

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act Regarding Consumer-owned Water Utilities and Contracts for Water Extraction and for the Sale of Water

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

Sec. 1. 35-A MRSA §6109-B is enacted to read:

§ 6109-B. Extraordinary contracts for sale of water or water extraction

Notwithstanding any provision to the contrary in its charter or in law, a consumer-owned water utility may not enter into an extraordinary contract without first holding a public hearing and securing approval of a majority of voters at a referendum conducted in accordance with this section.

1. Definition. For purposes of this section, “extraordinary contract” means a contract with any entity that involves one or more of the following: the sale of water for purposes other than on-site use or consumption by the purchasing entity; the sale or lease of any water rights held by the consumer-owned water utility, including the right to extract water from sources from which the consumer-owned water utility is authorized to obtain water; and the sale of any water or sale or lease of any water rights on terms different than those available to any other similarly situated entity.

2. Public hearing. Prior to entering into an extraordinary contract, the governing body of a consumer-owned water utility shall hold a public hearing at which the Public Advocate and any customer may testify and may question the officials present regarding the proposed contract. The consumer-owned water utility shall, at least 14 days prior to the hearing, publish a notice of the proposed contract and the hearing, including the date, time, place and purpose of the hearing, in a newspaper of general circulation in the area encompassed by the consumer-owned water utility and give one notice of the proposed contract and the date, time, place and purpose of the hearing to each of its customers. The published and individual notices must include a statement describing the proposed contract, the customer's right to request information relating to the proposed contract, the right to an open and fair hearing and the availability of assistance from the Public Advocate. The consumer-owned water utility shall send copies of the notice to the commission and the Public Advocate at least 14 days prior to the hearing.

3. Referendum. Prior to entering into an extraordinary contract, the governing body of a consumer-owned water utility shall submit the proposed contract for approval at a referendum conducted in accordance with this subsection. The governing body may not sign the proposed contract unless it is approved by a majority of legal voters voting at the referendum.

The referendum must be called, advertised and conducted according to the law relating to municipal elections, except the registrar of voters is not required to prepare or the clerk to post a new list of voters. The referendum may be held outside the territory of the consumer-owned water utility if the usual voting

place for persons located within the territory of the utility is located outside the territory of the utility. For the purpose of registering voters, the registrar of voters must be in session on the regular work day preceding the election. The question presented must conform to the following form:

"Do you favor (insert name of consumer-owned water utility) entering into a contract with (insert name of contracting entity) that authorizes (insert name of contracting entity) to (insert description of contract provisions)?"

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 governing body of the consumer-owned water utility and entered upon the utility's records. Due certificate of the results must be filed by the clerk with the Secretary of State. Failure of approval by the majority of voters voting at the referendum does not prevent subsequent referenda from being held for the same purpose. The costs of referenda are borne by the consumer-owned water utility.

SUMMARY

This bill requires a consumer-owned water utility to hold a public hearing and to secure approval of a majority of voters in a referendum vote before entering into a contract with any entity that involves:

1. The sale of water for purposes other than on-site use or consumption by the purchasing entity;
2. The sale or lease of any water rights held by the utility, including the right to extract water from sources from which the utility is authorized to obtain water; or
3. The sale of any water or sale or lease of any water rights on terms different than those available to any other similarly situated entity.