

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

—
H.P. 920 - L.D. 1293

An Act To Create the Presque Isle Utilities District

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

Sec. 1. Territorial limits and corporate name and purposes. The inhabitants and territory of the City of Presque Isle constitute a quasi-municipal corporation under the name of the Presque Isle Utilities District, referred to in this Act as "the utilities district," for the purpose of supplying the inhabitants of the utilities district with potable water for domestic, commercial, sanitary and municipal purposes and for the purpose of providing in the utilities district a system of public sewerage and drainage for the comfort, convenience and health of the inhabitants of the utilities district.

Sec. 2. Powers of the Presque Isle Utilities District. The utilities district is authorized to take, hold, divert, use and distribute water from any source within the territory of the utilities district, including the Presque Isle Stream in the Town of Mapleton, the Town of Chapman and Township 10, Range 3. The utilities district is also authorized, for the purposes of its incorporation, to locate, construct and maintain pipes, dams, wells, reservoirs, pumping stations, treatment plants and other necessary structures and equipment and to do all things necessary to furnish water, sewerage and drainage for those purposes and for the public health, safety, comfort and convenience of the inhabitants of the utilities district.

Sec. 3. Authorized to lay mains, pipes, conduits and other water conveyances through public ways and across private lands. The utilities district is authorized to lay, maintain, repair and replace pipes, mains and other fixtures and appurtenances in, along and through the streets, roads, ways, highways, bridges, lakes, ponds, rivers and water courses and in, along and through the private lands of any person or corporation within the utilities district. When the utilities district lays, maintains, repairs or replaces pipes, mains and any fixtures or appurtenances in any street, road, way or highway, it shall do so with as little obstruction as practicable to public travel and shall at its own expense and without unnecessary delay replace in proper condition the earth and pavement removed by it.

The utilities district is authorized to lay, maintain, repair and replace pipes, mains and other fixtures and appurtenances to or into any drain or sewer now or hereafter built that empties into rivers, watercourses or treatment works, the discharge to be at such point or points consistent with the requirements of public health and as convenient and reasonable for the utilities district and consistent with the requirements of applicable federal, state and local laws and the flow of existing watercourses.

1. Sewer extensions. Sewer extensions are governed by the Maine Revised Statutes, Title 38, section 1252, subsection 7.

2. Abutting owners have right to enter. The utilities district shall permit the owners of premises abutting upon its lines of pipes and conduits to enter the same with all proper sewerage and to connect the same for potable water, if the owners of such premises conform to the rules and regulations of the utilities district and pay the established rates, tolls, rents and other lawful charges.

3. Inspection of sewers. The officers or agents of the utilities district must have free access to all premises served by its sewers at all reasonable hours for inspection of plumbing and sewage fixtures to ascertain the quality and quantity of sewage discharged and the manner of discharge and to enforce the rules and regulations of the utilities district.

4. Injury to the property of the utilities district. Any person who places, discharges or leaves any offensive or injurious matter or material on or in the conduits, manholes or receptacles of the utilities district contrary to its regulations or who knowingly injures any conduit, pipe, manhole, pump or other property held, owned or used by the utilities district is liable to pay twice the amount of the damages to the utilities district, to be recovered in any proper action.

Sec. 4. Authority to acquire property; right of eminent domain conferred; procedures in exercising eminent domain. The utilities district is authorized and empowered to acquire and hold real and personal property necessary or convenient for its purposes. The utilities district is granted the right of eminent domain as specified in the Maine Revised Statutes, Title 38, section 1252, subsection 2 with respect to its sewer functions and is granted the right of eminent domain as specified in Title 35-A, section 6408 with respect to its water functions.

1. Procedure as to the exercise of right of eminent domain for sewer. With respect to the sewer functions of the utilities district, the procedures for the exercise of eminent domain must conform to Title 38, section 1252, subsection 2.

2. Procedure as to the exercise of right of eminent domain for water. With respect to the water functions of the utilities district, the procedures for the exercise of eminent domain must conform to Title 35-A, section 6409.

Except as otherwise provided by law, the utilities district may not take by right of eminent domain any property or facilities of any other public utility used or acquired for future use in the performance of a public duty.

Sec. 5. Procedure if public utility must be crossed. If the utilities district, in constructing, maintaining or replacing any of its facilities, must cross any property of another public utility, the utilities district must obtain the consent of the other public utility and undertake the work in accordance with conditions established by agreement. If, within 30 days after requesting consent, the utilities district fails to reach an agreement with the public utility, the district may petition the Public Utilities Commission to determine the time, place and manner of the crossing. All work must be done under the supervision and to the satisfaction of the public utility or as prescribed by the commission. All work must be done at the expense of the utilities district.

