

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

Sec. 2. P&SL 2001, c. 13, §8 is amended to read:

Sec. 8. Continuation of Corinna Water District. The purpose of this Act is to modernize the charter of the Corinna Water District, established under Private and Special Law 1947, chapter 86, using the Standard Water District Enabling Act. ~~The terms of office to which trustees of the Corinna Water District serving on the effective date of this Act were elected are unaffected by this Act. The trustees' successors are elected in accordance with this Act.~~ Except as specifically provided by this Act, nothing in this Act is intended to alter or affect or may be interpreted as altering or affecting any debts, liabilities, obligations, rights or privileges of the Corinna Water District.

Sec. 3. Transition provision. Trustees serving on the effective date of this Act continue to serve until their successors are appointed pursuant to this Act. Appointments must be made within 3 months of the effective date of this Act. The terms of the first trustees appointed pursuant to this section must be staggered so that the term of one trustee expires on March 31, 2003, the term of one trustee expires on March 31, 2004 and the term of one trustee expires on March 31, 2005.

Sec. 4. Existing trustees. The term of the trustee whose term expires on March 31, 2001 is extended until that trustee's successor is appointed pursuant to this Act. The term of the trustee whose term expires on March 31, 2002 is extended until the trustee's successor is appointed pursuant to this Act. Notwithstanding Private and Special Law 2001, chapter 13, section 4, trustees serving on the effective date of this Act are not required to reside in a household to which the district's service is provided. The provisions of this section are retroactive to March 31, 2001.

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

Effective April 2, 2002.

CHAPTER 66

S.P. 794 - L.D. 2147

An Act Providing for the Supply of Water to the City of Brewer

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

Whereas, this legislation authorizes submission of the issue of dissolution of the Brewer Water District to the voters of the City of Brewer at the June primary; 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. Transfer of assets of Brewer Water District. Upon the approval of a majority of the City Council of Brewer and the approval of a majority of the trustees of the Brewer Water District, the Brewer Water District shall expeditiously convey, assign and transfer to the City of Brewer for no consideration:

1. All physical and intangible assets of the Brewer Water District, including all cash, lands, water rights, waters, dams, reservoirs, mains, pipes, service pipes, hydrants, gates, gate-boxes, fixtures, machinery, tools, apparatus, appliances, structures and any other physical element necessary and convenient for providing pure water for domestic, commercial, sanitary and municipal purposes;

2. All valid and legally enforceable contracts or other obligations between the Brewer Water District and any 3rd party as of the effective date of this Act. The City of Brewer shall redeem or otherwise satisfy all nonassumable debt of the Brewer Water District; and

3. All permits, licenses and approvals of any municipal, state or federal entity or agency.

All property, contracts, obligations and franchises of the Brewer Water District must be conveyed subject to all debentures, bonds, mortgages, liens and encumbrances thereon, all of which must be assumed by the City of Brewer.

Sec. 2. Contractual obligations not impaired. In order to avoid any unconstitutional impairment of existing contractual rights that are valid and enforceable, the City of Brewer and, if necessary, the Brewer Water District shall enter into any contractual agreements necessary for the City of Brewer to fulfill any such contractual obligations of the Brewer Water District, including any existing financial obligations to the Brewer Water District's bondholders.

Sec. 3. Pledge of revenues. In order to carry out the purposes of this Act and notwithstanding the

Maine Revised Statutes, Title 30-A, section 5772, the City of Brewer is authorized to issue its notes or bonds in the form of either a general obligation pledge or a revenue pledge, as the municipal officer may determine, to replace or refinance any or all of the existing debts or obligations of the Brewer Water District and is authorized to deliver other instruments evidencing its assumption of the debts, obligations and other liabilities of the Brewer Water District without the need for any further action or approval from the Brewer City Council or the voters of the City of Brewer. Any notes or bonds or other instruments evidencing the city's assumption of the debts, obligations and other liabilities of the Brewer Water District may be issued in the amounts necessary to pay the principal of, premium, if any, and interest on the debts, obligations and other liabilities of the Brewer Water District and may mature up to but not later than the stated maturity date of the debts, obligations and other liabilities of the Brewer Water District.

Sec. 4. Corporate successor to Brewer Water District. For purposes of assuming all debts and obligations of the Brewer Water District, the City of Brewer is the corporate successor to the Brewer Water District upon the transfer of the assets and obligations of the Brewer Water District to the City of Brewer pursuant to this Act.

Sec. 5. Public Utilities Commission review of contracts. In order to facilitate the efficient transfer of water service from the Brewer Water District to the City of Brewer, the Public Utilities Commission, at the request of the City of Brewer, shall review any employment contract of the Brewer Water District entered into within one year of the effective date of this Act. If the commission finds after review that any such contract was an unreasonable act of the Brewer Water District when executed, it may enter an order providing that such contract is void and unenforceable by any party. Enforcement of any such contract under review by the commission must be tolled pending a final decision of the commission.

Sec. 6. Water service outside the City of Brewer. Upon the transfer of the assets and obligations of the Brewer Water District to the City of Brewer pursuant to this Act, the City of Brewer is authorized to provide water service to customers of the Brewer Water District who as of the effective date of this Act do not reside within the city. In order to serve these customers, the City of Brewer is authorized to take and hold, as for public uses, by purchase or otherwise, including by right of eminent domain, any land or interest in land considered necessary. In addition, the City of Brewer may petition the Public Utilities Commission to extend service to any additional individuals residing outside the city.

