



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1442

H.P. 1036

House of Representatives, April 24, 2013

### An Act To Establish a Pilot Natural Gas Utility District in Maine

(EMERGENCY)

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative NADEAU of Winslow.  
Cosponsored by Senator LACHOWICZ of Kennebec and  
Representatives: BECK of Waterville, COTTA of China, FOWLE of Vassalboro, HOBBS of Saco, LONGSTAFF of Waterville, McCABE of Skowhegan, NUTTING of Oakland,  
POULIOT of Augusta.



1           **Sec. A-2. Board of directors.** All of the affairs of the district are managed by a  
2 board of directors, referred to in this Act as "the board," composed of no more than 5  
3 directors who are elected, one each, by a plurality vote by the legal voters of the Town of  
4 Winslow and by the legal voters of each town that has voted to join the district and 2 who  
5 are appointed by the City Council of Waterville. At the first election of the board  
6 staggered terms must be established by random selection for the directors from each  
7 town: one director serves for a term that expires at the annual town meeting one year after  
8 the date of the annual town meeting at which the director was elected; one director serves  
9 for a term that expires at the annual town meeting 2 years after the date of the annual  
10 town meeting at which the director was elected; one director serves for a term that expires  
11 at the annual town meeting 3 years after the date of the annual town meeting at which the  
12 director was elected; one director serves for a term that expires at the annual town  
13 meeting 4 years after the date of the annual town meeting at which the director was  
14 elected; and one director serves for a term that expires at the annual town meeting 5 years  
15 after the date of the annual town meeting at which the director was elected. One director  
16 from the City of Waterville serves for a term that expires at the city council meeting one  
17 year after the date of the city council meeting at which the director was appointed, and  
18 the other director from the City of Waterville serves for a term that expires at the city  
19 council meeting 2 years after the date of the city council meeting at which the director  
20 was appointed. After the initial elections and appointments, directors serve for a term of  
21 5 years. A director from the City of Waterville or from a town that has joined the district  
22 is appointed at the city council meeting or elected at the general election in the year the  
23 office becomes vacant pursuant to the same schedule pursuant to this section. For a board  
24 that has an even number of directors, if there is a tie vote on any matter, one of the  
25 directors from the City of Waterville shall break the tie by casting an additional vote.

26           **Sec. A-3. Vacancies on board of directors.** Vacancies occurring on the board  
27 are filled by appointment by the municipal officers of the town or city where the vacancy  
28 occurred, and any appointee serves only until the next annual town meeting or city  
29 council meeting when a successor is elected or appointed to fill the vacancy for the  
30 unexpired term, unless the term expires at the next annual town meeting or city council  
31 meeting and then election or appointment is as provided under section 2 of this Part. All  
32 directors whether duly elected or appointed are eligible for reelection, but a municipal  
33 officer of the City of Waterville or of a town is not eligible to be a director. The election  
34 or appointment of a director as a municipal officer of a city or town terminates the term  
35 of that director, and the vacancy caused by the termination is filled as provided in this  
36 section.

37           **Sec. A-4. Compensation.** A director is not entitled to compensation for services,  
38 except that compensation for a director may be provided by a legal vote of the municipal  
39 officers of each member city or town.

40           **Sec. A-5. Treasurer; chair.** The board shall elect a treasurer and chair from  
41 among its members to serve terms established by the board and serve until their  
42 respective successors are elected and qualified. The board shall fix the compensation for  
43 the treasurer.

1           **Sec. A-6. Annual audit.** An annual audit must be made of the district's accounts  
2 within 60 days after the end of each fiscal year. The audit must be made by an individual  
3 or firm recognized as a competent auditor by training and experience or by a qualified  
4 public accountant.

5           **Sec. A-7. Annual report of directors.** At the end of each fiscal year and  
6 following the audit pursuant to section 5 of this Part, the board shall make a detailed  
7 report that includes the activities, receipts and expenditures, the financial and physical  
8 condition and any other matters of the district, including how the board is fulfilling its  
9 duties and obligations. The report must also include the auditor's report and be filed with  
10 the municipal officers of the towns and published in the annual reports of the towns.

11           **Sec. A-8. Rules.** The board has the authority to adopt rules for the management  
12 and operation of the district, subject to the rules of the Public Utilities Commission.

