126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

S.P. 500

No. 1396

In Senate, April 10, 2013

An Act To Create the Lisbon Water District

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

Presented by Senator JACKSON of Aroostook.
Cosponsored by Representative BEAVERS of South Berwick and Representative: DUNPHY of Embden.

DAREK M. GRANT
Secretary of the Senate
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, section 6403, subsection 1, paragraphs A and B and subject to section 8, the territory and the inhabitants of the Town of Lisbon, referred to in this Act as "the town," constitute a standard district under the name "Lisbon Water District," referred to in this Act as "the district."

Sec. 2. Powers; authority; duties. Except as otherwise expressly provided in this Act, 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, and is authorized to perform all acts and to do all things necessary or convenient to carry out the purposes and powers provided in this Act and chapter 64 or reasonably implied from those purposes and powers. The district also has the authority to provide water service in areas beyond the municipal boundaries of the town in which the Lisbon Water Department, a quasi-municipal corporation organized and existing pursuant to Private and Special Law 1903, chapter 241, referred to in this Act as "the water department," on the date of voter approval of this Act provides water service.

Sec. 3. Power to take water. For purposes of its incorporation, the district is authorized to take, hold, convey and use water from any surface and groundwater source within the town and from any source inside or outside the town that is on the date of voter approval of this Act used by the water department or from which the water department has the right to take, hold, convey or use water; and has the authority to negotiate for the acquisition of water from sources outside the town. The district is authorized to obtain and to sell to its customers a supply of Lake Auburn water for public, domestic and industrial purposes from the City of Lewiston and to contract with any city officials authorized to do so in the City of Lewiston for such water, subject to the approval of the Public Utilities Commission, this being intended to be the same authorization that was granted to the town by Private and Special Law 1921, chapter 24.

Sec. 4. Number of trustees. The board of trustees of the district is composed of 5 trustees.

Sec. 5. Members of first board of trustees. The first board of trustees consists of the 3 water commissioners of the water department who are serving on the date of voter approval of this Act. The terms of the first board are governed by section 6.

Sec. 6. Terms of trustees. Subsequent to the first board, trustees are elected for staggered 3-year terms that commence at the first meeting of the board held after the annual election at which the trustee is elected and terminate on the commencement of the first meeting held after the 3rd subsequent annual election. The election of trustees must be held at the same time as the town's municipal elections and must be conducted in accordance with the Maine Revised Statutes, Title 35-A, section 6410, subsection 1. At the first annual election after the formation of the district, 2 trustees are elected to 3-year terms and one trustee is elected to a 2-year term, and the term of the former water commissioner who has the shortest remaining term expires on the commencement of the terms of the 3 newly elected trustees. At the 2nd annual election, 2 trustees are elected to
3-year terms and the terms of the 2 remaining former water commissioners expire upon
the commencement of the terms of the 2 newly elected trustees. If at any time there is a
vacancy on the board, the remaining trustees may by majority vote appoint a trustee to fill
the vacancy until the commencement of the first meeting held after the next annual
election.

Sec. 7. Transfer of assets and liabilities of the water department. The
district, through its trustees, shall acquire, in accordance with this section, all of the
plants, properties, assets, franchises, rights, privileges and operations of the water
department, including, without limitation, lands, buildings, waters, water rights, springs,
wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants,
meters, services, tools, equipment, apparatus and appliances used or useful in supplying
water for domestic, commercial, industrial and municipal purposes, whether they are
owned in the name of the water department, the water commissioners of the water
department or the town and shall, by appropriate instruments, assume, in accordance with
this section, all of the outstanding debts, obligations and liabilities of the water
department, including, without limitation, the assumption of any outstanding bonds, notes
or other evidences of indebtedness of the water department that are due on or after the
date of transfer, whether they are owed in the name of the water department, the water
commissioners of the water department or the town, except that if any such debt cannot
be assumed due to the absence of lender consent or due to impracticability because the
debt was incurred to finance both water-related and nonwater-related assets, the district
shall assume the obligations to pay the town the amounts necessary to satisfy the town's
obligations on the portion of such debt that financed water-related assets.

The water department shall, through its water commissioners, assign, transfer and
convey to the district by appropriate instruments of conveyance all, and not less than all,
of its respective plants, properties, assets, franchises, rights and privileges, including,
without limitation, lands, buildings, waters, water rights, springs, wells, reservoirs, tanks,
standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools,
equipment, apparatus and appliances used or useful in supplying water for domestic,
commercial, industrial and municipal purposes, in consideration of the assumption by the
district of all of the outstanding debts, obligations, liabilities and operations of the water
department, including, without limitation, the assumption of any outstanding bonds, notes or other
evidences of indebtedness of the water department that are due on or after the date of
transfer and the assumption of the obligations to make payments to the town on any
related debt that remains with the town pursuant to the provisions of this section.

The transfer by the water department to the district of its respective plants, properties,
assets, franchises, rights and privileges, the assumption by the district of all of the
outstanding debts, obligations, liabilities and operations of the water department pursuant
to this section and the subsequent use of the plants, properties, assets, franchises, rights
and privileges by the district are subject to the approval of the Public Utilities
Commission as may be required by the Maine Revised Statutes, Title 35-A, Part 1.

Promptly after completion of the transfer and assumption of assets, liabilities and
operations pursuant to this section, the water department shall cause to be filed with the
Secretary of State a certificate of dissolution certifying that all assets of the water
department and all debts, obligations and liabilities of the water department have been transferred to the district and that the certificate is signed by the chair or presiding commissioner of the water department and by the town manager of the town. Upon the filing date of the certificate, the existence of the water department ceases and the terms of the commissioners expire.

Upon dissolution of the water department, the trustees of the district shall submit legislation for introduction to the Legislature to repeal Private and Special Law 1903, chapter 241.

Sec. 8. Referendum; effective date. This Act takes effect 90 days after the adjournment of the First Regular Session of the 126th Legislature only for the purpose of permitting its submission to the legal voters of the town at an election called for that purpose and held by December 31, 2013. The election must be called by the water commissioners of the water department and be held at the regular voting places pursuant to the procedures in the Maine Revised Statutes, Title 21-A relating to municipal elections. The water commissioners shall provide for the holding of at least 2 public hearings in advance of the vote for the presentation of information to the voters and responding to questions from the voters. 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. For purposes of the election, the subject matter of this Act is reduced to the following question:

"Do you favor creating the Lisbon Water District and permitting the Lisbon Water District to acquire the assets and assume the liabilities of the Lisbon Water Department?"

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 water commissioners of the Lisbon Water Department and due certificate of the results filed by the clerk with the Secretary of State.

This Act takes effect for all purposes immediately upon its approval by a majority of the legal voters voting at the election. 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 prior to December 31, 2014.

SUMMARY

This bill creates the Lisbon Water District.