

**Chapter 04-007**

2004 -- H 7286

Enacted 04/14/04

**A N A C T**  
**CREATING THE PRUDENCE ISLAND WATER DISTRICT****Introduced By:** Representatives Gallison, Enos, Amaral, and Callahan**Date Introduced:** January 21, 2004

It is enacted by the General Assembly as follows:

**SECTION 1. Creation.** – (a) There is created a body corporate and public and a political subdivision of the state, a special water district to be known as the Prudence Island water district established for the purpose of providing adequate water supply to the residents of said district and to others who may contract with the district for water supply. The district shall consist of the area on Prudence Island in the town of Portsmouth with boundaries as follows:

The eastern boundary of the district is Narragansett Bay; the southern boundary of the district is the Narragansett Bay National Estuarine Research Reserve (NBNERR) northern property boundary; the western boundary of the district from south to north is the western property lines of properties abutting Alden Road, to the Army Camp Road, to the western property lines of properties abutting Sunset Hill Avenue, to the Rhode Island department of environmental management eastern property boundary, to the outflow of Nag Creek, and the northern boundary is Narragansett Bay.

The area within the boundaries described in this section shall be known as the Prudence Island water district. Any portion of the town of Portsmouth located on Prudence Island may join the district pursuant to a request to the district or an agreement with the district which request or agreement is accepted by the district.

(b) The district is hereby constituted an independent public instrumentality and the exercise by the district of the powers conferred by this chapter shall be deemed and held to be the performance of an essential public function.

**SECTION 2. Electors.** – The inhabitants of the district who are at least eighteen (18) years old and: (1) are qualified to vote for town officers; or (2) are property owners within the service area; or (3) are rate payers within the service area that are qualified electors of the district for purposes of this act and are eligible to vote in all elections of officers of the district and at all meetings of the district.

**SECTION 3. Regular and special meetings -- Voting.** – (a) The first meeting of the district may be called by and run by any one or more of the members of the Prudence Island Water District Organizing Committee, an unincorporated association whose members are residents of the district or owners of property within the district. The first meeting shall be held on such date as shall be determined by the member or members of the Prudence Island Water District Organizing Committee who call the meeting, taking into account the notice requirement of subsection (b) herein and the time required for filing of petitions for candidacy required by section 4(b). Thereafter, the district shall hold a regular meeting on the third Saturday in June in every year, or at such intervals and on such dates as a majority of the electors present at a regular meeting shall determine; provided, however, that a regular meeting shall be held not less than once every four (4) years.

(b) Special meetings of the district shall be called by the clerk upon order of the board or upon written application of at least ten percent (10%) of electors. It is the duty of the clerk to fix a suitable place for the holding of all meetings, and to give notice of each meeting, both annual and special, by posting a notice in at least two (2) public places within the district at least ten (10) days before the meeting, and the notice shall contain a statement of the time and place when and where a meeting will be held for the purpose of correcting and canvassing the voting list to be

used at the annual or special meeting in accordance with section 4(c), and it is the duty of the board of canvassers of the district to canvass and correct the voting list in the same manner, as near as may be, or as provided by law for boards of canvassers.

(c) No vote, except upon an adjournment, or in the election of officers, shall be taken at any meeting of the district unless at least seven (7) qualified electors are present at the meeting. On demand of at least one-fifth (1/5) of the qualified electors of the district present at any meeting for a ballot on any question pending at the meeting, the ballot shall be allowed; and all votes except on motion to adjourn, or on amendment to any pending proposition, shall be required by the moderator to be so taken, that the votes affirmative and negative may be by him or her counted, and the results entered by the clerk on the minutes of the meeting.

(d) Subsequent to the first meeting of the district, it is the duty of the clerk of the district to fix a suitable place within the district for the holding of meetings and for giving notice of subsequent meetings.

