

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-FOUR

—  
H.P. 231 - L.D. 380

**An Act to Transfer the Monhegan Water Company to Monhegan Plantation  
and to Repeal the Monhegan Water Company Charter**

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

**Whereas,** the Monhegan Water Company was created by Private and Special Law 1913, chapter 35 for the purpose of supplying Monhegan Plantation in the county of Lincoln and the inhabitants of the plantation with pure water for domestic, sanitary, commercial, industrial, municipal and public purposes; and

**Whereas,** the Monhegan Water Company presently provides water service to the residents of Monhegan Plantation; and

**Whereas,** at its 2023 annual meeting on April 8, 2023, the voters of Monhegan Plantation voted in favor of warrant article 32, which asked whether the plantation wanted to vote to dissolve the Monhegan Water Company and transfer the company's assets to Monhegan Plantation; and

**Whereas,** this legislation provides for the transfer of the functions and assets of the Monhegan Water Company to Monhegan Plantation for the purpose of establishing and operating the Monhegan Plantation water district owned, controlled, managed and operated by Monhegan Plantation; and

**Whereas,** the Monhegan Water Company and the Monhegan Plantation seek to accomplish the transfer as soon as possible to ensure the health and welfare of persons receiving water service in the plantation; 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. Monhegan Water Company required to sell property to Monhegan Plantation.** Upon the approval of a majority of the votes of Monhegan Plantation in a

referendum vote pursuant to section 11 and the approval of a majority of the trustees of the Monhegan Water Company, the Monhegan Water Company, a public municipal corporation organized and existing pursuant to Private and Special Law 1913, chapter 35, under the terms contained in this Act, shall sell, transfer and convey to Monhegan Plantation by appropriate instruments of conveyance all, and not less than all, of its plants, properties, assets, franchises, rights and privileges, including, without limitation, all lands, buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools, equipment and appliances used or useful in supplying water for domestic, sanitary, commercial, industrial and municipal purposes, in consideration of the assumption by the Monhegan Plantation of all of the outstanding debts, obligations and liabilities of the Monhegan Water Company, including, without limitation, the assumption of any outstanding notes or bonds of the Monhegan Water Company that are due on or after the date of the transfer. The transfer in accordance with this section must occur before January 1, 2025.

**Sec. 2. Monhegan Plantation's acquisition of property of Monhegan Water Company.** The Monhegan Plantation shall acquire, under the terms contained in this Act, all, and not less than all, of the plants, properties, assets, franchises, rights and privileges owned by the Monhegan Water Company, including, without limitation, all lands, buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools, equipment and appliances used or useful in supplying water for domestic, sanitary, commercial, industrial and municipal purposes. The consideration to be paid for the plants, properties, assets, franchises, rights and privileges is the assumption by the Monhegan Plantation of all of the outstanding debts, obligations and liabilities of the Monhegan Water Company, including, without limitation, the assumption by the Monhegan Plantation of any outstanding notes or bonds of the Monhegan Water Company that are due on or after the date of the transfer.

**Sec. 3. Corporate successor to Monhegan Water Company.** For purposes of assuming all debts and obligations of the Monhegan Water Company, the Monhegan Plantation, operating the Monhegan Plantation water district, is the corporate successor to the Monhegan Water Company upon the transfer of the assets and obligations of the Monhegan Water Company to Monhegan Plantation pursuant to this Act.

**Sec. 4. Contracts of Monhegan Water Company assumed by Monhegan Plantation.** All contracts between the Monhegan Water Company and any person, firm or corporation relating to supplying water that are in effect on the date of the transfer by the Monhegan Water Company to Monhegan Plantation are assumed and must be carried out by Monhegan Plantation, operating the Monhegan Plantation water district.

**Sec. 5. Pledge of revenues.** In order to carry out the purposes of this Act and notwithstanding the Maine Revised Statutes, Title 30-A, section 5772, Monhegan Plantation is authorized to issue its notes or bonds in the form of either a general obligation pledge or a revenue pledge, as the Monhegan Plantation board of assessors may determine, to replace or refinance any or all of the existing debts or obligations of the Monhegan Water Company and is authorized to deliver other instruments evidencing its assumption of the debts, obligations and other liabilities of the Monhegan Water Company without the need for any further action or approval from the Monhegan Plantation board of assessors or the voters of Monhegan Plantation. Any notes or bonds or other instruments evidencing the

plantation's assumption of the debts, obligations and other liabilities of the Monhegan Water Company may be issued in the amounts necessary to pay the principal of, premium of, if any, and interest on the debts, obligations and other liabilities of the Monhegan Water Company and may mature up to but not later than the stated maturity date of the debts, obligations and other liabilities of the Monhegan Water Company.

