

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

Sec. 27. Existing law not affected; rights conferred subject to provisions of law. Except as expressly provided in this Act, nothing contained in this Act is intended to repeal or may be construed as repealing the whole or part of any existing law, and all rights and duties mentioned in this Act must be exercised and performed in accordance with the applicable provisions of the Maine Revised Statutes, Title 38, chapter 12 and any amendments thereto.

Sec. 28. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act takes effect when approved but only for the purpose of permitting its submission to the legal voters within the territory described in section 1 at the election called for that purpose by January 1, 2006. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the town clerk to post a new list of voters. For the purpose of registration of voters, the registrar of voters must be in session on the secular day preceding the election. The subject matter of this Act is reduced to the following question:

"Do you favor adopting the Kennebunk Sewer District charter, 2005 revision?"

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

This Act takes effect for all other purposes immediately upon its approval by a majority of the legal voters voting at the election.

Effective pending referendum.

CHAPTER 14

H.P. 766 - L.D. 1113

An Act To Create the Fryeburg Water District

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

Whereas, the health, safety and convenience of the customers of the Fryeburg Water Company require adequate and affordable water service and immediately creating authority to establish through a referendum vote the Fryeburg Water District may be the means of ensuring such service; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Territorial limits; corporate name.

Pursuant to the Maine Revised Statutes, Title 35-A, chapter 64, that part of the Town of Fryeburg described as follows and its inhabitants constitute a standard district under the name Fryeburg Water District, referred to in this Act as "the district":

Beginning at the point of intersection of 70°, 57', 4.11" longitude W and 44°, 3', 14.76" latitude N; thence due south to the point of intersection of 70°, 57', 0.65" longitude W and 44°, 1', 19.63" latitude N to Route 302; thence east along Route 302 to the point of intersection of 70°, 56', 32.66" longitude W and 44°, 1', 26.8" latitude N; thence south to the point of intersection of 70°, 56', 29.08" longitude W and 43°, 59', 56.34" latitude N; thence west to the Maine and New Hampshire border; thence north along the Maine and New Hampshire border to Stevens Brook; thence south along Stevens Brook to the Saco River; thence north along the Saco River to the point of intersection of 70°, 57', 51.24" longitude W and 44°, 3', 14.42" latitude N; thence east to the point of beginning.

Sec. 2. Powers; authority; duties. The district has all the powers and authority and is subject to all the requirements and restrictions provided in the Maine Revised Statutes, Title 35-A, chapter 64.

Sec. 3. Additional powers. The district is authorized to enter into contracts with appropriate entities to arrange for, or provide, continued service to existing customers of the Fryeburg Water Company who are located outside the territory of the district to the extent permitted under and in accordance with applicable laws and rules.

The district is authorized to sell water to bulk water exporters, subject to the requirements of applicable laws and rules and town ordinances and with the approval of the town's planning board.

Sec. 4. Power to take water. The district is authorized to take, to hold and to convey within the Town of Fryeburg and from any part of the town water from any surface or groundwater source within the town.

Sec. 5. Number of trustees. The board of trustees of the district is composed of 5 trustees. The

trustees must be residents of the district but need not use the district services.

Sec. 6. Election of first board. The first board is elected in an election called by the municipal officers of the Town of Fryeburg by the voters in accordance with this Act. The terms of the first board are governed by the Maine Revised Statutes, Title 35-A, section 6410.

Sec. 7. Terms of trustees. After the election of the first board, trustees are elected to 3-year terms.

Sec. 8. District authorized to acquire property and franchises of Fryeburg Water Company. The district, through its trustees, may acquire by purchase the Fryeburg Water Company and the entire plant, properties, franchises, rights and privileges owned by the Fryeburg Water Company, located within the district, including all lands, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants and tools and all apparatus and appliances used or usable in supplying water in the area of the district. The district may acquire by the exercise of the right of eminent domain, a right expressly delegated to the district for that purpose, the Fryeburg Water Company and the entire plant, properties, franchises, rights and privileges, except cash assets and accounts receivable, owned by the Fryeburg Water Company, including all lands, waters, water rights, dam structures, reservoirs, pipes, machinery, fixtures, hydrants and tools and all apparatus and appliances used or usable in supplying water in the area of the district. Except as otherwise expressly provided in this section and in furtherance of the acquisition of the Fryeburg Water Company pursuant to this section, the district may also acquire by the exercise of the right of eminent domain any tangible or intangible personal property that represents or constitutes an ownership interest in the company by another person or entity.