13           **Sec. A-9. Powers.** All powers, rights and privileges incidental or necessary to the  
14 accomplishment of the purposes of this Act are granted to the district. The district is  
15 granted the right to merge with another public utility created and operating under the laws  
16 of the State by a 2/3 vote of the board at a meeting duly called for that purpose and  
17 subject to the rules of the Public Utilities Commission. The district is also granted the  
18 power to engage in the cogeneration of electric power through the use of natural gas,  
19 which the district may control and distribute either by the district directly or through  
20 agreements with a natural gas provider with which the district has contracted for the  
21 provision of natural gas to the citizens, organizations and businesses of the district.

22           **Sec. A-10. Borrowing.** The district is authorized to borrow money by the  
23 issuance of its general obligation securities for its utility for any purpose allowed by law.  
24 All borrowing must be approved by the board. Bonds and notes must be signed by the  
25 chair and treasurer of the board, except that coupons need be signed by only the treasurer.

26           **Sec. A-11. Current operating expenses.** The district by vote of its board is  
27 authorized to borrow money for current operating expenses and to issue for that  
28 borrowing bonds and notes of the district not to exceed \$800,000. The bonds and notes  
29 must be paid within 5 years from their date of issuance and are legal obligations of the  
30 district and are legal investments for savings banks.

31           **Sec. A-12. Money of the district.** All money received from the district's natural  
32 gas works and other receipts, notes, bonds or other sources in connection with the district  
33 must be deposited in banks or depositories as the board determines, in accounts entitled  
34 "Kennebec Valley Gas District," and all withdrawals from the accounts must be over or  
35 upon the orders or warrants of the board and must be directed to the treasurer. The  
36 treasurer shall execute and carry out all orders and warrants.

37           **Sec. A-13. Directors; establish rates.** All individuals, partnerships, firms and  
38 corporations, whether private, public or municipal, shall pay the rate established by the  
39 board for the natural gas or power used by them. The rates for the natural gas or power  
40 supplied must be uniform within the territory supplied by the district wherever the  
41 installation and maintenance of natural gas or transmission lines and apparatus for

1 distribution of natural gas or other power and the cost of service are substantially  
2 uniform. This section does not preclude the board, with the approval of the Public  
3 Utilities Commission, from establishing higher rates in situations in which for any reason  
4 the cost of construction and maintenance or the cost of service exceeds the average, but  
5 the higher rates must be uniform throughout the part of the territory where they apply.  
6 All rates are subject to the approval of the Public Utilities Commission and are  
7 established to provide revenue for the following purposes:

8 1. To pay the current expenses of operating and maintaining the natural gas and  
9 power systems, including all usual and ordinary repairs, replacements and improvements;

10 2. To provide for the payment of interest on the indebtedness of the district;

11 3. To provide each year a sum equal to not less than 2 1/2% nor more than 4% of the  
12 book value of the depreciable assets of the district determined as of the close of the  
13 preceding fiscal year, which must be turned into a sinking fund and used to provide for  
14 repairs, replacements and improvements to the natural gas and power systems; and

15 4. To provide and accumulate from year to year reasonable surplus funds to carry out  
16 the general purposes of the district, as may be necessary or desirable in the sole discretion  
17 of the board. At the option of the board, any accumulated surplus may be deposited in  
18 the sinking fund under this section.

19 **Sec. A-14. Subject to Public Utilities Commission.** Nothing contained in this  
20 Act is intended to repeal nor may be construed as repealing any existing statute. All  
21 rights and duties set forth in this Act must be exercised and performed in accordance with  
22 the applicable provisions of the Maine Revised Statutes, Title 35-A.

23 **Sec. A-15. Superintendent appointment; removal.** The board may appoint a  
24 superintendent of the district. The superintendent is selected solely on the basis of the  
25 superintendent's administrative qualifications with special preference to actual experience  
26 in or knowledge of utility operations. The board shall determine the superintendent's  
27 compensation.

28 The superintendent holds office for an indefinite term unless otherwise specified by  
29 contract. The superintendent may be removed or suspended for cause by the board in  
30 accordance with the following procedures.

31 1. The board shall prepare a written preliminary resolution for the board action  
32 setting forth the specific reasons for the proposed removal, a copy of which must be  
33 delivered to the superintendent within 10 days of its completion.

34 2. The superintendent may, within 20 days of receiving the resolution, reply in  
35 writing and may request a public or private hearing.

36 3. Upon receiving a request for a hearing, the board shall hold a hearing not earlier  
37 than 10 days and not later than 30 days after the request is filed.

38 4. After the hearing or at the expiration of the time permitted the superintendent to  
39 request a hearing, if no request is made, the board may adopt or reject the resolution.



1 over utility matters by December 2, 2015 regarding the need for further enactment of  
2 legislation to facilitate or promote the purposes of the establishment of municipal natural  
3 gas utility districts in the State.