

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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
1995

Debt Service Fund	\$6,796,401.00
Subordinate Debt Service Fund	-0-
Debt Service Reserve Fund	-0-
Reserve Maintenance Fund	8,000,000.00
Transfers to General Reserve Accounts for Capital Expenditures	2,557,422.37
M.D.O.T. Transfers	4,700,000.00
TOTAL	\$22,053,823.37

See title page for effective date.

CHAPTER 74

H.P. 1194 - L.D. 1638

**An Act to Revise the Charter of the
Boothbay Harbor Water System**

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 boundary of the service area of the Boothbay Harbor water system needs clarification; and

Whereas, consumers within the service area clarified by this Act are desirous of service; and

Whereas, a grant may be available to assist with the costs of providing service to those consumers this year; 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 P&SL 1895, c. 56, as amended by P&SL 1993, c. 38, §§1, 2 and 3, is repealed.

Sec. 2. Authority to convey, sell and purify water; authority to convey wastewater; service area. The Town of Boothbay Harbor is authorized and empowered to take water from Adams Pond in the Town of Boothbay or from any other ponds or supply in the Boothbay Harbor water system service area, sufficient for all domestic, sanitary, municipal and commercial purposes, to perform such operations and procedures as may be necessary to ensure the purity of any water so taken, including constructing and operating water treatment and purification facilities, and to take and convey the water, through the Boothbay Harbor water system service area. The town, acting through its board of water commissioners, is also authorized and empowered to sell water to the towns in the Boothbay Harbor water system service area, including the Town of Boothbay, and to any company, individual, firm or corporation in the Boothbay Harbor water system service area. The town is also authorized to convey through the towns of Boothbay, Boothbay Harbor and Southport such wastewater as may be produced in the operation of any water treatment or purification facility.

The Boothbay Harbor water system service area includes the area bounded and described as follows:

That part of the Town of Boothbay commencing on the boundary line between Boothbay and Boothbay Harbor at a distance westerly along said line of 2,000 feet from the center line of the Beath Road, thence continuing in a northerly direction to the intersection of the Beath Road with the road passing by the Country Club, which intersection is known as Houlton's Corner, thence continuing in a northeasterly direction along the center line of Butler Road to the intersection of Butler Road with Pleasant Cove Road and Pension Ridge Road, thence continuing in a northerly direction along the center line of Pension Ridge Road to the intersection of Pension Ridge Road with Ambleside Road, thence continuing in a northeasterly direction along the center of Ambleside Road to the end of Ambleside Road, thence continuing in a straight line further in a northeasterly direction through Pleasant Cove to the southwest point in the angle of the boundary line between Boothbay and Bristol at the end of Pleasant Cove, thence continuing in a generally northerly, westerly, southerly, and easterly direction along the boundary lines of Boothbay and Bristol, Boothbay and Edgcomb, Boothbay and Westport and Boothbay and Boothbay Harbor to the point of beginning. The Boothbay Harbor water system service area also includes the towns of Boothbay Harbor and Southport, the Village Corporation of Squirrel Island, Mouse Island and other adjacent islands.

Sec. 3. Powers. The Town of Boothbay Harbor has the power and is authorized to survey for,

lay, erect and maintain suitable dams, reservoirs, aqueducts, pipes, hydrants, buildings, treatment or purification plants, pumping equipment and fixtures for flowage, power, pumping its water supply or conveying wastewater produced in the operation of a treatment or filtration facility through its mains; to enter upon any land or public way for laying, erecting and maintaining the pipes and structures, and to make surveys for those purposes; and to pass over, excavate and flow any lands. The town is authorized to take and hold for public uses by purchase, eminent domain or otherwise, any land that may be necessary for supplying, treating or purifying water; conveying wastewater; laying and maintaining its pipelines and constructing other structures; preserving the purity of its watershed; and ensuring the purity of its water supply. The town is also authorized to take and hold in the same manner any land that may be necessary for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and land. The town may hold all real estate and personal property necessary or convenient for these purposes.

The town is authorized to issue its general obligation securities for the purposes of this Act in such amounts and upon such terms as it may for municipal purposes under the Maine Revised Statutes, Title 30-A, section 5772. Any bond, security, note or other debt instrument lawfully issued by the Town of Boothbay, its municipal officers or its board of water commissioners for the purposes of the Boothbay Harbor water system prior to the effective date of this Act is valid and is governed by applicable law and the terms of the debt instrument.

Sec. 4. File plan of location in registry of deeds; file statement of damages. The Town of Boothbay Harbor shall file in the registry of deeds for Lincoln County, plans and descriptions of the location of all the lands and water rights taken under the provisions of this Act, and entry may not be made upon any land, except to make surveys, until the expiration of 10 days from the filing. With the plan, the town may file a statement of the damages it is willing to pay to any person for any property or property rights taken. If the amount finally awarded does not exceed that sum, the town may recover costs against a person, otherwise that person may recover costs against the town. Within 30 days after the filing of the plans and descriptions, the town shall publish notice of the taking and filing in a newspaper in the county, the publication to be continued 3 weeks successively.

Sec. 5. Liable for all damages; damages ascertained in case of disagreement. The Town of Boothbay Harbor must be held liable to pay all legal damages that are sustained by any person by the taking of that person's land, water rights or other

property, by flowage or by excavating through any land for the purpose of laying down pipes and aqueducts or building dams and reservoirs. If a person sustaining damages and the town are unable to agree upon the sum to be paid for the damages, the person or the town, within 12 months after the filing of the plans and location, may apply to the commissioners of Lincoln County. The commissioners of Lincoln County shall have the damages assessed in the same manner and under the same conditions, restrictions, limitations and rights of appeal as are by law prescribed in the case of damages for the laying out of highways, so far as the law is consistent with the provisions of this Act. The failure to make an application within 12 months is deemed to be a waiver of all right to claim damages.