In exercising the right of eminent domain under this Act, the trustees shall file with the town clerk a condemnation order that includes a detailed description of the property interest to be taken, the name or names of the owner or owners of record as far as they can be reasonably determined and the amount of damages determined by the trustees to be just compensation for the property or interest in the property taken. The trustees shall then serve upon the owner or owners of record a copy of the condemnation order and a check in the amount of the damages awarded and record a certified copy of the condemnation order in the Oxford County Registry of Deeds. In the event of multiple ownership, the check may be served on any one of the owners. This title passes to the district upon service of the condemnation order and check or upon recordation in accordance with this section, whichever occurs first. Acceptance and

negotiation of the check do not bar an appeal under this section.

Any person aggrieved by the determination of the damages awarded to owners of property or interests in the property under this section may, within 60 days after service of the condemnation order and check, appeal to the Superior Court of Oxford County. The court shall determine damages by a verdict of its jury or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for just compensation, with interest when such is due, and for costs in favor of the party entitled to the costs. Appeal from the decision of the Superior Court may be made to the Law Court, as in other civil actions.

The sale and transfer by the Fryeburg Water Company to the district of its plants, properties, assets, franchises, rights and privileges; the assumption by the district of all the outstanding debts, obligations and liabilities of the district pursuant to this section; and the subsequent use of the plants, properties, assets, franchises, rights and privileges by the district within the limits of the district are subject to the approval of the Public Utilities Commission as may be required by the Maine Revised Statutes, Title 35-A.

Sec. 9. Continue to provide water. Nothing in this Act is intended to alter or affect or may be interpreted as altering or affecting the district's continuing to provide water service to the existing customers of the Fryeburg Water Company, including those customers that are located outside the district's territory.

Sec. 10. Referendum; effective date. This Act takes effect when approved only for the purpose of permitting its submission to the legal voters within the territory described in section 1 at an election called for that purpose and held within 3 years of the effective date of this Act. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The subject matter of this Act is reduced to the following question:

"Do you favor creating the Fryeburg Water District and permitting it to acquire the assets of the Fryeburg Water Company?"

This Act takes effect for all purposes upon its acceptance by a majority of the legal voters of the district. Failure to achieve the necessary approval does not prevent subsequent referenda held within 3 years of the effective date of this Act.

The results must be declared by the municipal officers of the Town of Fryeburg and due certificate of

the results must be filed by the town clerk with the Secretary of State.

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

Effective pending referendum.

CHAPTER 15

S.P. 418 - L.D. 1204

An Act To Amend the Charter of the Farmington Village Corporation

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

Sec. 1. P&SL 1911, c. 142, §2-G is enacted to read:

Sec. 2-G. Authority to take water. The corporation is authorized to take, hold and convey in the Town of Farmington water from any surface and groundwater source in the town.

Sec. 2. P&SL 1911, c. 142, §11-A is enacted to read:

Sec. 11-A. Rates. The rates of Farmington Village Corporation must be established in accordance with the Maine Revised Statutes, Title 35-A, chapter 61.

Sec. 3. P&SL 1985, c. 141 is repealed.

Sec. 4. Retroactivity. That section of this Act that enacts Private and Special Law 1911, chapter 142, section 11-A applies retroactively to March 20, 1911.

See title page for effective date.

CHAPTER 16

S.P. 187 - L.D. 578

An Act To Amend the Charter of the Portland Public Library

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

Whereas, the 1867 charter for the Portland Public Library presents the City of Portland with significant obstacles in its operation of and its pursuit of funding for improvements to the city's library; and

Whereas, obsolete language in the charter needs to be removed; and

Whereas, public libraries are institutions of great importance to our citizens; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. P&SL 1867, c. 174, §3, first sentence is amended to read:

The city ~~City~~ of Portland ~~are~~ is hereby authorized to appropriate and pay, annually, toward the expenses of establishing and maintaining said institution, ~~a sum not exceeding one dollar for each of its ratable polls, in the year next preceding that in which said appropriation is made;~~ and may also furnish rooms for its accommodation.

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

Effective May 20, 2005.

CHAPTER 17

S.P. 257 - L.D. 790

An Act To Establish the Maximum Height of a Dam on Phillips Lake

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

Sec. 1. Lucerne-in-Maine Village Corporation authorized to construct, operate and maintain dam. The Lucerne-in-Maine Village Corporation in the Town of Dedham, Hancock County is authorized to construct, operate and maintain a dam at the outlet at the north end of Phillips Lake in the Town of Dedham. The dam, including any flashboards, must be constructed, operated and maintained at no higher than 227 feet above sea level as established by the National Geodetic Survey and at a width that is no less than the current width of the dam.

See title page for effective date.