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An Act To Allow Consolidation of the Winterport Sewerage District and the Winterport Water District and To Create Incentives for Consumers To Pay Water Bills

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

Whereas, the Winterport Sewerage District was created by Private and Special Law 1971, chapter 143; and

Whereas, the Winterport Water District was created by Private and Special Law 1969, chapter 94; and

Whereas, the 2 districts wish to merge their charters in order to reduce management expenses as the result of unified management as one district; and

Whereas, it is imperative that action be taken at the earliest possible moment to allow for continuity of services provided by the Winterport Water District and the Winterport Sewerage District; 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 1969, c. 94, §1 is amended to read:

Sec. 1. Territorial limits; corporate name; purposes. Subject to the provisions of section 19 hereof, ~~the~~The inhabitants and territory of the Town of Winterport in the County of Waldo shall constitute a body politic and corporate under the name of Winterport Water District, referred to in this Act as "the district," for the purpose of supplying ~~said~~the Town of Winterport, and the inhabitants and others of ~~said~~the district; with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes and for the purpose of supplying the town and inhabitants and others within the territory of the district with sewer services.

Sec. 2. P&SL 1969, c. 94, §§1-A and 1-B are enacted to read:

Sec. 1-A. Powers and authority as water utility. Except as otherwise expressly provided in this charter, the district, for the purposes of performing the functions of a water utility, has all the powers, rights, privileges and authority and is subject to all the requirements and restrictions of a standard water district under the Maine Revised Statutes, Title 35-A, chapter 64, except that section 6410, subsections 3, 4 and 5 and sections 6412 and 6413 do not apply to the district.

Sec. 1-B. Additional powers as sewer district. Except as otherwise expressly provided in this charter, the district, for the purposes of supplying the town and inhabitants and others within the territory of the district with sewer services, has all the powers, rights, privileges and authority and is subject to all the requirements and restrictions of a sanitary district formed under the Maine Revised

Statutes, Title 38, chapter 11, except that sections 1062, 1101, 1102, 1103, 1104, 1105, 1106 and 1162 do not apply to the district and any notice of impending automatic foreclosure issued by the district pursuant to section 1208 must bear the name "Winterport Water District" in all appropriate locations.

Sec. 3. P&SL 1969, c. 94, §§3 to 8 are repealed.

Sec. 4. P&SL 1969, c. 94, §9 is amended to read:

Sec. 9. Board of trustees. ~~All of the affairs of saidthe district shall be~~ managed by a board consisting of not less than 3 nor more than 5 trustees, ~~residents therein, who shall be~~ chosen by the board of selectmen ~~as hereinafter provided~~ town council in accordance with this section. Trustees must be residents in the district. The terms of trustees serving on the effective date of this Act are unaffected by this Act. When the term of a trustee ends, a trustee is selected by the town council of the Town of Winterport to serve until the first business day in January occurring 5 years after the term begins and until the trustee's successor is selected and qualifies. At the request of the trustees, the town council of the Town of Winterport may appoint one or more alternate trustees to serve in the absence of one or more trustees. An alternate trustee may not serve as chair, clerk, treasurer or other officer of the district but may, as authorized by the board, attend board meetings and otherwise act on behalf of an absent trustee. An alternate trustee must meet all qualifications of a trustee. As soon as may be after the acceptance of this Act as hereinafter provided the selectmen of the Town of Winterport shall appoint a board of trustees as aforementioned. The terms of the members of said board shall be as follows: One to serve until the first annual town meeting of the Town of Winterport following the acceptance of this Act; one to serve until the 2nd annual town meeting of said town following such acceptance; and one to serve until the 3rd annual town meeting of said town following such acceptance; and may appoint one to serve until the 4th annual town meeting of said town following such acceptance and may appoint one to serve until the 5th annual town meeting of said town following such acceptance. At each annual town meeting of said town, beginning with the first annual town meeting following the acceptance of this Act, one trustee shall be selected by the selectmen to serve until the annual town meeting occurring 5 years thereafter and until his successor is selected and qualifies. Whenever anyIf a trustee ceases to be a resident of saidthe district, heth trustee vacates the office of trustee. All trustees, if residents of saidthe district, shall be eligible for reelectionreselection by the town council. Vacancies in the office of trustee shall be filled by the selectmen until the next annual town meeting of the Town of Winterport, and at such annual town meeting the town council for the unexpired portion of saidthe term, if any, shall be filled as hereinbefore directed. The board of selectmen which selects the trustees hereinbefore mentioned, at annual town meetings, shall be the newly elected board of selectmen elected at such town meeting. As soon as convenient after their appointment, the first board of trustees shall hold a meeting at some convenient place in the district, to be called by any member thereofof the board in writing, designating the time and place and delivered in hand to the other members, not less than 2 full days before the meeting; provided thatas long as they may meet by agreement without such notice. They shall organize by electing from their own number a chairmanchair and a clerk and, not necessarily from their own number, a treasurer to serve terms established by the trustees and until their respective successors are selected and qualify. They shall adopt a corporate seal and may adopt bylaws and perform any other acts within the powers delegated to them by law. Following each annual town meeting of said Town of Winterport, the trustees shall elect from their own number a chairman and a clerk and, not necessarily from their own number, a treasurer to serve until the next annual town meeting of said Town of Winterport and until their respective successors are elected and qualified. The trustees from time to time may choose and employ and fix the compensation of any other necessary officers and agents, who shall serve at their pleasure. The treasurer shall furnish bond in such