**SECTION 4. Officers constituting board – Powers – Bylaws -- Elections.** – (a) The qualified electors of the district shall elect officers at each meeting held on the third Saturday in June in odd numbered years or at such intervals and on such dates as a majority of the electors present at a regular meeting shall determine provided that regular elections shall be held not less than once every four (4) years. Such officers shall consist of a moderator, a clerk, and three (3) additional members, whose duties and powers are within the district, as like officers proper for a district. These enumerated officers shall constitute the board, and the duties of the board are prescribed in this chapter. At the first meeting of the district, the moderator and one additional member shall be elected for a term ending the third Saturday in June, 2007 and the clerk and two (2) additional members shall be elected for a term ending the third Saturday in June, 2005. Thereafter, members of the board shall be elected for a term of office of four (4) years, or such other term as a majority of electors present at a regular meeting shall determine in order to

conform with any changes to the frequency of elective meetings approved by the electors in conformity with this paragraph (a). Any vacancy that may occur in any of the aforementioned offices shall be filled by some person to be chosen by the other members of the board to hold the office until the next regular meeting. The vacancy shall then be filled at an election held at the next regular meeting and the person elected at such next regular meeting shall hold office for the unexpired term. The board may, at any meeting, adopt and ordain bylaws, and, from time to time, rescind or amend the bylaws, as they deem necessary and proper for the purposes of this chapter and not repugnant to it and not inconsistent with any other law; provided, that no greater penalty is inflicted by the board than is prescribed in section 15; and provided, further, that the board may appoint committees they deem necessary, and may fix the compensation of all officers, agents, employees, and committees of the district.

(b) For a person to become a candidate at any election under this section, that person must be a qualified elector of the district and secure the signatures of at least five (5) qualified electors in the district. Except as provided below with respect to the first meeting of the district, the water district petition must be filed in the office of the clerk of the district not later than four o'clock (4:00) p.m. on the sixtieth (60th) day prior to the election, and the clerk shall certify as to whether a sufficient number of signers have affixed their signatures to the petition. For the first meeting of the district, the water district petition must be mailed to Prudence Island Water District Organizing Committee, P.O. Box 250 Prudence Island, Rhode Island 02872, and postmarked not later than midnight on the thirtieth (30th) day prior to the election and the members of the Prudence Island Water District Organizing Committee who shall call and run the first meeting shall certify as to whether a sufficient number of signers have affixed their signatures to the petition.

(c) Paper ballots may be used for the elections and the elections shall be at the expense of the district. The ballots shall contain no designation of party or political principle and there shall

be no primaries or other preliminary elections. All elections shall be at-large.

(d) No vacancy in the membership of the board shall impair the right of a quorum to exercise the powers of the district. Three (3) members of the board shall constitute a quorum and the affirmative vote of three (3) members shall be necessary for any action taken by vote of the board. Any such action shall take effect immediately unless otherwise provided and need not be published or posted.

**SECTION 5. Board of canvassers.** – (a) One or more members of the Prudence Island Water District Organizing Committee shall serve as the board of canvassers for the first meeting of the district, and shall meet and canvass the voting list thirty (30) days prior to the date set pursuant to section 3(a) and shall make out a correct alphabetic list of the electors for the district and shall certify the correctness of the list.

(b) Subsequent to the first meeting of the district, there shall be a board of canvassers consisting of the assessor and collector.

(c) The board of canvassers shall meet and canvass the voting of the district on the third Saturday of May in every year and shall make out a correct alphabetic list of the electors of the district, and shall certify the correctness of the list and file it with the clerk.

(d) The board of canvassers, and with respect to the first meeting, the members of the Prudence Island Water District Organizing Committee who shall call the first meeting, shall hold a meeting on the day of, and immediately preceding, each annual and special meeting of the district, and shall correct the list of electors by adding the name of every person qualified to vote whose name is not on the list of electors. The list of electors, so corrected, shall be certified, for the first meeting, by the members of the Prudence Island Water District Organizing Committee who shall call the first meeting, and for subsequent meetings, by the board of canvassers and filed with the clerk before the meeting is called to order.

**SECTION 6. Voter recall.** – A member of the board may be removed from office by

recall, provided that recall may not be initiated during the first six (6) months or the last six (6) months of the term of an incumbent. The procedure to accomplish recall shall be as follows:

(a) A declaration of intent to petition for recall of the member shall be filed with the clerk by a qualified elector of the district. A separate declaration of intent shall be required for each member of whom recall is being sought.

(b) Within ninety (90) days of the presentation of said declaration, a written petition demanding the removal of the member of the board shall be filed with the clerk. Said petition shall include the signatures of twenty percent (20%) of all qualified electors of the district.

(c) The signatures on any recall petition provided for in this section may be on a separate paper, but to each separate paper there shall be attached a signed statement of the circulator thereof, who shall state therein under sworn oath and penalty of perjury, that each signature appended to said paper was made in the presence of the circulator. All such papers comprising a recall petition may be bound together and filed as one instrument at one time, or may be filed at different times as separate papers; provided, however, that all such separate papers must be filed within the time limit set herein.

