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REVIEW OF WATER AND SEWER DISTRICT
CHARTER LEGISLATION
NOVEMBER 1988

A Staff Report
Submitted to the
Joint Standing Committee on Utilities

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Sen. Edgar E. Erwin
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I. INTRODUCTION

During both the First and Second Sessions of the 113th Legislature, 43 bills were introduced both to create new water districts and to change the provisions of charters of water and sewer districts which had been previously created by private and special law. During both the first and second regular sessions of the 112th Legislature, 35 of these bills were considered by the members of the Joint Standing Committee on Utilities.

The Joint Standing Committee on Utilities felt that a consistent policy needed to be considered and developed in order to facilitate the handling of charter establishment and modification. The reasons for desiring a new procedure included:

1. Time. With a standardized procedure in place, the Committee would have set guidelines to follow when considering bills of similar nature.
2. Cost. With a procedure for establishing a water district without Legislative intervention, the cost of public hearings, advertising, and printing of bills would be considerably diminished. Such a procedure already exists for sanitary districts in Title 38.
3. Local issues. In the past, numerous bills have come before the Legislature relating to particular water, sewer and sanitary districts. Often these involve local issues, not matters of State policy, and thus they could be decided at the local level.

As a result of the Joint Standing Committee's concern, a study request was submitted to the Legislative Council. This study was not approved, but staff was directed by the Council to review the issues and develop alternatives to address the problems identified by the Committee. This staff report is the result.

The staff reviewed formation of new districts and charter changes for existing districts.

At present, the procedure for formation of water districts is by private & special law. Staff has identified three alternatives for formation of water districts, which are discussed in section III. Section IV discusses a proposed enabling act for formation of water districts, which includes some provisions which would grant "home rule" to districts within statutory limits.

The existing Sanitary District Enabling Act appears to be sufficient for formation of sanitary (sewer) districts. It incorporates some similar "home rule" provisions, and could be modified to incorporate the others.

Charter changes for quasi-municipal districts were addressed by the Legislature in Public Law 1987, chapter 704, which is now codified in Title 30, soon to be 30-A. That law took effect August 4, 1988 and is discussed in Section II. This report presents some technical amendments which would clarify that law.

Finally, this report presents proposed legislation for the purpose of bringing these issues before the Utilities Committee.

- Proposed Water District Enabling Act (Appendix B)

- Proposed amendments to the Sanitary District Enabling Act and similar Sewer District legislation (Appendix C)

- Proposed amendments to Title 30-A concerning quasi-municipal charter changes (Appendix D)

The options described in this study and the accompanying legislation are intended to present the range of alternatives that have been identified for reducing and refining legislative involvement in water and sewer district affairs. It is not intended to indicate a preference for any particular option. The legislation is drafted to bring these issues before the Joint Standing Committee on Utilities during the First Regular Session of the 114th Legislature in a manner which will facilitate discussion and decision-making processes.

II. BACKGROUND

Formation of Districts

Currently, several provisions of general law contain guidance on preferred methods of organizing and operating both water and sewer districts. These include Title 35-A, chapter 63, relating to water districts, and Title 38, chapter 11 and 12, relating to sanitary and sewer districts.

All "sewer districts" formed after January 1, 1982 must be formed under the Sanitary District Enabling Act, which provides the major substantive structure for the district. Formation may be approved administratively by the Board of Environmental Protection, provided the statutory conditions are met. However, new sewer (sanitary) districts have seldom been formed in the last few years, so the value of that Act has been somewhat limited. "Sewer districts" which are formed under the enabling act are referred to as sanitary districts. The provisions of Title 38, chapter 12 set a few general requirements that apply to all sewer districts.

The statutory provisions dealing with water district charters set a few general requirements which apply to all water districts. They also include extensive rate-making provisions, since water districts, unlike sewer districts, are public utilities subject to rate regulation by the Public Utilities Commission. However, there is no "Water District Enabling Act". Water districts may only be formed by private and special law.

Charter Amendments

The Second Regular Session of the 113th Legislature enacted PL 1987, c. 704, AN ACT Concerning Charter Changes in Quasi-Municipal Corporations or Districts, which provides simplified methods for changing the charters of quasi-municipal corporations or districts. (Appendix A). However, under the Act, changes still require legislative involvement because the charters are private and special laws of the State.

The method for changing the charter of a quasi-municipal corporation or district depends on whether the proposed change is considered substantive, and therefore considered a revision of the charter, or non-substantive, and therefore considered an amendment to the charter. This distinction was previously made in the methods of changing the charters of municipalities, and the same principles are to be used in changing the charters of quasi-municipal corporations or districts.

Adoption of a charter amendment requires two steps. First, the board of trustees of the district, after holding a public hearing, must unanimously vote in favor of the proposed amendment. Second, the Legislature must enact the amendment. This may be accomplished by the board of trustees submitting the proposed amendment to the joint standing committee of the Legislature having jurisdiction over utilities which will include it in an omnibus bill on charter changes.

Adoption of a charter revision requires votes of support by a majority of the board of trustees and a majority of the municipal legislative body of each municipality within the district. It must then be approved by the voters and enacted by the Legislature. As an alternative, a charter revision may be initiated by citizens' petition, which then requires a local referendum vote before presentation to the Legislature for final enactment.

Even with this Act in place, any legislator may still introduce legislation to change a district charter without first going through the local voting procedure. However, the joint standing committee must first obtain written comments from the municipalities before acting (35-A MRSA §6307 and 38 MRSA §1253).

III. ALTERNATIVES FOR WATER DISTRICT FORMATION

The following alternatives were identified to handle water district charters. It is assumed that new sewer (sanitary) districts will be well-served by formation under the Enabling Act of Title 38.

Alternative #1: Status quo

Local water districts would continue to be established through Legislative Act, with full Legislative consideration.

A. Advantages

1. Simple. The present system is understood by the persons who are involved in water utilities.
2. Models available. Existing charters, especially the newer ones, can be used as models.

B. Disadvantages

1. Time. Considerable time in each legislative session is devoted to considering these bills.
2. Cost. Public hearings, advertising, and printing of bills are significant costs to the taxpayers each year.
3. Local Issues. In many cases the issues involved are local in nature, not involving State policy.

Alternative #2: Model Charter

Provide model water district language and require all new water districts to use this language.

A. Advantages

1. Uniformity. A model charter would reduce the effort required for review.
2. Authority. This retains a legislative role.

B. Disadvantages

1. Does not reduce cost. It only produces a small reduction in the time required for review.
2. Inflexible. This does not provide flexibility for variations from standard practice.

3. Unenforceable. Bills will continue to be introduced that do not follow the model charter.

Alternative #3: Enabling Act

Enact legislation providing a Water District Enabling Act, allowing water districts to be created administratively.

A. Advantages

1. Time. This would save legislative time.
2. Cost. This would save costs of legislative publication and hearings.
3. Uniformity. This would readily allow establishment of uniform policy by statute as needed.
4. Flexibility. Flexibility could be allowed on local provisions.
5. Home Rule. Authority could be included to allow limited "home rule" to districts with regard to some subjects of charter change.

B. Disadvantages

1. Reduced legislative oversight. Legislative control of water district affairs is reduced.
2. Could be bypassed. Bills to enact special legislation could still be introduced.

IV. WATER DISTRICT ENABLING ACT

A draft Water District Enabling Act was prepared by staff in order to facilitate consideration of development of new water districts. The draft was reviewed by persons designated by the chairs of the Joint Standing Committee on Utilities. Few comments were received, but the proposed legislation appearing in Appendix B is the result of that review. It is based on enabling legislation for sanitary districts (Title 38 MRSA c. 11) which permits the establishment of sanitary districts without legislative involvement.