**Sec. 6. Approval of Public Utilities Commission.** The sale and transfer by the Monhegan Water Company to Monhegan Plantation of its plants, properties, assets, franchises, rights and privileges; the acquisition of them by Monhegan Plantation and the assumption by Monhegan Plantation of all of the outstanding debts, obligations and liabilities of the Monhegan Water Company pursuant to this Act; and the subsequent use thereof by Monhegan Plantation operating the Monhegan Plantation water district, within the limits of the plantation, are subject to such approval of the Public Utilities Commission as may be required by applicable provisions of the Maine Revised Statutes, Title 35-A.

**Sec. 7. Transfer of rights to acquire source of supply.** Upon the transfer of the assets and obligations of the Monhegan Water Company to Monhegan Plantation pursuant to this Act, Monhegan Plantation, operating the Monhegan Plantation water district, may, for the purpose of providing water service to its customers, take, collect, store, flow, use, detain, distribute and convey water from the so-called "meadow aquifer" on Monhegan Island. Monhegan Plantation has the right to maintain, repair and replace any water pipes, pumps and associated fixtures and appurtenances necessary to deliver water from these sources of supply to customers receiving water service from the Monhegan Plantation water district and is authorized to take and hold, as for public uses, by purchase or otherwise, including by right of eminent domain, any land or interest in land necessary for delivering water from these sources of supply and any rights-of-way or roadways to these sources of supply.

**Sec. 8. Ordinance authority.** Notwithstanding the Maine Revised Statutes, Title 30-A, section 7051, upon the transfer of the assets and obligations of the Monhegan Water Company to Monhegan Plantation pursuant to this Act, the Monhegan Plantation board of assessors may adopt ordinances in accordance with Title 30-A, section 3002 and not inconsistent with the general laws of the State to prevent the pollution and preserve the purity of the water of the so-called "meadow aquifer," and the Monhegan Plantation board of assessors may prescribe penalties for the violation of those ordinances. The ordinances may specifically restrict or prohibit boating or fishing in a manner consistent with the general laws of the State to prevent pollution and preserve the purity of the water. The ordinances may restrict swimming to prevent pollution and preserve the purity of the water, but any such restriction must be consistent with the general laws of the State. The ordinances have the same force and effect as municipal ordinances, and the District Court has jurisdiction over violations. Nothing contained in this section affects in any way the jurisdiction of the Land Use Planning Commission, including, without limitation, its authority to regulate land use matters under Title 12, chapter 206-A in Monhegan Plantation.

**Sec. 9. Dissolution and termination of Monhegan Water Company; pledge of revenues.** Prior to January 1, 2025, all debts, obligations and other liabilities of the Monhegan Water Company must be 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 must have assented to the assumption thereof by Monhegan Plantation and to the novation

and substitution of Monhegan Plantation as obligor in place of the Monhegan Water Company. The clerk of the Monhegan Water Company shall file a certificate to that effect with the Secretary of State, which results in the termination and cessation of the Monhegan Water Company. Until the corporate existence of the Monhegan Water Company ceases and terminates pursuant to this section, the gross revenues derived by Monhegan Plantation from the sale of water must be applied first to the payment of expenses reasonably allocable to the operation of the water systems and 2nd to payments of debts, obligations and other liabilities of the Monhegan Water Company assumed by Monhegan Plantation pursuant to this Act.

**Sec. 10. P&SL 1913, c. 35** is repealed.

**Sec. 11. Referendum; effective date; certificate to Secretary of State.** 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 Monhegan Plantation at a regular election or at a special election called and held for the purpose no later than June 30, 2024. The election must be called, advertised and conducted according to the law relating to municipal elections. The subject matter of this Act must be reduced to the following question:

"Do you favor the dissolution of the Monhegan Water Company and the acquisition of the assets and liabilities of the Monhegan Water Company by Monhegan Plantation for the purpose of establishing and operating the Monhegan Plantation water district?"

The result of the vote must be declared by the Monhegan Plantation board of assessors and due certificate of the vote must be filed by the plantation's clerk with the Secretary of State. If a majority of the legal voters of Monhegan Plantation voting at a regular or special election called and held no later than June 30, 2024 vote in favor of the question, the provisions of this Act other than section 10 take effect for all purposes upon certification of that vote, and section 10 of this Act takes effect for all purposes on January 1, 2025.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.