Sec. 6. Trustees, appointment; tenure of office; vacancies; first meeting and organization of board; annual report; transition provisions. All the affairs of the utilities district are managed by a board of 7 trustees who must be residents of the City of Presque Isle and, except as provided in subsection 1, who are appointed by the city council of the City of Presque Isle, but no member of the city council may, during the term for which the member is elected, be appointed as a trustee of the utilities district. Except as provided in subsection 1, the trustees hold office for terms of 3 years and until their respective successors are appointed and qualified.

As soon as convenient after this Act becomes effective, the trustees shall meet and elect from among their members a president and clerk, adopt a corporate seal and elect a treasurer, who may or may not be a trustee, and any other officers and agents as needed, who with the treasurer serve at the pleasure of the trustees. The treasurer shall furnish a bond in the sum and with sureties approved by the trustees. The utilities district shall pay the cost of the bond. Members of the board of trustees may hold any office under the board, but may not receive any compensation, except as trustees, unless authorized by vote of the city council of the City of Presque Isle. Notwithstanding the Maine Revised Statutes, Title 35-A, section 6410, subsection 7 and Title 38, section 1252, subsection 5, the compensation of the trustees is \$500 per annum, unless otherwise provided by vote of the city council. Whenever a vacancy occurs in the office of president, clerk or treasurer it must promptly filled by the trustees.

Whenever the term of office of a trustee expires, the city council of the City of Presque Isle shall appoint a successor to serve the full term of 3 years. If any other vacancy arises from any cause it must be filled in like manner for the unexpired term. All trustees are eligible for reappointment. Trustees must be sworn to the faithful performance of their duties by the clerk of the City of Presque Isle. When any trustee ceases to be a resident of the City of Presque Isle, that trustee vacates the office of trustee. The trustees may adopt and establish bylaws consistent with the laws of the State and necessary for the convenience and the proper management of the affairs of the utilities district and perform other acts within the powers delegated by law to the trustees. The trustees shall publish an annual financial report.

1. Transition provisions; annual meeting. The 6 trustees of the Presque Isle Sewer District and the Presque Isle Water District serve on the first board of the utilities district. The terms of these trustees are as follows: the terms of office of the 2 trustees whose terms expire in the first calendar year following the calendar year of the effective date of this Act serve as trustees of the utilities district with terms that expire on December 31st

of the same calendar year in which this Act takes effect; the terms of office of the 2 trustees whose terms expire in the 2nd calendar year following the calendar year of the effective date of this Act serve as trustees of the utilities district with terms that expire on December 31st of the first calendar year following the calendar year in which this Act takes effect; and the terms of office of the 2 trustees whose terms expire in the 3rd calendar year following the calendar year of the effective date of this Act serve as trustees of the utilities district with terms that expire on December 31st of the 2nd calendar year following the calendar year in which this Act takes effect. The term of the new trustee added by this Act, who will be appointed by the city council of the City of Presque Isle, expires on December 31st of the 2nd calendar year following the calendar year in which this Act takes effect.

Within one month after each annual appointment, the trustees of the utilities district shall meet for the purpose of electing a president and clerk from among them as well as a treasurer, who may or may not be a trustee, to serve for the following year and until their successors are elected and qualified.

Sec. 7. Authorized to make and assume contracts. The utilities district, through its trustees, in order to carry out the purposes of its incorporation is authorized to contract with persons, districts, municipalities, utilities or corporations.

Sec. 8. Authorized to acquire property and franchises of the Presque Isle Water District. The Presque Isle Water District is authorized to sell to the utilities district and the utilities district is authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain the entire plant, property, franchise, property rights, privileges and assets owned by the Presque Isle Water District, including all land, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water facilities and drainage in the territory served by the water district. Upon transfer by the Presque Isle Water District to the utilities district of its plant, property, franchise, property rights, privileges and assets, the utilities district assumes all the outstanding debts, obligations and liabilities of the water district, including, without limitation, any outstanding bonds, notes or other evidence of indebtedness of the water district that are due on or after the date of transfer.