The draft legislation provides the basic charter for water districts, including purpose, organization, and powers, and empowers the "Authorizing Agency" to authorize the formation of water districts. Basically, the draft specifies that a water district may consist of one municipality, two or more municipalities, a sufficient number of persons residing in an unorganized territory, or any combination of the above.

The issue of water rights is a little more complicated. Typically, a district has the right to withdraw groundwater from within the territory of the district for its lawful purposes. The district may obtain those rights by purchase or by eminent domain. Authority to withdraw surface water from a Great Pond or navigable river requires specific authorization by the Legislature which holds those waters in public trust. In order to ensure a review of any actual water use in the context of contemporary statewide water needs, the draft bill requires the approval of the Public Utilities Commission in order for the water district to take, withdraw, or divert water from any source. This is in addition to the need for the district to have the basic water rights to the source.

No fiscal note is included, but it is recognized that this draft legislation might require additional state resources in order to allow for the costs of administrative review by the "Authorizing Agency". One way of covering those costs would be to charge an application fee to any group which applies to the "Authorizing Agency" for formation of a district.

There are 3 possible choices for the "Authorizing Agency". For purposes of consideration, the draft legislation designates the Public Utilities Commission as the authorizing agency because of the longstanding position of water districts as regulated utilities. Other existing agencies which might logically be chosen are:

1. The Board of Environmental Protection, which has experience as the "Authorizing Agency" for sanitary districts;
2. The Department of Human Services, which exercises control over drinking water quality through the Division of Health Engineering.

A final broad issue that merits consideration is whether existing water districts should be required to revise their charters to conform to the new enabling act. Once accomplished, this would have the benefits of clarity, uniformity and simplicity, but these benefits must be weighed against the effort required. As drafted, the legislation requires that revision and allows 2 years for it to take place. Another option would be to grant "home rule" in specific areas as discussed in section V without requiring existing water districts to be reauthorized. While simpler, this option raises somewhat technical issues relating to whether private and special laws establishing water districts can be amended by an entity other than the Legislature.

V. HOME RULE

The proposed Water District Enabling Act and the proposed amendments to the Sanitary District Enabling Act grant "home rule" to districts for certain specified changes to their basic operation and procedures, which were considered to be strictly local concerns. These include:

1. Adoption and amendment of bylaws by vote of the trustees. The draft legislation does not require a referendum to adopt or change the bylaws, but that option should be considered.
2. Trustees compensation, which is to be set in the bylaws, and may be changed by recommendation of the trustees, approval of the municipal officers, and inclusion in the bylaws.
3. Time, date and place of district meetings, which are to be set in the bylaws and may be changed by vote of the trustees.
4. Alteration of the boundaries of the district, which requires approval of the "Authorizing Agency", with local participation in the same manner as in initial formation of the district.
5. Changing the number of trustees, which requires a referendum in the district, similar to the referendum on the initial number of trustees.
6. Issuance of debt, which may be accomplished by vote of the trustees, subject to referendum of the voters of the district if the amount is greater than \$150,000 dollars.
7. For any district which has a debt limit, changing the debt limit, which must be approved by the trustees and the voters, and included in the bylaws.

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APPENDIX A

Public Law 1987, c.704
effective Aug 4, 1988

STATE OF MAINE

H.P. 1888 - L.D. 2583

AN ACT Concerning Charter Changes in
Quasi-Municipal Corporations or
Districts.

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

30 MRSA c. 250 is enacted to read:

CHAPTER 250

QUASI-MUNICIPAL CORPORATIONS OR DISTRICTS

§5501. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Affected municipalities. "Affected municipalities" means the municipalities of which part or all is embraced by the quasi-municipal corporation or district.

2. Charter amendment. "Charter amendment" means a change in the charter of a quasi-municipal corporation or district which is not a charter revision.

3. Charter revision. "Charter revision" means a change in the charter of a quasi-municipal corporation or district which has an effect on: Number of and method of selecting trustees; powers of trustees; powers of the corporation or district; election procedures, other than election dates; boundaries of the corporation or district; methods of establishing rates; debt limitation; methods of land acquisition, including eminent domain; amount of spending without voter approval; or liens.

4. Quasi-municipal corporation or district. "Quasi-municipal corporation or district" means any governmental unit embracing a portion of a municipality, a single municipality or several municipalities which is created by law to deliver public services but which is not a general purpose governmental unit. Quasi-municipal corporation or district does not include School Administrative Districts or hospital districts.

5. Quasi-municipal corporation or district voters.
"Quasi-municipal corporation or district voters" means the voters within the boundaries of the quasi-municipal corporation or district.

§5502. Charter amendments

If, after the board of trustees of the quasi-municipal corporation or district holds a public hearing on the proposed amendment, the board unanimously votes in favor of an amendment to the charter of the quasi-municipal corporation or district, the board shall submit that amendment to the joint standing committee of the Legislature having jurisdiction over utilities to be included in the annual omnibus legislation as provided in section 5505. The amendment is effective upon the effective date of the omnibus legislation.

§5503. Charter revisions

1. Board of trustees and municipal legislative bodies.
If, after the board of trustees of the quasi-municipal corporation or district holds a public hearing on the proposed revision, a majority of the board and a majority of each municipal legislative body of the affected municipalities vote in favor of a revision of the charter of the quasi-municipal corporation or district, the proposed revision shall be submitted to the quasi-municipal corporation or district voters in each affected municipality according to the procedures in section 5504. If the charter revision passes, the trustees of the quasi-municipal corporation or district shall submit that change to the joint standing committee of the Legislature having jurisdiction over utilities to be included in the annual omnibus legislation as provided in section 5505. The revision is effective upon the effective date of the omnibus legislation.

2. Alternative method, initiated petition. On the written petition of a number of voters equal to at least 20% of the total number of the votes cast in the affected municipalities in the last gubernatorial election, but in no case less than 10 voters, the proposed revision shall be submitted to the quasi-municipal corporation or district voters in each affected municipality according to the procedures in section 5504. If the charter revision passes, the trustees of the quasi-municipal corporation or district shall submit that change to the joint standing committee of the Legislature having jurisdiction over utilities to be included in the annual omnibus legislation as provided in section 5505. The revision is effective upon the effective date of the omnibus legislation.

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§5504. Procedure for referenda on charter changes

1. Board of trustees of quasi-municipal corporation or district. When a referendum on a charter revision is required under section 5503, the board of trustees of the quasi-municipal corporation or district shall initiate a corporation or district referendum and place before the voters the specific charter revision which has been proposed by the board or the petitioners.

2. Method of calling a corporation or district referendum. A corporation or district referendum shall be initiated by a warrant prepared and signed by a majority of the board of trustees. The warrant shall be countersigned by the municipal officers in each municipality where the warrants are posted.

A. The warrant shall direct the municipal officers of the affected municipalities to call a referendum on a date and time determined by the board of trustees. A warrant shall be prepared and distributed at least 30 days prior to the date of the referendum.

(1) The warrant shall be directed to a resident of one of the affected municipalities by name ordering the resident to notify the municipal officers of each of the affected municipalities to call a town meeting or city election on the date specified by the board of trustees. No other date may be used. The person who serves the warrant shall make a return on the warrant stating the manner of service and the time when it was given.

(2) The warrant shall be served on the municipal clerk of each of the affected municipalities by delivering an attested copy of the warrant in hand within 3 days of the date of the warrant. The municipal clerk, on receipt of the warrant, shall immediately notify the municipal officers within the municipality. The municipal officers shall forthwith meet, countersign and have the warrant posted.

(3) The warrants and other notices for the referendum shall be in the same manner as provided in Title 21-A.