(d) The clerk shall within five (5) days of the filing of a petition refer said petition to the board of canvassers which shall within ten (10) days from the date of the receipt of such petition from the clerk examine it and shall from the electors registered determine the sufficiency thereof and certify the results to the board of the district within five (5) days of said certification. If the examination shows the petition contains the requisite number of signatures, the board of the district shall order and fix, forthwith, a date for holding an election, which date shall not be less than thirty (30) nor more than sixty (60) days from the date that the board of canvassers certified the petition as sufficient.

(e) Each ballot at such election shall have printed thereon the following question: "Shall (name of person) be removed from the office of (name of office)?" Immediately following such

question, there shall be printed on the ballot the following two (2) propositions in this order:

"YES"

"NO"

(f) In any such election, if a two-thirds (2/3) majority of the votes cast on the question of removal is affirmative, the person whose removal is sought shall thereupon be deemed removed from office as of the certification of results by the board of canvassers.

**SECTION 7. Mail ballots.** – (a) There shall be no right to vote by mail ballot at the first meeting of the district. At elective meetings subsequent to such first meeting, the electors of the district who, for any of the reasons set forth in subsection (b)(2) herein, being otherwise qualified to vote are unable to vote in person shall have the right to vote, in the manner and time provided by this section, in all elections of the district.

(b) Any elector otherwise qualified may vote by mail ballot in the following circumstances:

(1) An elector who will be absent from the state on the day of election during the elective meeting;

(2) An elector who will be absent from the district on the day of election during the elective meeting due to the elector's status as a student or the spouse of a student at an institution of higher learning located within this state;

(3) An elector who is incapacitated to such an extent that it would be an undue hardship to attend the elective meeting because of illness, or mental or physical disability, blindness or serious impairment of mobility;

(4) An elector who is forbidden by the tenets of his or her religious faith from engaging in secular activity including voting on the day of election;

(5) An elector who is confined in any hospital, convalescent home, nursing home, rest home or similar institution, public or private;

(6) An elector who is being detained while awaiting trial or is being imprisoned for any cause other than final conviction of a felony and by reason of confinement is unable to vote at the elective meeting;

(7) An elector who will be temporarily absent from the state because of employment or service intimately connected with military operations or who is a spouse or legal dependent residing with that person.

(c)(1) Any legally qualified elector of this district whose name appears upon the official voting list of the district may obtain from the clerk an affidavit form setting forth the elector's application for a mail ballot.

(2) Whenever any person shall be unable to sign his or her name because of physical incapacity or otherwise, that person shall make his or her mark "X."

(3) The application, when duly executed, shall be delivered in person or by mail so that it shall be received by the board of canvassers not later than four o'clock (4:00) p.m. on the twenty-first (21st) day before the day of any election referred to in subsection (a) herein. In addition to those requirements set forth elsewhere in this section, a mail ballot in order to be valid must have been cast in conformance with the following procedures:

(A) All applications for mail ballots pursuant to subsection (b)(1) herein shall state under oath that the elector will be absent from the state on the day of election during the elective meeting. All applications for mail ballots made pursuant to subsection (b)(1) must be notarized or witnessed by two (2) persons who shall sign their names and affix their addresses. All mail ballots issued pursuant to subsection (b)(1) herein shall be mailed to the elector at an address outside the state of Rhode Island to be provided by the elector on the application or sent to the board of canvassers in the city or town where the elector maintains his or her voting residence. In order to be valid, all ballots mailed to the elector out of state must be voted outside the state of Rhode Island and the signature of the elector notarized by a person authorized by law to

administer oaths in the state or country where signed or where the elector voted, or before two (2) witnesses who shall set forth their addresses on the form, and must be mailed from outside the state of Rhode Island.

(B) All applications for mail ballots pursuant to subsection (b)(2) herein must state under oath the institution of higher learning at which the elector or spouse of the elector is a student. All applications for mail ballots made pursuant to subsection (b)(2) herein must be notarized or witnessed by two (2) persons who shall sign their names and affix their addresses. All mail ballots issued pursuant to subsection (b)(2) herein shall be sent to the elector at the address of the institution of higher learning provided by the elector on the application or to the elector at his or her voting residence. The signature of the elector on ballots being sent to the elector at their institution of higher learning must be notarized or witnessed by two (2) persons who shall sign their names and affix their addresses.