Sec. 6. Authorized to make contract with any water company for sale or lease of any system of works. The Town of Boothbay Harbor is authorized and empowered to enter into contracts with any duly organized water company for the sale or lease to the water company of any system of waterworks owned by the town on such terms and subject to such conditions as a majority of the voters of the town at a legal meeting called for that purpose may prescribe. Any contract lawfully entered into by the Town of Boothbay Harbor for the purposes of the Boothbay Harbor water system prior to the effective date of this Act is valid.

Sec. 7. Board of water commissioners, duties, compensation; town manager, powers, duties. The Town of Boothbay Harbor may elect by ballot a board of water commissioners consisting of 3 members who serve staggered terms of 3 years. At the first election, the water commissioner who receives the largest number of votes shall hold office for 3 years; the water commissioner who receives the next largest number of votes cast shall hold office for 2 years; and the water commissioner who receives the next largest number of votes cast shall hold office for one year. After the initial election one commissioner is elected annually in the month of May to serve a term of 3 years. The water commissioners shall serve until their successors are elected and qualified. If a commissioner resigns from office before the expiration of that commissioner's term or is otherwise unable to complete that term, the remaining 2 commissioners may appoint a new commissioner, with the approval of the municipal officers, to complete the term of the departed commissioner. The 2 remaining commissioners must agree on the appointment in order to exercise their appointment authority. The commissioners are authorized to fix the water rates and determine the conditions and the manner of the water supply and have the general control and management of the water system owned by the town. The commissioners are entitled to receive such compensation for their services as may be fixed by the town. When the

town votes to employ a town manager, but not in union with one or more other towns, the town manager is the administrative head of the water system and is responsible to the water commissioners. The town manager's powers and duties in connection with the water system are the same as in the management of the municipal affairs of the town, so far as applicable. Purchases and disbursements are made by the town manager on vouchers signed by a majority of the commissioners.

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

Effective April 8, 1996.

CHAPTER 75

H.P. 1361 - L.D. 1869

An Act to Increase the Debt Limit of the Madawaska Water District

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

Sec. 1. P&SL 1953, c. 17, §11, first ¶, as amended by P&SL 1989, c. 94, §2, is further amended to read:

For accomplishing the purposes of this act and for such other expenses as may be necessary for the carrying out of said purposes, said district, through its trustees, subject to the provisions of the Maine Revised Statutes, Title 35-A, section 6304, is authorized to issue its notes and bonds in one series or in separate series from time to time and to make subsequent renewals of the same in whole or in part to an amount not exceeding the sum of ~~\$500,000, \$1,500,000~~ outstanding at any one time, unless the district obtains approval of the voters of the district for a higher debt limit pursuant to this section. Said notes and bonds ~~shall be~~ are the legal obligation of said district, which is hereby declared to be a ~~quasimunicipal~~ quasi-municipal corporation within the meaning of the Maine Revised Statutes, Title 30-A, section 5701, as amended, and all provisions of said section ~~shall be~~ are applicable ~~thereto, said~~ to those notes and bonds. ~~The notes and bonds shall be~~ are a legal investment for savings banks in the State of Maine, and ~~shall be~~ are exempt from all present taxes. The said district may refund and reissue, subject to the provisions of the Maine Revised Statutes, Title 35-A, section 6304, from time to time, any of its notes and bonds and other evidence of indebtedness. Each bond or note ~~shall~~ must have inscribed on its face the words "Madawaska Water District Bond," or "Madawaska Water District Note," as the case may be, and ~~shall bear~~ bears interest

at such rates as the trustees ~~shall~~ determine. ~~If said bonds be issued from time to time, 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 shall constitute~~ constitutes a separate loan. Each loan ~~shall be~~ is payable in annual amounts of principal, beginning not more than one year from its date and ~~made to run~~ runs for such period as said trustees ~~shall~~ determine.

Sec. 2. P&SL 1953, c. 17, §11, as amended by P&SL 1989, c. 94, §2, is further amended by adding after the first paragraph the following new paragraphs to read:

In order to establish a higher debt limit for the district, the trustees shall propose a new debt limit for the district, which the trustees shall submit for approval in a districtwide referendum. The referendum 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. For the purpose of registering voters, the registrar of voters must be in session on the regular workday preceding the election. The town clerk of the Town of Madawaska shall prepare the required ballots with the following question:

"Do you favor changing the debt limit of the Madawaska Water District from (insert current debt limit) to (insert proposed debt limit)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the municipal officers of the Town of Madawaska and due certificate of the results filed by the town clerk with the Secretary of State.

A debt limit proposal becomes effective immediately upon its acceptance by a majority of the legal voters within the district voting at the election. Failure of approval by the necessary majority of voters at the referendum does not prevent subsequent referenda from being held for the same purpose. The district may increase its debt limit to any amount or as often as approved by the legal voters within the district pursuant to this section.

Sec. 3. P&SL 1953, c. 17, §13 is repealed and the following enacted in its place:

Sec. 13. Rates. The rates established pursuant to this section must be sufficient to provide revenue for the purposes of this Act and for all other purposes of the district, without the need for any financial assistance from the Town of Madawaska, other than the normal payment of water charges for services ren-