B. The warrant shall set forth the articles to be acted on in each municipal referendum. The articles shall have the following form.

"Shall the charter of the quasi-municipal corporation or district of
be revised to
....(insert summary of revision).....?"

Yes ... No ..."

3. Referendum procedures. The following procedures shall apply to a corporation or district referendum.

A. The board of trustees shall prepare and furnish the required number of ballots for carrying out the referendum as posted, including absentee ballots. It shall prepare and furnish all other materials necessary to fulfill the requirements for voting procedures.

B. Voting shall be held and conducted as follows.

(1) The voting at referenda held in towns shall be held and conducted in accordance with sections 2054 and 2061 to 2065, even though the town has not accepted the provisions of sections 2061 and 2062. The facsimile signature of the clerk under section 2061, subsection 5, paragraph F, shall be that of the chairman of the board of trustees. If a corporation or district referendum is called to be held simultaneously with any statewide election, the voting in towns shall be held and conducted in accordance with Title 21-A, except that the duties of the Secretary of State shall be performed by the board. The absentee voting procedure of Title 21-A shall be used, except that the duties of the Secretary of State shall be performed by the board.

(2) The voting at referenda in cities shall be held and conducted in accordance with Title 21-A, including the absentee voting procedure, except that the duties of the Secretary of State shall be performed by the board of trustees.

C. The return and counting of votes shall be as follows.

(1) The municipal clerk shall, within 24 hours of the determination of the results of the vote in the municipality, certify and send to the board of trustees the total number of votes cast in the affirmative and in the negative on the article.

(2) As soon as all of the results from all of the municipalities have been returned to the board of trustees, the board shall meet and compute the total number of votes cast in all of the affected municipalities in the affirmative and in the negative on the article.

(3) If the board of trustees determines that there were more votes cast in the affirmative than in the negative on the article, it shall declare that the article has passed.

(4) If the board of trustees determines that the total number of votes cast on the article in the

affirmative is equal to or less than those cast in the negative, it shall declare that the article has not passed.

(5) The board of trustees shall enter its declaration and computations in its records and send certified copies of it to the clerk of each affected municipality.

4. Reconsideration. The procedure to reconsider votes taken at a corporation or district referendum shall be as follows.

A. The board of trustees shall, within 60 days, initiate a new corporation or district referendum to reconsider the vote of the previous referendum if, within 7 days of the first referendum, at least 10% of the number of voters voting for the gubernatorial candidates in the last gubernatorial election in the affected municipalities petition to reconsider a prior corporation or district referendum vote.

B. A reconsideration referendum is not valid unless the number of persons voting in that referendum is at least equal to the number who voted in the prior corporation or district referendum.

C. If the margin of the vote being reconsidered was between 10% and 25%, the petitioners shall post a bond with the petition equal to the actual and reasonable costs of the new referendum. If the margin of the vote being reconsidered exceeded 25%, the petitioners shall post an additional bond equal to the actual and reasonable costs which may be incurred as a result of the delay of an authorization or approval granted in the prior corporation or district referendum. If the petitioners are successful, the bonds shall be canceled.

5. Inspection and recount. Upon written application of 10% of the persons, or 100 persons, whichever is less, whose names were checked on the voting lists at any quasi-municipal corporation or district referendum held under this chapter, a ballot inspection or a recount hearing shall be granted. The time limits, rules and all other matters applying to candidates under sections 2063 and 2064 shall apply equally to applicants for either the inspection or recount.

§5505. Annual omnibus legislation

The joint standing committee of the Legislature having jurisdiction over utilities shall report each year an omnibus bill including amendments to and revisions of the charters of quasi-municipal corporations or districts which have been submitted to the committee as provided in this chapter.

§5506. General provisions

1. Other legislation not precluded. This chapter does not preclude the introduction of any legislation concerning quasi-municipal corporation or district charter amendments or revisions.

2. Effect of contrary charter provisions. Any portion of the charter of any quasi-municipal corporation or district which is contrary to this chapter has no effect.

3. Trustees' compensation; water districts and sewer districts. This chapter does not affect the procedures concerning changes in the compensation of trustees of water districts and sewer districts as provided in Title 35-A, section 6303, subsection 4, and Title 38, section 1252, subsection 5.

7078*

APPENDIX B: Proposed Water District Enabling Act
AN ACT TO GOVERN THE FORMATION OF WATER DISTRICTS

Sec. 1. 35-A MRSA Chapter 64, Subchapter I is enacted to read:

SUBCHAPTER I
WATER DISTRICTS
GENERAL PROVISIONS

§6401. Short title

This chapter shall be known and may be cited as the Water District Enabling Act.

§6402. Definitions

Unless the context indicates otherwise, as used in this subchapter, the following terms have the following meanings.

1. Application. "Application" means an application to form a water district, filed with the Authorizing Agency.

2. Authorizing Agency. "Authorizing Agency" means the Public Utilities Commission, which is the state agency empowered to authorize formation of a water district under this Act.

3. Preparatory costs. "Preparatory costs" shall include but shall not be limited to: the cost of preparation of an engineering study or studies; legal costs with relation to the application and presentation of any application for the formation of a water district; other engineering costs that may not be included in a study; costs for financial advice; administrative expense and such other expense as may be necessary or incident to the action of any municipality in the course of formation of a water district under this Act.

§6403. Declaration of Policy

It is declared to be the policy of the State to encourage the development of water districts organized as:

1. Municipality. A municipality;

2. Municipalities. Two or more municipalities;

3. Portions. A portion or portions of sufficient size of a municipality or 2 or more municipalities;

4. Unorganized territory. A sufficient number of persons residing in unorganized territory; or

5. Combination. Any combination of the foregoing, so that the districts may economically produce an adequate supply of pure water to serve the people of the districts in a manner that is consistent with protection of health and economic welfare of the citizens.

A water district may be formed where the Authorizing Agency finds that there is a need throughout a part or all of the territory embraced within the proposed district for the accomplishment of the purpose of providing an adequate efficient system of supplying pure water for the people of the district. These purposes must be effectively accomplished on an equitable basis by a water district if created and the creation and maintenance of the district must be administratively feasible and in furtherance of the public health, safety, and welfare.

§6404. Purpose of Water District

The purpose of each water district formed under this chapter shall be to construct, maintain, operate and provide a system to supply pure water for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district.

§6405. Applicability

Any quasi-municipal district formed on or after January 1, 1989 to serve the functions of a water district shall be formed in accordance with this chapter. Any water district in existence on that date shall conform its charter to this chapter and obtain approval of the commission prior to January 1, 1991.

§6406. Reimbursement of preparatory costs to municipalities

Any municipality or municipalities which fall within a water district formed under this Act shall be entitled to reimbursement from the water district for the preparatory costs of formation of the district when the water district is in a position to reimburse those costs.

SUBCHAPTER II
ORGANIZATION

§6411. Formation

The formation of a water district shall be accomplished as follows:

1. Application by municipal officers. The municipal officers of the municipality or municipalities, or portions thereof, or the residents of unorganized territory, that desire to form a water district shall file an application with the Authorizing Agency on a form or forms to be prepared by the agency, setting forth the name or names of the municipality or municipalities, or portions thereof, or, in the case of residents of unorganized territory, the names of the residents, that propose to be included in the district, and they shall furnish such other data as the board may determine necessary and proper. The application shall contain, but shall not be limited to, a description of the territory of the proposed district, the name proposed for the district which shall include the words "Water District," a statement showing the existence in the territory of the conditions requisite for the creation of a water district as prescribed in section 6403. A copy of an engineering study or studies shall be filed with the application.

2. Application by petition and referendum. Residents of a municipality or municipalities, or portions thereof, that desire to form a water district may petition the municipal officers to file an application for a water district with the Board of Environmental Protection. The petition shall contain a description of the territory of the proposed district.