(C) All applications for mail ballots pursuant to subsection (b)(3) herein must be notarized or witnessed by two (2) persons who shall sign their names and affix their addresses. All mail ballots issued pursuant to subsection (b)(3) herein shall be mailed to the elector at his or her voting residence. The signature of the elector on ballots being sent to the elector pursuant to this subdivision does not need to be notarized or witnessed.

(D) All applications for mail ballots pursuant to subsection (b)(4) herein must be notarized or witnessed by two (2) persons who shall sign their names and affix their addresses. All mail ballots issued pursuant to subsection (b)(4) shall be sent to the elector at his or her voting residence. The signature of the elector on the ballots being sent to the elector must be notarized or witnessed by two (2) persons who shall sign their names and affix their addresses.

(E) All applications for mail ballots pursuant to subsection (b)(5) herein must state under oath the name and location of the hospital, convalescent home, nursing home, or similar institution where the elector is confined. All applications for mail ballots pursuant to subsection

(b)(5) herein must be notarized or witnessed by two (2) persons who shall sign their names and affix their addresses. All mail ballots issued pursuant to subsection (b)(5) shall be delivered to the elector the hospital, convalescent home, nursing home, or similar institution where the elector is confined. The signature of the elector on ballots being sent to the elector pursuant to this subdivision does not need to be notarized or witnessed.

(F) All applications for mail ballots pursuant to subsection (b)(6) must be notarized or witnessed by two (2) persons who shall sign their names and affix their addresses. All mail ballots issued pursuant to subsection (b)(6) shall be mailed to the elector at the elector's place of confinement. The signature of the elector on ballots being sent to the elector must be notarized or witnessed by two (2) persons who shall sign their names and affix their addresses.

(G) All applicants for mail ballots made pursuant to subsection (b)(7) do not need to be witnessed or notarized. All mail ballots issued pursuant to subsection (b)(7) shall be mailed to the elector at an address outside the state of Rhode Island to be provided by the elector on the application, or sent to the board of canvassers in the city or town where the elector maintains his or her voting residence. The signature of the elector on ballots being sent to the elector pursuant to this subdivision does not need to be notarized or witnessed.

(d)(1) In no event shall more than one vote be cast by any individual for any one office or proposition.

(2) In the event that any person shall vote in person and shall also attempt to vote by mail ballot, the mail ballot shall be destroyed and not counted.

(e)(1) Whenever any person shall be unable to sign his or her name because of physical incapacity or otherwise that person shall make his or her mark "X."

(2) Notwithstanding any other provision of this section as to time and manner thereof, it shall be the duty of the applicant to cause the mail ballot application to be processed by the board of canvassers so that the applicant may receive the ballot, cast it, and cause delivery thereof to be

made to the clerk not later than twelve o'clock (12:00) p.m. on the date of the election.

(3) The board of canvassers shall maintain a separate list of names and addresses of all applicants and their subscribing witnesses and a copy of the list shall be made available for inspection to any person upon request.

(f)(1) Upon receipt by it of the application, the board of canvassers shall immediately examine it and the original registration card, except as may be otherwise provided by law, to satisfy itself that the applicant is a qualified elector. Upon determining that it does meet each requirement of this section and that the signature appears to be the same, the local board shall mark the application "accepted."

(2) The board of canvassers shall also print or type the name of the elector and the complete mailing address in the mailing label section of the mail ballot. If the board of canvassers does not accept the application, the board shall return the application to the elector together with a form prescribed by the clerk specifying the reason or reasons for the return of the application.

(3) Not later than four o'clock (4:00) p.m. on the eighteenth (18th) day before the day of any election or within seven (7) days of receipt by the board of canvassers, whichever shall occur first, the board shall certify the applications and shall cause their delivery together with three (3) certified listings thereof, one of which shall be an original and two (2) of which shall be copies, in sealed packages to the clerk. Upon the certification of a mail ballot application to the clerk, the board of canvassers shall enter on the voting list the fact that a mail ballot application for the elector has been certified to the clerk.

(4)(A) Upon receipt by the clerk of the applications, the clerk shall immediately, upon the ballots becoming available, issue and mail, by first class mail, postage prepaid, a mail ballot to each eligible elector.

(B) The clerk shall indicate on the certified lists the names to which the clerk has sent mail ballots and shall return one of the lists to the board of canvassers.

(5) Upon return to it of the certified lists with the names to which the clerk has sent mail ballots, the board of canvassers shall:

(A) Promptly mark the voting record of each qualified elector who has been issued a mail ballot with a mark in the place provided on the voting list for the election in question; provided, that this mark shall serve solely to indicate that a mail ballot has been issued and shall not be construed as voting in the election.