sum and with such sureties as the trustees shall approve, the cost thereof of the bond to be paid by the district. Members of the board of trustees shall be eligible to any office under the board. The trustees, as such, shall be compensated by a sum not exceeding \$200 per year, which sum shall be set by the selectmen. The provisions of the Maine Revised Statutes, Title 35-A, section 6410, subsections 6, 7, 8 and 9 govern decisions of the board, trustee compensation, retirement and district expenses. An alternate trustee may receive compensation in the same manner as a trustee pursuant to Title 35-A, section 6410, subsection 7. The trustees and any alternate trustee acting on a trustee's behalf shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member who shall serveserves as clerk or clerk pro tem. The trustees shall make and publish an annual report, including a report of the treasurer, and such report may be included in, and published as part of, the annual town report.

Sec. 5. P&SL 1969, c. 94, §13 is repealed.

Sec. 6. P&SL 1969, c. 94, §14, as amended by P&SL 2001, c. 68, Pt. A, §1 and Pt. B, §1 and affected by Pt. C, §1, is further amended to read:

Sec. 14. Authority to borrow money. For accomplishing the purposes of this Act with respect to the district's functions as a water utility, the water district, through its trustees, without vote of the inhabitants, is authorized to borrow money temporarily and to issue thereforfor the money the negotiable notes of the district, for the purpose of refunding the indebtedness so created, for paying any necessary expenses and liabilities incurred under the provisions of this Aetcharter, including the expenses incurred in the creation of a district, in acquiring the properties and franchises of the Winterport Water Company by purchase or otherwise, of assuming and paying all mortgages, liens and encumbrances thereonon the properties and franchises as provided in sections 10 and 11, of securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant and making renewals, extensions, additions and improvements to the same, and protecting the watershed, to an amount or amounts necessary in the judgment of the trustees therefor provided, except that the total indebtedness may not exceed the sum of \$1,200,000 at any one time outstanding. SaidThe bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the trustees may determine, but none of them shallmay run for a longer period than 40 years from the date of original issue thereof of the bonds, notes and evidences of indebtedness. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same prior to maturity; and, if callable, may be made callable at par or at such premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shallmust have inscribed upon their face the words "Winterport Water District," shallmust be signed by the treasurer and countersigned by the chairmanchair of the board of trustees of the district; and if coupon bonds are issued; the interest coupons attached thereto shallto the bonds must bear the facsimile signature of the treasurer. All such bonds, notes and evidences of indebtedness so issued by the district shall be legal obligations of the district, which is declared to be a quasi-municipal corporation within the meaning of the Maine Revised Statutes of 1964, Title 3030-A, section 50535701, and all provisions of saidthat section shall be applicable theretoto the district. The said district may refund and reissue, from time to time, in one or in separate series, its bonds, notes and other evidences of indebtedness, and each authorized issue shall constituteconstitutes a separate loan. All bonds, notes and evidences of indebtedness issued by saidthe district shall be legal investments for savings banks in the State of Maine and shall be tax exempt. Notwithstanding the limitations on total indebtedness established in this section, the trustees may propose a new debt limit for the district under this section, which the trustees shall submit for approval in a districtwide referendum. The referendum must be called, advertised and conducted by the Town of Winterport according to the Maine Revised

Statutes, Title 30-A, section 2528, except that the district is responsible for calling and holding the public hearing prior to the election and the registrar of voters is not required to prepare or the town clerk to post a new list of voters. For the purpose of registering voters, the registrar of voters must be in session on the regular workday preceding the election. The town clerk of the Town of Winterport shall prepare the required ballots with the following question:

“Do you favor changing the debt limit of the Winterport Water District relating to its functions as a water district from (insert current debt limit) to (insert proposed debt limit)?”

The voters shall indicate by a cross or check mark placed against the word “Yes” or “No” their opinion on the question. The results must be declared by the municipal officers of the Town of Winterport and due certificate of the results filed by the town clerk with the ~~secretary~~ Secretary of State. A debt limit proposal becomes effective immediately upon its acceptance by a majority of the legal voters within the district voting at the election. Failure of approval by the necessary majority of voters at the referendum does not prevent subsequent referenda from being held for the same purpose. The costs of referenda conducted under this section are borne by the district. The total indebtedness of the district pursuant to this section at any one time outstanding may not exceed the sum approved by referendum. The district may borrow money in accordance with and undertake other actions authorized under the Maine Revised Statutes, Title 38, section 1201 for purposes of performing its functions as a sewer district pursuant to section 1-B.