Upon receipt of a written petition signed by at least 10% of the number of voters voting for the gubernatorial candidates at the last statewide election in that proposed district, the municipal officers shall submit the question to the voters of the proposed district at the next general, primary or special election within the proposed district. The referendum question shall read as follows:

"Shall the municipal officers representing the proposed water district, consisting of (describe the territory of the proposed district), file an application for a water district with the (insert name of Authorizing Agency) on behalf of the residents of the proposed district?"

If the referendum question is approved by a majority of the legal voters voting at the election, provided that the total number of votes cast for and against the referendum question equals or exceeds 20% of the total number of votes cast in the proposed district in the last gubernatorial election, the municipal officers representing the residents of the proposed water district shall file an application for that proposed district in accordance with subsection 1.

3. Public hearing. Upon receipt of the application, the Authorizing Agency shall cause a public hearing to be held on the application at some convenient place within the proposed district.

4. Approval of application; notice. After the public hearing, the agency shall make findings of fact and conclusions thereon based on the evidence received at the hearing and determine of record whether or not the conditions requisite for the creation of a water district under this chapter exist in the territory described in the application. If the agency finds that those conditions do exist, it shall issue an order approving the proposed district.

The board shall give notice to the municipal officers within the municipality or municipalities involved, and where unorganized territory is involved, to the persons signing the application mentioned and to the commissioners of the county where that unorganized territory is located, of a date, time and place of a meeting of those persons for the purposes of subsection 6. The notice shall be in writing and sent by certified mail, return receipt requested, to the addresses shown on the application and, in the case of county commissioners, to the addresses of the commissioners as obtained from the county clerk. A return receipt properly endorsed shall be evidence of the receipt of notice. The notice shall be mailed at least 10 days prior to the date set for the meeting.

5. Denial of application. If the agency after the public hearing determines that the creation of a water district in the territory described in the application is not warranted for any reason, it shall make findings of fact and conclusions thereon and enter an order denying its approval. The agency shall give notice of the denial by mailing certified copies of the decision and order to the municipal officers of the municipality or municipalities involved, and where unorganized territory is involved, to the persons signing the application and to the commissioners of the county where that unorganized territory is located. No application for the creation of a water district, consisting of exactly the same territory, shall be entertained within one year after the date of the issuance of an order denying approval of the formation of a water district, but this provision shall not preclude action on an application for the creation of a water district embracing all or part of the territory described in the original application, provided that the territory of the proposed district is different in some respect. or an allegation of change in circumstances from those existing on the date of the previous application is furnished to the agency with the resubmitted application.

6. Meeting. The persons to whom the notice described in subsection 4 is directed shall meet at the time and place appointed. If more than one municipality is involved or if unorganized territory is involved, they shall organize by electing a chairman and a secretary.

No action shall be taken at the meeting unless at the time of convening there are present at least 1-2 of the total number of municipal officers eligible to attend and participate at said meeting, and, where the proposed district includes unorganized territory, at least 2-3 of the persons from the unorganized territory who signed the application and at least two commissioners of the county wherein that unorganized territory is located, other than to report to the Authorizing Agency that a quorum was not present and to request the agency to issue a notice for another meeting.

The purpose of the meeting shall be to determine a fair and equitable number of trustees, subject to section 6415, to be elected by and to represent each participating municipality, or in the case of unorganized territory, the residents of that territory within the bounds of the proposed district. When a decision has been reached on the number of trustees and the number to represent each municipality or the residents of the unorganized territory within the bounds of the proposed district, subject to the limitations provided, this decision shall be reduced to writing by the secretary and must be approved by a 2-3 vote of those present. Where 2 or more municipalities are involved or unorganized territory is involved, the record of the meeting and the vote shall be signed by the chairman and attested by the secretary and filed with the agency. In cases where a single municipality is involved, a copy of the vote of the municipal officers duly attested by the clerk of the municipality shall be filed with the agency

7. Submission. When the record of the meeting and the vote has been received by the agency and found by it to be in order, the agency shall order the question of the formation of the proposed water district and other questions relating thereto to be submitted to the legal voters residing within the portion of the municipality, municipalities or unorganized territory which falls within the proposed water district. The order shall be directed to the municipal officers of the municipality or municipalities, and, where the proposed water district includes unorganized territory, to the commissioners of the county where that unorganized territory is located, directing them to forthwith call town meetings, city elections, or a meeting of the residents of the unorganized territory within the bounds of the proposed water district, as the case may be, for the purpose of voting in favor of or in opposition to each of the following articles or questions, in the applicable form, substantially as follows.

A. (Form 1) To see if the town (or city of (name of town or city) will vote to incorporate as a water district to be called (name) Water District.

(Form 2) To see if the residents of the following described section of the town (or city) of (name of town or city) will vote to incorporate as a water district to be called (name) Water District: (legal description of the bounds of section to be included).

(Form 3) To see if the residents of the (following described section of) (name of town or city) (unorganized territory) will vote to join with the residents of the (following described section of) (name of town or city) (unorganized territory) to incorporate as a water district to be called (name) Water District: (legal description of the bounds of the proposed water district except where district is to be composed of entire municipalities).

(Form 4) To see if the inhabitants of the following described section of that unorganized territory known as Township (number), Range (number) will vote to incorporate as a water district to be called (name) Water District: (legal description of the bounds of the proposed sanitary district).

B. To see if the residents of (the above described section of) (name of town or city) will vote to approve the total number of trustees and the allocation of representation among the municipalities (and included section of unorganized territory) on the board of trustees as determined by the municipal officers (and the persons representing the included area of unorganized territory) and listed as follows:

The total number of trustees shall be _____ and the residents of (the above described section of) (town or city) shall be entitled to _____ trustees (and the residents of the above described section of unorganized territory shall be entitled to _____ trustees), etc.

C. To choose (number) trustees to represent the residents of (the above described section) of (town or city) (unorganized territory) on the board of trustees of the (name) Water District.

At any such town meeting, city election, or election by the residents of the proposed water district, trustees shall be chosen to represent the municipality or the unorganized territory within the proposed water district in the manner provided in section 6416.

§6412. Organization after approval

When the residents of the municipality, or each municipality, where more than one is involved, or of the unorganized territory within the proposed water district, have voted upon the formation of a proposed water district and all of the other questions submitted therewith, the clerk of each of the municipalities, and, for unorganized territory, the county clerk, shall make a return to the Authorizing Agency in such form as the agency shall determine. If the agency finds from the returns that a majority of the residents within each of the municipalities involved, and that a majority of the residents of any unorganized territory within the proposed water district, voting on each of the articles and questions submitted to them, have voted in the affirmative, and they have approved the number of trustees and elected the trustees to represent each municipality and the residents of any unorganized territory within the proposed water district, and that all other steps in the formation of the proposed water district are in order and in conformity with law, the agency shall make a finding to that effect and record that upon its records. The agency shall, immediately after making its findings, issue a certificate of organization in the name of the water district in such form as the agency shall determine. The agency shall also direct the trustees to meet at a specified date, time, and place to organize the water district.

The original certificate shall be delivered to the trustees on the day that they are directed to organize and a copy of the certificate duly attested by the Commissioner or Chairman of the agency shall be filed and recorded in the Office of the Secretary of State. The issuance of the certificate by the board shall be conclusive evidence of the lawful organization of the water district. The water district shall not be operative until the date set by the agency.

§6413. Transfer of property and assets

When a water district has been issued its certificate of organization and has assumed the management and control of the operation of the water facilities within its territorial limits, the trustees of the district shall determine what property or properties owned by any municipality within the district are necessary to carry on the functions of the water district and shall request in writing that the municipal officers of the municipality convey the title to that property to the water district and the municipal officers shall make conveyance without payment of consideration.