(6) If a ballot is returned to the clerk by the postal service as undeliverable, the clerk shall consult with the board of canvassers to determine the accuracy of the mailing address, and the clerk shall be required to re-mail the ballot to the elector using the corrected address provided by the board of canvassers. If the board of canvassers is unable to provide a different address than that to which the ballot was originally mailed, the board of canvassers shall attempt to notify the elector at his or her place of residence that the ballot has been returned as undeliverable.

(g) All mail ballots, application forms, certified envelopes for enclosing ballots, such other envelopes as may be necessary, and instructions as to voting, use of ballots, and affidavits, shall be furnished and supplied by the clerk for use in mailing application forms, ballots, and other supplies to mail electors to carry out the provisions of this section, but the board of canvassers shall print or stamp upon the application form and upon the return envelope the address of the board of canvassers.

(h) Mail ballots may be cast in the manner provided by law on or before the election day; provided, that no mail ballot shall be counted unless it is received by the board not later than twelve o'clock (12:00) p.m. local time on election day.

(i) Envelopes for the enclosure and return of mail ballots and their enclosing certified envelope shall have the printed or written address of the board of canvassers; and shall be forwarded by the clerk to each elector whose application for the mail ballot has been received and accepted.

(j) The clerk shall also cause to be prepared and printed an adequate number of copies of instructions for voting procedure in accordance with the provisions of this section, or the clerk may cause the instructions to be printed in an appropriate place on the official mail ballots.

(k) No ballot transmitted under the provisions of this section shall be rejected for any immaterial addition, omission, or irregularity in the preparation or execution ballot, nor for failure of the elector to affix sufficient postage. No ballot shall be invalid by reason of mistake or omission in writing in the name of any candidate where the candidate intended by the elector is plainly identifiable. Where, because of any defect in marking, a ballot is held invalid as to any particular candidate, it shall remain valid as to the candidates. No defect in the marking of the appropriate space associated with casting a vote shall invalidate any ballot or a vote for any candidate, where the intention of the elector is clearly indicated.

(l)(1) Beginning prior to and continuing on election day the board of canvassers, upon receipt of mail ballots, shall keep the ballots in a safe and secure place which shall be separate and apart from the general public area, and hold sessions, at which in each instance it shall certify the mail ballots.

(2) At these sessions, and before certifying any ballot, the board shall:

(A) Compare the name, residence and signature of the elector with the name, residence, and signature on the ballot application for mail ballots and satisfy itself that both signatures are identical.

(B) If during the processing and certification of mail ballots no objection has been raised against the certification of a ballot, the outer envelope shall be discarded. However, if an objection has been raised that entails further consideration and determination by the board of canvassers, the outer envelope shall remain attached to the certifying inner envelope for identification purposes.

(C) The board of canvassers shall establish guidelines setting forth the grounds for

challenging the certification of mail ballots. These guidelines shall recognize that if a ballot can be reasonably identified to be that of the elector it purports to be, and if it can reasonably be determined that the elector was eligible to vote by mail ballot and if the requirements of section 7(c) were complied with, it should not be subject to frivolous or technical challenge. The burden of proof in challenging a mail ballot as not obtained and/or cast in conformance with this chapter is on the person challenging the ballot. Once the irregularity is shown, the burden of proof shall shift to the person defending the ballot to demonstrate that it is the ballot of the elector it purports to be, that the elector was eligible to vote by mail ballot, and that all of the applicable requirements of section 7(c) were complied with. The guidelines shall be adopted at a meeting of the board of canvassers and shall be made available prior to the start of the certification process for mail ballots.

(D) After processing and certification of the mail ballots, the board of canvassers shall open the enclosing envelope, and without looking at the votes cast on the ballot enclosed therein shall remove the ballot from the envelope. After the last of the ballots have been so removed the board of canvassers shall forthwith proceed to count the ballots.

(m) No person, or one claiming to be that person, whose name has been marked upon any voting list, provided for official use at any election, shall be permitted to vote in person at the election; provided, however, that the person may reestablish his or her right to vote in person by presenting himself or herself at the board of canvassers on or before election day and surrendering his or her mail ballot. Upon that surrender, the person's name shall be restored to the voting list. Any person whose name has been so marked on the voting list may also be permitted to vote in person if that person shall execute and deliver to the board of canvassers an affidavit stating that the person did not receive the mail ballot, or that the mail ballot was lost or destroyed.