Sec. 7. P&SL 1969, c. 94, §§15, 16 and 17 are repealed.

Sec. 8. P&SL 1969, c. 94, §§18-A to 18-E are enacted to read:

Sec. 18-A. The Winterport Water District’s acquisition of property of Winterport Sewerage District. The Winterport Water District acquires under the terms contained in this charter all of the plant, properties, assets, franchises, rights and privileges owned by the Winterport Sewerage District, including, without limitation, lands, buildings, sewers, reservoirs, flush tanks, manholes, catch basins, filtration plants, pumping stations and other appliances and property used or usable for collecting, holding, purifying and disposing of sewage matter and waste waters. The consideration paid for them is the assumption by the Winterport Water District of all of the outstanding debts, obligations and liabilities of the Winterport Sewerage District, including, without limitation, the assumption by the Winterport Water District of any outstanding notes or bonds of the Winterport Sewerage District that are due on or after the date of transfer.

Sec. 18-B. Winterport Sewerage District required to sell property to Winterport Water District. The Winterport Sewerage District, a quasi-municipal corporation organized and existing pursuant to Private and Special Law 1971, chapter 143, under the terms contained in this charter shall sell, transfer and convey to the Winterport Water District by appropriate instruments of conveyance all of its plants, properties, assets, franchises, rights and privileges, including, without limitation, lands, buildings, sewers, reservoirs, flush tanks, manholes, catch basins, filtration plants, pumping stations and other appliances and property used or usable for collecting, holding, purifying and disposing of sewage matter and waste waters, in consideration of the assumption by the Winterport Water District of all of the outstanding debts, obligations and liabilities of the Winterport Sewerage District, including, without limitation, the assumption of any outstanding notes or bonds of the Winterport Sewerage District that are due on or after the date of the transfer.

Sec. 18-C. Dissolution and termination of Winterport Sewerage District; pledge of revenues. If and when all debts, obligations and other liabilities of the Winterport Sewerage District have been paid in full and discharged or the holders or owners of all debts, obligations and other liabilities that have not been paid in full and discharged have assented to the assumption thereof by the Winterport Water District and to the novation and substitution of the Winterport Water District as obligor in respect thereto in place of the Winterport Sewerage District and when the transfer of property pursuant to section 18-B is complete, the clerk of the Winterport Sewerage District shall file a certificate to that effect with the Secretary of State and the corporate existence of the Winterport Sewerage District terminates. After filing the certificate with the Secretary of State, the clerk of the Winterport Sewerage District shall submit legislation to repeal Private and Special Law 1971, chapter 143. Until the corporate existence of the Winterport Sewerage District is terminated pursuant to this section, the gross revenues derived by the Winterport Sewerage District from the sale of sewer service within the area comprising the former limits of the Winterport Sewerage District must be applied first to the payment of expenses and 2nd to payments of debts, obligations and other liabilities of the Winterport Sewerage District assumed by the Winterport Water District pursuant to this charter.

Sec. 18-D. Statutes not affected; rights conferred subject to provisions of law. Nothing in this charter is intended to repeal or may be construed as repealing the whole or any part of any provision of the Maine Revised Statutes, Title 35-A, and all the rights and duties contained in this charter with respect to water utility functions must be exercised and performed by the district in accordance with all applicable provisions of Title 35-A.

Sec. 18-E. Authority to disconnect water for nonpayment of sewer service. Notwithstanding any other provision of law, in the event a user of the district's sewer system fails within a reasonable time to pay the district's rates, fees or charges for sewer service, the 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. This section is repealed 90 days after the adjournment of the Second Regular Session of the 123rd Legislature. The Public Utilities Commission shall monitor the district's use of the authority granted under this section and shall report to the joint standing committee of the Legislature having jurisdiction over utilities matters no later than January 15, 2008 on its findings and recommendations regarding continuation of this authority. The joint standing committee of the Legislature having jurisdiction over utilities matters may report out a bill on the subject matter of this section to the Second Regular Session of the 123rd Legislature.

Sec. 9. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act takes effect when approved only for the purpose of permitting its submission to the legal voters of the Town of Winterport voting at a special election called and held within 2 years after passage of this Act. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the municipal officers are not required to prepare or the town clerk to post a new list of voters. For the purpose of registration of voters, the registrar is required to be in session the 3 secular days next preceding the election, of which the first 2 days must be devoted to registration of the voters and the last day to verification of the list and completion of the records of these sessions. The subject matter of this Act is reduced to the following question:

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“Do you favor the dissolution of the Winterport Sewerage District and the acquisition of the assets and liabilities of the Winterport Sewerage District by the Winterport Water District?”

This Act takes effect for all purposes immediately upon its acceptance by a majority of the legal voters of Winterport voting at the election. The results of the election must be declared by the municipal officers of the Town of Winterport and due certificate of the results filed by the town clerk with the Secretary of State.