§6414. Operational date of water districts

Notwithstanding the prior issuance of a certificate of organization, a water district shall not be in operation and shall not exercise any of its powers granted in this chapter until the date set by the Authorizing Agency as provided in section 6412. On that date, the water district shall become operative and the trustees shall assume the management and control of the operation. The municipalities and residents of unorganized territory within the water district on and after that date shall have no responsibility for the operation or control aqueducts, pipes, conduits, dams, wells, reservoirs, standpipes, hydrants, and pumping stations within their respective jurisdictions other than to pay for services rendered to the municipality or to such residents by the water district.

§6415. Trustees

1. Authorization. All the affairs of a water district shall be managed by an elected board of trustees which shall consist of not less than 3 trustees, or not less than 5 trustees in water districts involving more than one municipality or one or more municipalities and residents of an unorganized territory. The exact number of trustees shall be determined in accordance with section 6411, subsections 6 & 7. A water district may alter the number of trustees by submitting the proposed alteration to the voters in the same manner as provided in section 6411, subsection 7. No municipality nor unorganized territory within any water district may have less than one trustee. A quorum of the trustees may conduct the affairs of the district even if there is a vacancy on the board of trustees.

2. Initial Officers. The trustees shall organize by election from their own members a chairman, a vice-chairman, a treasurer and a clerk and choose and employ and fix the compensation of such other necessary officers and agents who shall serve at their pleasure, and they shall adopt a corporate seal. Prior to the election of said officers each trustee shall be sworn to the faithful performance of his duties.

3. Trustees compensation. The trustees shall receive compensation as recommended by them and approved by majority vote of the municipal officers in municipalities representing a majority of the population within the district, including compensation for any duties they perform as officers as well as for their duties as trustees. Certification thereof shall be recorded with the Secretary of State and recorded in the bylaws. Their compensation for duties as trustees shall be on the basis of such specific amount as may be specified in the bylaws, each meeting actually attended and reimbursement for travel and expenses, with the total not to exceed such specific amount as may be specified in the bylaws. Compensation schedules in effect in January 1, 1982, shall continue in effect until changed.

4. Bylaws. The trustees shall from time to time adopt, establish and amend by bylaws consistent with the laws of the State of Maine, and necessary for their own convenience and the proper management of the affairs of the district and perform any other acts within the powers delegated to them by law. Adoption of the bylaws and any change in them must be discussed in at least one public meeting of the trustees prior to the meeting at which they take final action.

5. Annual meetings; officers. After the original organizational meeting the trustees shall meet annually at a time determined by their bylaws for the purpose of electing from among the members a chairman, vice-chairman, treasurer and clerk to serve until the next annual election and until their successors are elected and qualified. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost thereof to be paid by the district. The chairman, vice-chairman, treasurer and clerk may receive such compensation for serving in these capacities as the trustees shall determine. This compensation shall be in addition to the compensation payable to them as trustees. The trustees shall make and publish an annual report including a report of the treasurer.

6. Trustees retirement. Persons who have not been trustees prior to January 1, 1982, and who are not full-time employees, shall not be eligible to become members of the Maine State Retirement System as a result of their selection as trustees.

7. Conflict of interest. No member of the board of trustees shall be employed for compensation as an employee or in any other capacity by the sanitary district of which he is a trustee, except as provided in this chapter.

§6416. Election of trustees; vacancy; recall

1. Election. Trustees shall be nominated and elected in the same manner as municipal officers are nominated and elected under Title 30-A, or in accordance with a municipal charter, whichever is applicable; or, in the case of unorganized territory, in accordance with the procedure for the organization of larger townships set forth in Title 30-A, section 7001. Upon receipt of the names of all the trustees, the Board of Environmental Protection shall set a date, time, and place for the first meeting of the trustees, notice thereof to be given to the trustees by certified mail, return receipt requested, mailed at least 10 days prior to the date set for the meeting, to determine the length of their terms. The terms of the first trustees shall be determined by lot in accordance with the following table:

<u>Total number of Trustees</u>	<u>TERM</u>		
	<u>1 years</u>	<u>2 years</u>	<u>3 years</u>
<u>3</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>4</u>	<u>1</u>	<u>1</u>	<u>2</u>
<u>5</u>	<u>1</u>	<u>2</u>	<u>2</u>
<u>6</u>	<u>2</u>	<u>2</u>	<u>2</u>
<u>7</u>	<u>2</u>	<u>2</u>	<u>3</u>
<u>8</u>	<u>2</u>	<u>3</u>	<u>3</u>
<u>9</u>	<u>3</u>	<u>3</u>	<u>3</u>
<u>10</u>	<u>3</u>	<u>3</u>	<u>4</u>
<u>11</u>	<u>3</u>	<u>4</u>	<u>4</u>
<u>12</u>	<u>4</u>	<u>4</u>	<u>4</u>
<u>13</u>	<u>4</u>	<u>4</u>	<u>5</u>
<u>14</u>	<u>4</u>	<u>5</u>	<u>5</u>
<u>15</u>	<u>5</u>	<u>5</u>	<u>5</u>
<u>16</u>	<u>5</u>	<u>5</u>	<u>6</u>
<u>17</u>	<u>5</u>	<u>6</u>	<u>6</u>
<u>18</u>	<u>6</u>	<u>6</u>	<u>6</u>

The trustees shall enter on their records the determination so made. The trustees shall serve their terms as determined at the organizational meeting, except that in the case of trustees representing a municipality, such trustees shall serve an additional period until the next regular election of the municipality, and thereafter such trustees' terms of office shall date from the time of each regular municipal election; and except that in the case of trustees representing residents of unorganized territory, such trustees shall serve until an election to fill the vacancy caused by the expiration of their terms shall be called by the county commissioners; and such commissioners shall call such election in the same manner as is provided for the initial election of trustees and cause the same to be held on a date as closely following the date upon which such terms expire as may be.

At the expiration of any term so determined the vacancy shall be filled for a term of 3 years and the trustees shall notify the municipal officers of the municipalities within the water district before the annual town meeting or before the regular city election if a city falls within the water district; or, in the case of unorganized territory, the trustees shall notify the commissioners of the county wherein the unorganized territory, encompassed by the water district, is located, of the fact that a vacancy will occur so that the municipal officers in these municipalities or the county commissioners, as the case may be, may provide for the election of a trustee or trustees to fill the vacancy that will occur. All trustees shall serve until their successors are elected and qualified.

2. Vacancy. When a vacancy on the board of trustees occurs by reason of death, resignation or otherwise, the municipal officers of the municipality that the trustee represented shall fill the vacancy by electing a trustee from the municipality to serve until the municipality shall fill the vacancy at its next annual town meeting or next regular city election. In the case of a vacancy in the office of a trustee representing unorganized territory, the commissioners of the county wherein such unorganized territory is located shall fill the vacancy by electing a trustee from such unorganized territory and resident within the boundaries of the water district until the next election of trustees is held. The person so chosen shall serve until his successor is elected and qualified. In case any member of the board of trustees shall remove from the municipality that he represents, or, in the case of a trustee representing unorganized territory, in case such trustee shall remove without the boundaries of the water district, a vacancy shall be declared to exist by the board of trustees, and the municipal officers or the county commissioners, as the case may be, shall thereafter choose another trustee as provided.