(n) The board of canvassers shall, on its own motion, disqualify any mail ballot which it determines, based upon a preponderance of the evidence, was not voted by the elector who

purportedly cast it, or was voted by an elector who was not eligible to vote by mail ballot, or was not obtained and voted in the manner prescribed by this section. The board of canvassers may take this action even in the absence of a challenge to the ballot and may take this action at any time prior to the separation of the ballot from its application and certifying envelope.

**SECTION 8. Officers and employees of board.** – (a) The board shall appoint an assessor, a treasurer, and a collector, who may be members of the board.

(b) The board may, from time to time, hire, transfer or otherwise appoint or employ legal counsel, financial advisors and such other experts, engineers, agents, accountants, clerks, and other consultants and employees as it deems necessary and determine their duties.

**SECTION 9. Compensation of board members.** – Other than as described in the following sentence or as approved by the electors at any meeting, the members of the board shall receive no compensation for the performance of their duties under this chapter. Each member may be reimbursed for all reasonable and necessary expenses incurred in the discharge of official duties as approved by the board. Board members who serve as officers shall receive no additional compensation.

**SECTION 10. Powers.** – The board shall have all the rights and powers necessary or convenient to carry out and effectuate this act, including, but without limiting the generality of the foregoing, the rights and powers:

(a) to adopt bylaws for the regulation of its affairs and the conduct of its business to promulgate rules, regulations and procedures in connection with the performance of its functions and duties and to fix, enforce and collect penalties for the violation thereof;

(b) to adopt an official seal and alter the same at pleasure;

(c) to maintain an office at such place or places as it may determine;

(d) to apply for, receive, accept, administer, expend and comply with the conditions, obligations and requirements respecting any grant, gift, loan, including without limitation, any

grant, gift or loan from agencies of local, state and federal governments, donation or appropriation of any property or money in aid of the purposes of the district and to accept contributions of money, property, labor or other things of value;

(e) to acquire by purchase, lease, lease-purchase, sale or leaseback, gift or devise, or to obtain options for the acquisition of, any water or water rights and any other property, real or personal, tangible or intangible, or any interest therein, in the exercise of its powers and the performance of its duties;

(f) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any water, water rights, and any other property, real or personal, tangible or intangible, or any interest therein;

(g) to enter onto any land to make surveys, borings, soundings, and examinations thereon; provided, that said district shall make reimbursements for any injury or actual damage resulting to such lands and premises caused by any act of its authorized agents or employees and shall so far as possible restore the land to the same condition as prior to making of such surveys, borings, soundings and examinations; and to acquire by eminent domain any interest in real property on Prudence Island in the name of the district in accordance with the provisions of this chapter;

(h) to purchase water in bulk or by volume, and to sell water to, any person, private or public corporation or public instrumentality or municipality, the state or the federal government;

(i) to construct, improve, extend, enlarge, maintain and repair the water works system;

(j) to pledge or assign any money, fees, charges, or other revenues of the district and any proceeds derived by the district from the sale of property, insurance or condemnation awards;

(k) to borrow money and incur indebtedness and issue its bonds and notes as hereinafter provided;

(l) to make contracts of every name and nature and to execute and deliver all instruments necessary or convenient for carrying out any of its purposes;

(m) to establish public hydrants in public places as it may see fit and prescribe for what purposes the public hydrants are used, all of which it may change in its discretion;

(n) to enter into contracts and agreements with municipalities in all matters necessary, convenient or desirable for carrying out the purposes of this chapter including, without limiting the generality of the foregoing, collection of revenue, data processing, and other matters of management, administration and operation;

(o) to sue and be sued and to prosecute and defend actions relating to its properties and affairs; provided, that only property of the district other than revenues pledged to the payment of bonds and notes shall be subject to attachment or levied upon execution or otherwise;

(p) to lend money for its purposes, invest and reinvest its funds and at its option to take and hold real and personal property as security for the funds so loaned or invested;

(q) to set the fiscal year of the district;

(r) to do all things necessary, convenient or desirable for carrying out the purposes of this chapter or the powers expressly granted or necessarily implied in this chapter, including entering into agreements with other cities, towns or districts to provide for the joint operation of water supply activities;

(s) consistent with the constitution and laws of the state, the district shall have such other powers, including all powers pertaining to the water works system not inconsistent herewith, as may be necessary for, or incident to, carrying out the foregoing powers and the accomplishment of the purposes of this chapter; provided, however, that nothing in this chapter shall impose any duty on the district to maintain groundwater levels within or without the boundaries of the district.