Sec. 7. Transfer of rights to acquire source of supply. Upon the transfer of the assets and obligations of the Brewer Water District to the City of Brewer pursuant to this Act, the City of Brewer may, for the purpose of providing water service to its customers, take, collect, store, flow, use, detain, distribute and convey water from Eaton Brook and its tributaries in the City of Brewer and the Town of Eddington and the Town of Holden, from Hatcase Pond in the Town of Dedham and the Town of Eddington and Mountainy Pond in the Town of Dedham. The City of Brewer has the right to maintain, repair and replace any water pipes, pumps and associated fixtures and appurtenances necessary to deliver water from these sources of supply to customers receiving water service from the City of Brewer and is authorized to take and hold, as for public uses, by purchase or otherwise, including by right of eminent domain, any land or interest in land necessary for delivering water from these sources of supply and any rights-of-way or roadways to these sources of supply.

Sec. 8. General rule-making authority. Upon the transfer of the assets and obligations of the Brewer Water District to the City of Brewer pursuant to this Act, the City of Brewer may adopt rules not inconsistent with the general laws of the State to prevent the pollution and preserve the purity of the water of Hatcase Pond, and the City of Brewer may prescribe penalties for the violation of those rules. Those rules may specifically restrict or prohibit boating or fishing, in a manner not inconsistent with the general laws of the State, to prevent pollution and preserve the purity of the water. Those rules may restrict swimming to prevent pollution and preserve the purity of the water, but any such restriction may not be more stringent than the 3,000-foot ban contained in Private and Special Law 1945, chapter 146, section 14-B and must be consistent with the general laws of the State. The rules have the same force and effect as municipal ordinances, and the District Court has jurisdiction over violations.

Sec. 9. Dissolution and termination of the Brewer Water District. Upon completion of the transfer of assets and obligations of the Brewer Water District to the City of Brewer in accordance with this Act, the clerk of the City of Brewer shall file a certificate to this effect with the Secretary of State and the corporate existence of the Brewer Water District terminates. The certificate must be prepared by the clerk of the City of Brewer once all of the necessary assets and obligations have been transferred to the city from the Brewer Water District. The City of Brewer may commence and carry out municipal water service prior to completion of the transfer of assets and obligations of the Brewer Water District, if necessary to carry out the purposes of this Act, and, in such event, the Brewer Water District may continue to exist

for the limited purpose of carrying out the requirements of this Act until such time as the transfer of assets and obligations is complete. After filing the certificate with the Secretary of State, the clerk of the City of Brewer shall submit legislation to repeal Private and Special Law 1909, chapter 265 and Private and Special Law 1945, chapter 146, as amended. The legislation may include any necessary amendments or additions to this Act to allow the City of Brewer to provide adequate water service in accordance with this Act.

Sec. 10. 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 of the City of Brewer at the next regular town election to be held on June 11, 2002 or at a special election called and held for the purpose not later than December 31, 2002. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters of the City of Brewer is not required to prepare nor the clerk to post a new list of voters. For the purpose of registration of voters, the registrar of voters in the City of Brewer must be in session the secular day next preceding the election. The subject matter of this Act must be reduced to the following question:

"Do you favor the dissolution of the Brewer Water District and the transfer of the district's assets to the City of Brewer?"

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

The results must be declared by the municipal officers of the City of Brewer and due certification of the results filed by the city clerk with the Secretary of State.

This Act takes effect for all purposes immediately upon acceptance by a majority of the legal voters voting in the election only if the total number of votes cast for and against the acceptance of this Act equals or exceeds 15% of the total vote for candidates for Governor cast in the City of Brewer at the next preceding gubernatorial election, but failure of approval by the necessary percentage of voters at any election does not prohibit a subsequent election or elections to be held for the purpose on or before December 31, 2002.

Effective pending referendum.

CHAPTER 67

H.P. 1704 - L.D. 2201

An Act to Provide Funding for the Office of the State Fire Marshal and the Maine Fire Training and Education Program

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

Whereas, an immediate increase in revenue is required to prevent the curtailment of staff and services of the Office of the State Fire Marshal and the Maine Fire Training and Education Program; 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. Special assessment on fire risks.

To provide funds for the State Fire Marshal and the Maine Fire Training and Education Program, every fire insurance company or association that does business or collects premiums or assessments in the State shall collect pursuant to this section a special assessment from policyholders of insured fire risks located in the State.

1. Special assessment. The special assessment:

- A. Must be collected on insured policies on all fire risks located in the State issued or renewed on or after July 1, 2002 and prior to July 1, 2003;
- B. Must be equal to 0.6% of the gross direct premiums for fire risks written in the State, less the amount of all direct return premiums thereon and all dividends paid to policyholders on direct fire premiums;
- C. Is a part of the insurance premium only for purposes of those portions of the Maine Revised Statutes, Title 24-A, including chapter 41, subchapter V relating to cancellation or nonrenewal of insurance coverage;
- D. Except as provided in paragraph C but notwithstanding any other provision of law, does not constitute and may not be reported as part of the premium as defined in Title 24-A, section 2403;