The sale and transfer by the Presque Isle Water District of its plant, property, franchise, property rights, privileges and assets; the assumption by the utilities district of all the outstanding debts, obligations and liabilities of the water district and the utilities district's subsequent use of the plant, property, franchise, property rights, privileges and assets; and all other water utility activities of the utilities 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. Authorized to acquire property and franchises of the Presque Isle Sewer District. The Presque Isle Sewer District is authorized to sell to the utilities district and the utilities district is authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain the entire plant, property, franchise, property rights, privileges and assets owned by the Presque Isle Sewer District, including all land, easements, mains, conduits, fixtures, pumping stations, basins, treatment facilities and

outlets used or usable in providing a public system of public sewerage and drainage in the territory served by the district. Upon transfer by the Presque Isle Sewer District to the utilities district of its plant, property, franchise, property rights, privileges and assets, the utilities district assumes all the outstanding debts, obligations and liabilities of the sewer district, including, without limitation, any outstanding bonds, notes or other evidence of indebtedness of the sewer district that are due on or after the date of transfer.

Sec. 10. Completion of transfer. Promptly after completion of the transfer and assumption of assets and liabilities pursuant to sections 8 and 9, the Presque Isle Water District and the Presque Isle Sewer District shall each cause to be filed with the Secretary of State a certificate of dissolution certifying the name of that district and certifying that all assets of that district and all debts, obligations and liabilities of that district have been transferred to the utilities district. The certificate of dissolution must be signed by the chair or presiding trustee of the respective district and by the clerk, secretary or another officer of that district. Upon the respective filing dates of the certificates of dissolution of the Presque Isle Water District and the Presque Isle Sewer District, the existence of those districts cease.

Upon dissolution of the Presque Isle Water District and the Presque Isle Sewer District, the trustees of the utilities district shall submit legislation for introduction to the Legislature to repeal the charters of the Presque Isle Water District and the Presque Isle Sewer District.

Sec. 11. Authorized to borrow money; to issue bonds and notes. For accomplishing the purposes of this Act, the utilities district, by vote of its board of trustees, is authorized to borrow money temporarily and to issue for the borrowing of money its negotiable notes.

The utilities district, by vote of its board of trustees, is authorized to issue bonds, notes or other evidences of indebtedness of the utilities district, bearing interest at a rate or rates and having terms and provisions as the trustees determine. All notes and bonds with a maturity of more than one year and issued in connection with the water system only must first be approved by the Public Utilities Commission.

All bonds, notes and other evidences of indebtedness issued by the utilities district must have inscribed upon their face the corporate name of the utilities district and be signed by the treasurer and countersigned by the president of the board of trustees of the utilities district.

All bonds, notes and evidences of indebtedness issued by the utilities district are legal obligations of the utilities district, which is declared to be a quasi-municipal corporation within the Maine Revised Statutes, Title 30-A, section 5701. All bonds, notes and other evidences of indebtedness issued by the utilities district are legal investments for savings banks and are exempt from state income tax.

Sec. 12. Property tax exempt. The property of the utilities district is exempt from all taxation in the City of Presque Isle.

Sec. 13. Sewer rates payable; adoption of new rates; application of revenue; collection of unpaid rates; authority to disconnect water for nonpayment of sewer service. Notwithstanding the Maine Revised Statutes, Title 38, section 1252, subsection 1, this section governs the sewer rates of the utilities district.

All persons, firms and corporations, whether public, private or municipal, shall pay to the treasurer the rates, tolls, rents, entrance charges and other lawful charges established by the trustees for the sewer or drainage service used or available with respect to their real estate, including rates for the utilities district's readiness to serve that are charged against owners of real estate abutting on or accessible to sewers or drains of the district, but not actually connected thereto, whether or not such real estate is improved. In this Act, the words "other lawful charges" or "other charges" 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.

Rates, tolls, rents and entrance charges must be uniform within the utilities district whenever the cost to the district of installation and maintenance of sewers or their appurtenances and the cost of service is substantially uniform, but nothing precludes the utilities district from establishing a higher rate, toll, rent or entrance charge than the regular rates, tolls, rents and entrance charges in sections where, for any reason, the cost to the utilities district of construction and maintenance, or the cost of service, exceeds the average, but such higher rates, tolls, rents and entrance charges must be uniform throughout the sections where they apply.

Prior to the adoption of a new rate schedule, the trustees shall hold a public hearing regarding the proposed rate schedule. The trustees shall publish the proposed rates and notice of the hearing at least once in a newspaper of general circulation in the utilities district not less than 7 days prior to the hearing. The utilities district shall mail to each ratepayer a notice of the public hearing and the proposed new rate at least 14 days prior to the hearing.