3. Recall. Trustees may be recalled under the following provisions.

A. The qualified electors of the water district may petition for the recall of any trustee after the first year of the term for which the trustee is elected by filing a petition with the municipal clerk, or the county commissioners in the case of unorganized territory, demanding the recall of the trustee. A trustee may be subject to recall for misfeasance, malfeasance or nonfeasance in office. The petition shall be signed by electors of the political subdivision which that trustee represents equal to at least 25% of the vote cast for the office of Governor at the last gubernatorial election within the political subdivision of the trustee being recalled. The recall petition shall state the reason for which removal is sought.

B. Within 3 days after the petition is offered for filing, the official with whom the petition is left shall determine by careful examination whether the petition is sufficient and so state in a certificate attached to the petition. If the petition is found to be insufficient, the certificate shall state the particulars creating the insufficiency. The petition may be amended to correct any insufficiency within 5 days following the affixing of the original certificate. Within 2 days after the offering of the amended petition for filing, it shall again be carefully examined to determine sufficiency and a certificate stating the findings shall be attached. Immediately upon finding an original or amended petition sufficient, the official shall file the petition and call a special election to be held not less than 40 days nor more than 45 days from the filing date. The official shall notify the trustee, against whom the recall petition is filed, of the special election.

C. The trustee against whom the recall petition is filed shall be a candidate at the special election without nomination, unless he resigns within 10 days after the original filing of the petition. There shall be no primary. Candidates for the office may be nominated under the usual procedure of nomination for a primary election by filing nomination papers, not later than 5 p.m., 4 weeks preceding the election and have their names placed on the ballot at the special election.

D. The official against whom a recall petition has been filed shall continue to perform the duties of his office until the result of the special election is officially declared. The person receiving the highest number of votes at the special election shall be declared elected for the remainder of the term. If the incumbent receives the highest number of votes, he shall continue in office. If another receives the highest number of votes, he shall succeed the incumbent, if he qualifies, within 10 days after receiving notification.

E. After one recall petition and special election, no further recall petition may be filed against the same official during the term for which he was elected.

SUBCHAPTER III

POWERS

§642]. Specific Powers

Each water district formed under this chapter shall have the power, within the district, to take, collect, store, flow, use, divert, distribute and convey to the district, or any part of the district, water from any source, natural or artificial, within the district. It is also authorized to locate, construct and maintain 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.

2. Exercise of water rights. The district may not take, withdraw or divert water from any source for the above enumerated purposes, unless it has filed a written petition and obtained the approval of the Public Utilities Commission. The petition shall include a plan for the taking, withdrawal or diversion of water. The petition and plan shall set forth adequate information upon which findings may be made regarding the nature, capacity, safe yield and rechargeability of the source, the amount of water to be taken over time and other existing and projected uses and demands on the source. Any petition for exercise of water rights to the Commission must be discussed in at least one public meeting of the trustees prior to the meeting at which they vote to submit that petition. The commission may by rule or order prescribe other information to be contained in the petition and plan. The commission may not approve a petition unless it finds that the plan ensures that adequate water remains in the source to meet the reasonable needs of existing and projected demands on the source. The commission may impose reasonable terms, conditions or other requirements on the plan. The commission shall issue its order approving or disapproving the plan within 9 months after it determines the petition to be complete.

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

§6422. Eminent domain

Upon majority vote of the trustees and subject to any additional requirements of the bylaws, a water district may exercise the right of eminent domain for obtaining sources of supply and locations for storage and for the protection of them and locations for transmission and distribution of water to the public in accordance with the procedures of chapters 65 and 67.

§6423. Crossing other public utilities

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 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 shall 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.

§6424. Conditions for carrying out work

When any water district formed under this chapter shall enter, dig up or excavate any public way or other land for any authorized purpose, the work shall be done expeditiously, and on completion of the work the district shall restore said way or land to the condition it was in prior to such work, or to a condition equally as good. Whenever the character of the work is such as to endanger travel on any public way, the municipal officers of the municipality in which the work is being done, or, if such work is being done in unorganized territory, the commissioners of the county wherein such unorganized territory is located, may order a temporary closing of such way, and of any intersecting way, upon request of said district, and the way shall remain closed to public travel until such municipal officers or county commissioners, as the case may be, deem it restored to a condition safe for traffic.

§6425. Expansion of water district boundaries

A water district may expand the boundaries of the water district in the same manner as is provided for the formation of a water district in subchapter II.

§6426. Water extensions

Prior to authorizing any water extension, except by specific state or federal mandate, the trustees shall notify the legislative bodies and the planning boards of the affected municipalities in order to assure conformity with their comprehensive plans and other public policies relating to their growth and development. The trustees shall publish a notice of the proposed action in a newspaper with general circulation in the district no less than 7 days prior to the meeting at which they will take final action on the authorization of the extension.

SUBCHAPTER IV

BONDS, RATES AND ASSESSMENTS

§6431. Bonds and notes

1. Authority of the commission. Nothing in this section shall detract from the authority of the commission regarding bonds, notes or other evidences of indebtedness issued by any water district.

2. Authorization of bonds. Any water district formed under this chapter may provide by resolution of its board of trustees, without district vote, except as provided in subsections 11 and 12, for the borrowing of money and the issuance from time to time of bonds for any of its corporate purposes, subject to the authority of the commission under this title. Bonds may be issued under this chapter as general obligations of the district or as special obligations payable solely from particular funds. The principal of, premium, if any, and interest on all bonds shall be payable solely from the funds provided for that purpose from revenues. For purposes of this chapter, the term "revenues" means and includes the proceeds of bonds, all revenues, rates, fees, entrance charges, assessments, rents and other receipts derived by the district from the operation of its sewer system and other properties, including, but not limited to, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties. All bonds issued by a district under this chapter shall be legal obligations of the district, and all districts formed under this chapter are declared to be quasi-municipal corporations within the meaning of Title 30, section 5053. Bonds issued under this chapter do not constitute a debt or liability of the State or of any municipality encompassed by the district or a pledge of the faith and credit of the State or any such municipality, but the bonds shall be payable solely from the funds provided for that purpose, and a statement to that effect shall be recited on the face of the bonds.

3. Notes. Any district formed under this chapter may also provide by resolution of its board of trustees, without district vote, for the issuance from time to time of notes in anticipation of bonds authorized under this chapter and of notes in anticipation of the revenues to be collected or received in any year or in anticipation of the receipt of federal or state grants or other aid. The issue of these notes shall be governed by the applicable provisions of this title relating to the issue of bonds, provided that notes in anticipation of revenue must mature no later than one year from their respective dates and notes issued in anticipation of federal or state grants or other aid and renewals thereof must mature no later than the expected date of receipt of those grants or aid. Notes in anticipation of revenue issued to mature less than one year from their dates may be renewed from

time to time by the issue of other notes, provided that the period from the date of an original note to the maturity of any note issued to renew or pay the same or the interest thereon may not exceed one year.

Any district organized under this chapter is authorized to enter into agreements with the State or the United States, or any agency of either, or any municipality, corporation, commission or board authorized to grant or loan money to or otherwise assist in the financing of projects of the type which that district is authorized to carry out, and to accept grants and borrow money from any such entity to accomplish the purposes of the district.

