 1. Territorial limits; corporate name; purposes.** The inhabitants and territory of that part of the Town of Hebron in Oxford County comprised of the area beginning at the point of the intersection of the center line of the Central Maine Power Company transmission line right of way and the Hebron and Oxford town lines; thence easterly along the Hebron-Oxford town line a distance of .31 miles, more or less, to a point at the intersection of the town line with the Hebron Road; thence easterly on a line parallel with the southerly sideline of Route 119 and equidistant .22 miles, more or less, from Route 119 as the aforementioned point of intersection of said town line with the Hebron Road, a distance of approximately 1.15 miles to the center line of Collins Road, now known as Old County Road; thence southeasterly a distance of .29 miles, more or less, to the center line of Route 119 at a point two hundred feet from the southeasterly corner of the Hebron Fire Station building; thence northeasterly, a distance of .50 miles, more or less, to the point of intersection of Cushman Hill Road and the stream known as Middle Branch; thence northerly along said Branch, a distance of .76 miles, more or less, to the point of intersection of said brook with the center line of the Central Maine Power Company transmission line right of way; thence along the center line of said transmission line right of way .86 miles, more or less, in a westerly direction and then, continuing along the center line of the transmission line right of way, 1.2 miles, more or less, in a southwesterly direction to the point of

beginning, constitute a quasi-municipal corporation under the name of "Hebron Village Water District," referred to in this Act as the "district," for the purpose of supplying the town and the inhabitants and others of the district with potable water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes, including the extinguishment of fires. The area within the territorial limits is defined for the purpose of this Act as Hebron Village.

**Sec. 2. Powers of district.** The 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 Hebron Village and from any other source from which the Hebron Water Company may take water under its charter, Private and Special Law 1899, chapter 49, section 2. It may also locate, construct and maintain aqueducts, pipes, conduits, dams, wells, reservoirs, standpipes, hydrants, pumping stations and other necessary structures and equipment for those purposes 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 created by this Act.

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 Hebron Water Company unless the district acquires, pursuant to section 13 of this Act, the plant, properties, franchises, rights and privileges owned by the Hebron Water Company 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, lakes, ponds, rivers and water courses in the Town of Hebron and the Town of Paris and across private lands in those towns 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 Oxford County, subject to the consent of the Public Utilities Commission.

**Sec. 5. Procedure if public utility must be crossed.** In case of the 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. 6. Authority to acquire property; rights of eminent domain.** The district, for the purposes of its incorporation, 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 and 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 subsequent act of the Legislature.

**Sec. 7. Procedure in exercising of eminent domain.** The district may exercise the right of eminent domain granted under section 6 in accordance with this section. 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 Oxford County and record in the Oxford County Registry of Deeds plans of the location of all such 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 such 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 Oxford County, may have the damages assessed by them. The procedure and all subsequent proceedings and right of appeal are under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

**Sec. 9. Trustees; how elected; first board; meeting; officers.** All of the affairs of the district must be managed by a board of trustees composed of 3 members, all of whom must be residents of the district and, after selection of the first board, elected as provided in the Maine Revised Statutes, Title 35-A, chapter 63, except as specifically provided in subsection 4 of this section.

**1. First board.** The municipal officers of the Town of Hebron shall appoint the first board of trustees. One trustee serves for a term of one year, one trustee serves for a term of 2 years and one trustee serves for a term of 3 years. At the first meeting the initial trustees shall determine by agreement, or failing to agree they shall determine by lot, the term of office of each trustee. Vacancies are filled pursuant to subsection 4 of this section.

**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 Title 35-A, chapter 63.

**3. Bylaws.** The trustees may adopt and establish such bylaws as are 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 at large 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 Hebron is not eligible for nomination or election as trustee.

The trustees shall appoint a registrar of voters for the district, who may also be the registrar of voters for the Town of Hebron, 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 or their designated representative 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 report of the Town of Hebron.

**Sec. 11. 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 Hebron and the town may contract with the district for the supply of water for municipal purposes.

**Sec. 12. Authorized to receive government aid; borrow money; issue bonds and notes.**

For accomplishing the purposes of this Act, 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, including organizational and other necessary expenses and liabilities, whether incurred by the district or the Town of Hebron, the district being authorized to reimburse the Town of Hebron for any such expense incurred by the town 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, 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, 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.

Except as otherwise provided in this paragraph but notwithstanding any other provision of law, in the event that the trustees vote to authorize bonds or notes that, singly or in the aggregate in any one financing, exceed \$300,000, the debt may not be incurred until approved by a majority of the legal voters within the district voting in a special election. The special election must be called by the trustees within 30 days after their vote to authorize the issuance of the bonds or notes. The election must be called in the same manner as elections of trustees are called, pursuant to section 9, subsection 4 of this Act, except that the election is not required to be held on the same day as the annual municipal election. The requirements of this paragraph do not apply to bonds or notes issued for purposes of renewing or refinancing existing indebtedness of the district.

Bonds, notes and evidences of indebtedness of the district may be issued to mature serially or made to

run for a term of years 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 "Hebron Village Water 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 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 exempt from state income tax.

**Sec. 13. Authorized to acquire property and franchises of Hebron Water Company.**

The district, through its trustees, may acquire by purchase or conveyance or lease, all or part of the plant, property, franchises, rights and privileges owned by the Hebron Water Company located within the Town of Paris or the Town of Hebron, 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. Any transfer or conveyance by Hebron Water Company under this section is subject to the approval of the Public Utilities Commission required by applicable provisions of the Maine Revised Statutes, Title 35-A.

**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 Hebron, 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 service provided to them. The rates must be established in accordance with the Maine Revised Statutes, Title 35-A.

**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 Title 35-A 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. Referendum; effective date.** This Act takes effect 90 days after the adjournment of the First Regular Session of the 117th Legislature but 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, 1996. Nothing in this section requires an election to be held. If an election is held, 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. For the purpose of registering voters, the registrar of voters must be in session the secular day preceding the election. The subject matter of this Act is reduced to the following question:

"Do you favor creating the Hebron Village 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 Hebron 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 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, provided the elections are held no later than December 31, 1996.

Effective pending referendum.

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## CHAPTER 40

H.P. 937 - L.D. 1326

### An Act Concerning the Kennebec 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.

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

Whereas, a review of the Kennebec Water District's rates has already begun at the Public Utilities Commission and in order to ensure that the directives in this Act become effective before that review has concluded this Act needs to be an emergency; 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 1899, c. 200, §5,** as amended by P&SL 1995, c. 31, §1, is repealed and the following enacted in its place:

**Sec. 5. Trustees; how elected.** All of the affairs of the district are managed by a board of trustees composed of 10 members, 4 of whom are elected by a plurality of voters of the City of Waterville, 2 of whom are elected by a plurality of voters of the Town of Winslow, 2 of whom are elected by a plurality of voters of the Town of Fairfield, one of whom is elected by a plurality of voters of the Town of Benton and one of whom is elected by a plurality of voters of the Town of Vassalboro. Trustees must be residents of the towns in which they are elected. Nominations and elections must be conducted in accordance with the Maine Revised Statutes, Title 35-A, chapter 63, except as specifically provided in subsection 3 of this section.

**1. Organization; conduct of business.** As soon as convenient after the election of trustees, the trustees