Notwithstanding any other provision of law, if the utilities district shares, supplies or contracts for services with another sewer or sanitary district, the districts shall establish rates, tolls, rents and entrance charges mutually agreeable to the trustees of each participating district.

The sewer rates, tolls, rents, entrance charges, assessments and other lawful charges established by the board of trustees in accordance with this Act must be fixed and adjusted to produce, in the aggregate, revenue at least sufficient, with any other funds available for the purpose, to:

1. Current operating expenses. Pay the current expenses of operating and maintaining the sewerage, drainage and treatment system of the utilities district including the cost of depreciation;

2. Payment of interest and principal. Pay the principal of, premium, if any, and interest on all bonds and notes issued by the utilities district under this Act as the bonds and notes become due and payable;

3. Sinking fund for retirement of obligations. Create and maintain such reserves as may be required by any trust agreement or resolution securing bonds and notes;

4. Repairs, replacements and renewals. Provide funds for paying the cost of all necessary repairs, replacements and renewals of the sewerage, drainage and treatment systems of the utilities district; and

5. Payment of obligations. Pay or provide for all amounts that the utilities district may be obligated to pay or provide for by law or contract, including any resolution or contract with or for the benefit of the holders of its bonds and notes.

There may be a lien issued on real estate served or benefited by the sewers of the utilities district to secure the payment of unpaid sewer rates and other lawful charges. The sewer lien takes precedence over all other claims on the real estate, except claims for taxes. Notwithstanding any other provision of law, the procedures for obtaining, enforcing and receiving payment on the sewer lien must conform to Title 38, sections 1208 and 1208-A.

Notwithstanding any other provision of law, in the event a user of the utilities district's sewer system fails within a reasonable time to pay the utilities district's rates, fees or charges for sewer service, the utilities district may disconnect water service to the user, as long as the disconnection is accomplished in accordance with procedures established in applicable law or rules governing disconnection of utility services and terms and conditions approved by the Public Utilities Commission.

Sec. 14. Water rates; application of revenue; sinking fund. All individuals, firms and corporations, whether public, private or municipal, shall pay to the treasurer of the utilities district the rates and other lawful charges established by the trustees for the water used or made available to them. All water rates and other lawful charges of the utilities district are governed by the Maine Revised Statutes, Title 35-A, chapter 61.

The water rates and other lawful charges are established to provide revenue for the following purposes:

1. To pay the current expenses for operating and maintaining the water system including depreciation;

2. To provide for the payment of interest on the indebtedness created by the utilities district for the benefit of its water system; and

3. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by the utilities district for the benefit of its water system, which sum must be turned into a sinking fund to provide for the extinguishment of said indebtedness. The money set aside for the sinking fund must be devoted to the retirement of the obligations of the utilities district or invested in such securities as savings banks are allowed to hold. The trustees may, in their discretion and in lieu of the establishment of a sinking fund, issue bonds of the utilities district so that not less than 1% of the amount of the bonds so issued mature and are retired each year.

There may be a lien issued on real estate served by the utilities district to secure the payment of unpaid water rates and other lawful charges. The water lien takes precedence over all other claims on the real estate, except claims for taxes and sewer rates. The procedures for obtaining, enforcing and receiving payment on the water lien is governed by Title 35-A, section 6111-A.

Sec. 15. Incidental powers granted. All incidental powers, rights and privileges necessary to the accomplishment of the objectives set forth in this Act are granted to the utilities district.

Sec. 16. Referendum; effective date. This Act takes effect when approved only for the purpose of permitting its submission to the legal voters within the City of Presque Isle at a referendum called for that purpose and held within 2 years of the effective date of this Act. The election must be called by the city council of the City of Presque Isle and must be held at the regular voting places. The referendum must be called, advertised and conducted according to the law relating to municipal elections. The registrars shall make a complete list of all the eligible voters of the proposed district as described in this Act. The list prepared by the registrars governs the eligibility of a voter. For the purpose of registration of voters, the registrars of voters must be in session the regular workday preceding the referendum. The subject matter of this Act is reduced to the following question:

"Do you favor merging the Presque Isle Water District and the Presque Isle Sewer District to create the Presque Isle Utilities District?"

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 city council of the City of Presque Isle and due certificate of the results filed by the 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 of the City of Presque Isle voting at the referendum. Failure to achieve the necessary approval in any referendum does not prohibit subsequent referenda consistent with this section as long as the referenda are held within 2 years after the effective date of this Act.