4. Maturity; interest; form; temporary bonds. The bonds issued under this chapter shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates and shall bear interest at such rate or rates as may be determined by the board of trustees, and may be made redeemable before maturity, at the option of the district, at such price or prices and under such terms and conditions as may be fixed by the board of trustees prior to the issuance of the bonds. The board of trustees shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. Bonds shall be executed in the name of the district by the manual or facsimile signature of such officer or officers as may be authorized in the resolution to execute the bonds, but at least one signature on each bond shall be a manual signature. Coupons, if any, attached to the bonds shall be executed with the facsimile signature of the officer or officers of the district designated in the resolution. In case any officer, whose signature or a facsimile of whose signature appears on any bonds or coupons, ceases to be such officer before the delivery of the bonds, the signature or its facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until the delivery. Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form, or both, as the board of trustees may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board of trustees may sell such bonds in such manner, either at public or private sale, and for such price as they may determine to be for the best interests of the district. The proceeds of the bonds of each issue shall be used solely for the purpose for which those bonds have been authorized, and shall be disbursed in such manner and under such restrictions, if any, as the board of trustees may provide

in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. The resolution providing for the issuance of bonds, and any trust agreement securing the bonds, may contain such limitations upon the issuance of additional bonds as the board of trustees may deem proper, and these additional bonds shall be issued under such restrictions and limitations as may be prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board of trustees may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The board of trustees may provide for the replacement of any bond which is mutilated, destroyed or lost.

5. Pledges and covenants, trust agreement. In the discretion of the board of trustees of any district, each or any issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee, which may be any trust company within or without the State.

The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other moneys held or to be received by the district and any accounts and contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the district, and the proceeds thereof, but shall not convey or mortgage the water system or any other properties of the district. The resolution may also contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the district and the board of trustees in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of its water system or any of its other properties, the fixing and revising of rates, assessments and other charges, the application of the proceeds of bonds, the custody, safeguarding and application of revenues, defining defaults and providing for remedies in the event thereof which may include the acceleration of maturities, the establishment of reserves and the making and amending of contracts. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, the resolution or trust agreement may contain such other provisions as the board of trustees may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any such resolution or trust agreement shall be valid and binding and shall be deemed continuously perfected for the purposes of the Uniform

Commercial Code from the time when the pledge is made. All revenues, moneys, rights and proceeds so pledged and thereafter received by the district shall immediately be subject to the lien of the pledge without any physical delivery or segregation thereof or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district irrespective of whether those parties have notice thereof.

The resolution authorizing the issuance of bonds under this chapter, or any trust agreement securing those bonds, may provide that all or a sufficient amount of revenues, after providing for the payment of the cost of repair, maintenance and operation and reserves therefor as may be provided in the resolution or trust agreement, shall be set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this chapter as the same shall become due, and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of moneys to the credit of the fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund shall be a fund for the benefit of all bonds without distinction or priority of one over another.

6. Trust funds. Notwithstanding any other law, all moneys received pursuant to the authority of this chapter shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds shall provide that any officer to whom, or bank, trust company or other fiscal agent to which, those moneys shall be paid shall act as trustee of those moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as may be provided in the resolution or trust agreement or as may be required by this chapter.

7. Remedies. Any holder of bonds issued under this chapter or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including proceedings for the appointment of a receiver to take possession and control of the properties of the district, protect and enforce any and all rights under the laws of the State or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the district or by any officer thereof.

8. Refunding bonds. Any sanitary district formed under this chapter by resolution of its board of trustees, without district vote, may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of trustees deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the district in respect of the same shall be governed by the applicable provisions of this chapter relating to the issue of bonds other than refunding bonds.

9. Tax exemption. All bonds, notes or other evidences of indebtedness issued under this chapter, and their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the State.

10. Bonds declared legal investments. Bonds and notes issued by any district under this chapter are made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business, and all other persons who are now or may hereafter be, authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are made securities which may properly and legally be deposited with and received by any state, municipal or public officer, or any agency or political subdivision of the State, for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

11. Notice to general public and rate payers. In the event that the trustees vote to authorize bonds or notes, the estimated cost of which, singly or in the aggregate included in any one financing, is \$150,000 or more adjusted, relative to 1981 as the base year according to the annual Consumer Price

Index, as defined in Title 5, section 17001, subsection 9, the trustees shall provide notice to the general public of the proposed bond or note issue and the purposes for which the debt is being issued. The notice shall be published at least once in a newspaper having general circulation in the district. The trustees shall give notice to each ratepayer by mail. Notice of a rate change under section 6104, which contains the notice required by this section satisfies the notice requirements of this section.

No debt may be incurred under the vote of the trustees until the expiration of 7 full days following the date on which the notice was first published and mailed. Prior to the expiration of the period, the trustees shall call a special district meeting for the purpose of permitting the collection of testimony from the public concerning the amount of debt so authorized.

12. Voters approval or disapproval of debt. Except for indebtedness to fund projects specifically mandated by the State Government and Federal Government, for debts in excess of the amount specified in this section, if requested by petition of not less than 50 voters of the district or 5% of the voters, whichever is greater, filed with the clerk of the district on or before the date of the meeting, the meeting shall express approval or disapproval of the amount of debt so authorized. If a majority of voters present and voting expresses disapproval of the amount of debt authorized by the trustees, the debt shall not be incurred and the vote of the trustees authorizing it shall be void.

13. Debt limit. Any water district may adopt or maintain a limit on the total debt outstanding at one time. Any district which has such a limit shall record the same in the bylaws. Any change in the debt limit requires an affirmative vote of the trustees and of the voters of the district.

§6432. Long-term indebtedness of water districts

The commission may establish reasonable terms upon which water districts shall extinguish their long-term indebtedness.

§6433. Rates

1. Authority of the commission. Nothing in this section shall detract from the authority of the commission to regulate rates, assessments and charges imposed by water districts.

2. General provisions. The trustees of the district shall establish rates, assessments and other charges in accordance with chapter 61. All persons, firms and corporations, whether public, private or municipal, shall pay to the treasurer of any district formed under this chapter the rates, assessments, and other lawful charges established by the trustees and applicable

to them. The other lawful charges may include, but are not limited to, interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.

Notwithstanding any other provision of law, districts which share, supply or contract for services with another district shall establish rates, tolls, rents and entrance charges mutually agreeable to the trustees of each participating district.

3. Collection of unpaid rates. The treasurer of the district shall have full and complete authority and power to collect the rates, assessments and other charges established by the district and the same shall be committed to him. The treasurer may, after demand for payment, sue in the name of the district in a civil action for any rate, assessment or other charge remaining unpaid in any court of competent jurisdiction. Except as provided in section 706, no water district may include in its charter any provision providing a lien against the property for nonpayment of assessments or rates. The district may seek judgment, including a lien in court in the same manner as any other creditor.

APPENDIX C

Proposed amendments to the Sanitary District Enabling Act and the Sewer District Act (Title 38 chs. 11 & 12)

Sec. 1. 38 MRSA §1105 is amended to read:

1. Election. Trustees shall be nominated and elected in the same manner as municipal officers are nominated and elected under Title 30, or in accordance with a municipal charter, whichever is applicable; or, in the case of unorganized territory, in accordance with the procedure for the organization of larger townships set forth in Title 30, section 5602. Upon receipt of the names of all the trustees, the Board of Environmental Protection shall set a time, place and date for the first meeting of the trustees, notice thereof to be given to the trustees by certified or registered mail, return receipt requested, mailed at least 10 days prior to the date set for the meeting, to determine the length of their terms. The terms shall be determined by lot in accordance with the following table:

Total number of Trustees	TERM		
	1 year	2 years	3 years
5	1	2	2
6	2	2	2
7	2	2	3
8	2	3	3
9	3	3	3
10	3	3	4
11	3	4	4
12	4	4	4
13	4	4	5
14	4	5	5
15	5	5	5
16	5	5	6
17	5	6	6
18	6	6	6

The trustees shall enter on their records the determination so made. The trustees shall serve their terms as determined at the organizational meeting, except that in the case of trustees representing a municipality, such trustees shall serve an additional period until the next regular election of the municipality, and thereafter such trustees' terms of office shall date from the time of each regular municipal election; and except that in the case of trustees representing residents of unorganized territory, such trustees shall serve until an election to fill the vacancy caused by the expiration of their terms ~~shall be~~ is called by the county commissioners; and ~~shall~~ the commissioners shall call ~~shall~~ the election

in the same manner as is provided for the initial election of trustees and cause the same to be held on a date as closely following the date upon which such terms expire as may be.