**SECTION 11. Additional powers and limitations.** – In addition to the powers of the district otherwise provided herein, the board shall have the following powers and shall be subject to the following limitations:

(a) The board is authorized and empowered to fix, revise, charge, collect and abate fees, rates, rents, assessments, delinquency charges and other charges for water, and other services, facilities and commodities furnished or supplied by it including penalties for violations of such regulations as the board may, from time to time, promulgate under this chapter. Fees, rates, rents, assessments, delinquency charges and other charges of general application shall be adopted and revised by the board in accordance with procedures to be established by the board for assuring that interested persons are afforded notice and an opportunity to present data, views and arguments. Such fees, rates, rents, assessments and other charges may be based on the quantity of water used or the number and kind of water connections made, or the number and kind of plumbing fixtures installed on the estate, or upon the number or average number of persons residing or working in or otherwise connected with the estate, or upon any other factor affecting the use of or the value or cost of the water and water facilities furnished, or upon any combination of these factors. The board shall hold at least one public hearing on its schedule of fees, rates and charges or any revision thereof prior to adoption, notice of which shall be published in a newspaper of substantial circulation in the district at least one month in advance of the hearing. No later than the date of such publication the board shall make available to the public the proposed schedule of fees, rates and charges. Fees, rates, rents, assessments, abatements and other charges established by the district shall not be subject to supervision or regulation by any department, division, district, board, bureau, or agency of the state or any of its political subdivisions, including, without limitation, the public utilities commission and the division of public utilities pursuant to chapters 1-5 of title 39 of the general laws.

(b) The fees, rates, rents, assessments and other charges established by the board in accordance with subsection (a) herein shall be so fixed and adjusted in respect to the aggregate thereof so as to provide revenues, which, when added to taxes, if any, collected pursuant to section 15 hereof, are at least sufficient (i) to pay the current expenses of the district, (ii) to pay

the principal of, premium, if any, and interest on bonds, notes, or other evidences of indebtedness issued by the district under this chapter as the same become due and payable, (iii) to create and maintain such reasonable reserves as may be reasonably required by any trust agreement or resolution securing bonds and notes, (iv) to provide funds for paying the cost of all necessary repairs, replacements and renewals of the water works system, and (v) to pay or provide for any amounts which the district may be obligated to pay or provide for by law or contract including any resolution or contract with or for the benefit of the holders of its bonds and notes.

(c) In order to provide for the collection and enforcement of its fees, rates, rents, assessments and other charges, the district is hereby granted all the powers and privileges with respect to such collection and enforcement held by a town of liens for unpaid taxes.

In addition to the other enforcement powers and remedies provided in this chapter, if any fees, rates, rents, assessments or other charges billed by the district against any premises which are connected with the water works system remain unpaid for a period of more than sixty (60) days from the due date thereof, and following such period, notice and demand have been posted on such premises and have been given to the owner of said premises, by registered or certified mail addressed to said premises and to the address of said owner as shown on the records of the assessor of the municipality where the premises is located and to occupants of said premises by mail, to pay the same within fifteen (15) days from the date of mailing of said notice, and such fees, rates, rents, assessments or other charges remain unpaid, the board, acting on behalf of the district, shall have the power and is hereby authorized to shut off the supply of water to said premises until said fees, rates, rents, assessments or other charges and penalties are paid, together with interest thereon at the applicable rate and the standard charge of the district for restoring water service to said premises.

(d) Not later than one hundred eighty (180) days following the end of the district's fiscal year, the board shall make an annual report, including its budget and operation plans to the

qualified electors of its activities for the preceding fiscal year. Each report shall set forth a complete operating and financial statement covering its operations during the fiscal year. The board shall cause the books, records and accounts of the district to be reviewed or audited by a certified public accountant. The board shall forward copies of the district's annual report to the town of Portsmouth, the Rhode Island water resources board and the state's department of health.