At the expiration of the terms so determined the vacancy shall be filled for a term of 3 years and the trustees shall notify the municipal officers of the municipalities within the sanitary district before the annual town meeting or before the regular city election if a city falls within the sanitary district; or, in the case of unorganized territory, the trustees shall notify the commissioners of the county wherein the unorganized territory, encompassed by the sanitary district, is located, of the fact that a vacancy will occur so that the municipal officers in these municipalities or the county commissioners, as the case may be, may provide for the election of a trustee or trustees to fill the vacancy that will occur. All trustees shall serve until their successors are elected and qualified.

2. Officers. They shall organize by election from their own members a chairman, a vice-chairman, a treasurer and a clerk and choose and employ and fix the compensation of such other necessary officers and agents who shall serve at their pleasure, and they shall adopt a corporate seal. Prior to the election of said officers each trustee shall be sworn to the faithful performance of his duties.

3. Bylaws. The trustees ~~may~~ shall from time to time adopt, establish and amend by bylaws consistent with the laws of the State of Maine, and necessary for their own convenience and the proper management of the affairs of the district ~~and perform any other acts within the powers delegated to them by law.~~ Adoption of the bylaws and any change in them must be discussed in at least one public meeting of the trustees prior to the meeting at which they take final action.

4. Annual meetings; officers. After the original organizational meeting the trustees shall meet annually at a time determined by their bylaws for the purpose of electing from among the members a chairman, vice-chairman, treasurer and clerk to serve until the next annual election and until their successors are elected and qualified. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost thereof to be paid by the district. The chairman, vice-chairman, treasurer and clerk may receive such compensation for serving in these capacities as the trustees shall determine. This compensation shall be in addition to the compensation payable to them as trustees. The trustees shall make and publish an annual report including a report of the treasurer.

At the expiration of the terms so determined the vacancy shall be filled for a term of 3 years and the trustees shall notify the municipal officers of the municipalities within the sanitary district before the annual town meeting or before the regular city election if a city falls within the sanitary district/ or/ in the case of unorganized territory/ the trustees shall notify the commissioners of the county wherein the unorganized territory/ encompassed by the sanitary district/ is located/ of the fact that a vacancy will occur so that the municipal officers in these municipalities or the county commissioners/ as the case may be/ may provide for the election of a trustee or trustees to fill the vacancy that will occur/ All trustees shall serve until their successors are elected and qualified/

5. Trustees compensation. The trustees shall receive compensation as recommended by them and approved by majority vote of the municipal officers in municipalities representing a majority of the population within the district, including compensation for any duties they perform as officers as well as for their duties as trustees. Certification thereof shall be recorded with the Secretary of State and recorded in the bylaws. Their compensation for duties as trustees shall be on the basis of such specific amount as may be specified in the bylaws, each meeting actually attended and reimbursement for travel and expenses, with the total not to exceed such specific amount as may be specified in the bylaws. Compensation schedules in effect in January 1, 1982, shall continue in effect until changed.

6. Vacancy. When a vacancy on the board of trustees occurs by reason of death, resignation or otherwise, the municipal officers of the municipality that the trustee represented shall fill the vacancy by electing a trustee from the municipality to serve until the municipality shall fill the vacancy at its next annual town meeting or next regular city election. In the case of a vacancy in the office of a trustee representing unorganized territory, the commissioners of the county wherein such unorganized territory is located shall fill the vacancy by electing a trustee from such unorganized territory and resident within the boundaries of the sanitary district until the next election of trustees is held. The person so chosen shall serve until his successor is elected and qualified. In case any member of the board of trustees shall remove from the municipality that he represents, or, in the case of a trustee representing unorganized territory, in case such trustee shall remove without the boundaries of the sanitary district, a vacancy shall be declared to exist by the board of trustees, and the municipal officers or the county commissioners, as the case may be, shall thereafter choose another trustee as provided.

7. Conflict of interest. No member of the board of trustees shall be employed for compensation as an employee or in any other capacity by the sanitary district of which he is a trustee, except as provided.

Sec. 2. 38 MRSA §1201, sub-§11 is enacted to read:

13. Debt limit. Any sanitary district may adopt or maintain a limit on the total debt outstanding at one time. Any district which has such a limit shall record the same in the bylaws. Any change in the debt limit requires an affirmative vote of the trustees and of the voters of the district.

Sec. 3. 38 MRSA §1252, sub-§8, 9, and 10 are enacted to read:

8. Bylaws. The trustees shall from time to time adopt, establish and amend bylaws consistent with the laws of the State of Maine, and necessary for their own convenience and the proper management of the affairs of the district . Adoption of the bylaws and any change in them must be discussed in at least one public meeting of the trustees prior to the meeting at which they take final action.

9. Conflict of interest. No member of the board of trustees shall be employed for compensation as an employee or in any other capacity by the sanitary district of which he is a trustee, except as provided.

10. Debt limit. Any sewer district may adopt or maintain a limit on the total debt outstanding at one time. Any district which has such a limit shall record the same in the bylaws. Any change in the debt limit requires an affirmative vote of the trustees and of the voters of the district.

APPENDIX D

Proposed amendments to the Quasi-municipal District Charter Change Act (30-A MRSA ch. 250)

30-A MRSA @@2352 and 2353 are amended to read:

@2352. Charter amendments

If, after the board of trustees of the quasi-municipal corporation or district holds a public hearing on the proposed amendment, the board unanimously votes in favor of an amendment to the charter of the quasi-municipal corporation or district, the board shall submit that amendment to the joint standing committee of the Legislature having jurisdiction over utilities to be included in the annual omnibus legislation as provided in section 2355. The amendment is effective upon the effective date of the omnibus legislation.

If the quasi-municipal corporation or district is not in the area of jurisdiction of the joint standing committee having jurisdiction over utilities, the amendment or change shall be submitted to the appropriate joint standing committee.

@2353. Charter revisions

1. Board of trustees and municipal legislative bodies.

If, after the board of trustees of the quasi-municipal corporation or district holds a public hearing on the proposed revision, a majority of the board and a majority of each municipal legislative body of the affected municipalities vote in favor of a revision of the charter of the quasi-municipal corporation or district, the proposed revision shall be submitted to the quasi-municipal corporation or district voters in each affected municipality according to the procedures in section 2354. If the charter revision passes, the trustees of the quasi-municipal corporation or district shall submit that change to the joint standing committee of the Legislature having jurisdiction over utilities to be included in the annual omnibus legislation as provided in section 2355. The revision is effective upon the effective date of the omnibus legislation.

If the quasi-municipal corporation or district is not in the area of jurisdiction of the joint standing committee having jurisdiction over utilities, the amendment or change shall be submitted to the appropriate joint standing committee.

2. Alternative method, initiated petition. On the written petition of a number of voters equal to at least 20% of the total number of the votes cast in the affected municipalities in the last gubernatorial election, but in no case less than 10 voters, the proposed revision shall be submitted to the quasi-municipal corporation or district voters in each affected municipality according to the procedures in section 2354. If the charter revision passes, the trustees of the quasi-municipal corporation or district shall submit that change to the joint standing committee of the Legislature having jurisdiction over utilities to be included in the annual omnibus legislation as provided in section 2355. The revision is effective upon the effective date of the omnibus legislation.

If the quasi-municipal corporation or district is not in the area of jurisdiction of the joint standing committee having jurisdiction over utilities, the amendment or change shall be submitted to the appropriate joint standing committee.

APPENDIX E
List of Interested Parties

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