**SECTION 12. Exclusive authority for water distribution -- Contracts.** -- (a) The board is authorized to obtain and maintain for the district a supply of water for the extinguishing of fire and for distribution to the inhabitants of the district, for domestic use and for other purposes, and may obtain that water by the establishment of its own works, or by contracting for it as provided in subsection (c) herein, or in any other manner that the board may deem necessary and proper, and is not inconsistent with law. The district may also furnish water to habitants outside of the boundaries of the district. If the district undertakes to distribute the water so obtained, it shall have the exclusive right to it, and may maintain an action against any person for using the water without the consent of the board, and may regulate the distribution and use of the water within and without the district. Nothing in this section, or any other section of this chapter, shall be construed as giving to the district an exclusive franchise to furnish water outside of the boundaries of the district.

(b) Without limiting the generality of the previous provisions as to fees, rates, rents, assessments and charges, any contract for the sale of water to inhabitants of a municipality outside of the boundaries of the district may be recorded in the same manner as a deed of land, and upon the recording, the obligations of the owner of the real property involved are a lien on the property and the lien is enforceable in the same manner as taxes assessed on real estate are by law collected.

(c) The board, on behalf of the district, is authorized to contract, for periods not exceeding forty (40) years, with the state, any other municipal or quasi-municipal corporation, or

with the owners of any privately owned water system for the purchase or sale of water or for the use of water facilities, and the state, the other municipal or quasi-municipal corporations, and the owners of privately owned water systems are authorized to enter into contracts with the district. Notwithstanding section 39-1-2(20) of the general laws, neither the district nor its governing body shall be deemed to be a public utility, and the district and its governing body shall not be subject to chapters 1-5 of title 39 of the general laws.

**SECTION 13. Condemnation power.** -- (a) If for any of the purposes of this act, the board shall find it necessary to acquire any real property on Prudence Island, whether for immediate or future use, the board may find and determine that such property, whether a fee simple, absolute or a lesser interest, is required for the acquisition, construction or operation of a water supply facility, and upon such determination, the said property shall be deemed to be required for such public use until otherwise determined by the board; and with the exceptions hereinafter specifically noted, the said determination shall not be affected by the fact that such property has theretofore been taken for, or is then devoted to, a public use; but the public use in the hands or under the control of the district shall be deemed superior to the public use in the hands of any other person, association or corporation; provided, further, however, that no real property or interest, estate or right therein belonging to the state shall be acquired without consent of the state; and no real property or interest, estate or right therein belonging to any municipality shall be acquired without the consent of such municipality.

(b) The board may proceed to acquire and is hereby authorized to and may proceed to acquire such property on Prudence Island, whether a fee simple, absolute or a lesser interest, by the exercise of the right of eminent domain in the manner prescribed in this act.

(c) Nothing herein contained shall be construed to prohibit the board from bringing any proceedings to remove a cloud on title or such other proceedings as it may, in its discretion deem proper and necessary, or from acquiring any such property by negotiation or purchase.

(d) The necessity for the acquisition of property under this act shall be conclusively presumed upon the adoption by the board of a vote determining that the acquisition of such property or any interest therein described in such vote is necessary for the acquisition, construction or operation of a water supply facility. Within six (6) months after its passage, the board shall cause to be filed in the appropriate land evidence records a copy of its vote together with a statement signed by the moderator or treasurer of the district that such property is taken pursuant to this act, and also a description of such real property indicating the nature and extent of the estate or interest therein taken as aforesaid and a plat thereof, which copy of the vote and statement of the moderator or treasurer shall be certified by the clerk of the district and the description and plat shall be certified by the Portsmouth town clerk.

(e) Forthwith thereafter the board shall cause to be filed in the superior court in and for the county within which the real property lies a statement of the sum of money estimated to be just compensation for the property taken, and shall deposit in said superior court to the use of the persons entitled thereto the sum set forth in such statement. The board shall satisfy the court that the amount so deposited with the court is sufficient to satisfy the just claims of all persons having an estate or interest in such real property. Whenever the district satisfies the court that the claims of all persons interested in the real property taken have been satisfied, the unexpended balance shall be ordered repaid forthwith to the district.

(f) Upon the filing of the copy of the vote, statement, description and plat in the land evidence records and upon the making of the deposit in accordance with the order of the superior court, title to said real property in fee simple, absolute or such lesser estate or interest therein specified in said resolution shall vest in the district, and said real property shall be deemed to be condemned and taken for the use of the district and the right to just compensation for the same shall vest in the persons entitled thereto, and the district thereupon may take possession of said real property. No sum so paid into the court shall be charged with clerks' fees of any nature.

(g) After the filing of the copy of the vote, statement, description and plat, notice of the taking of such land or other real property shall be served upon the owners or persons having any estate or interest in such real property by the sheriff or his or her deputies of the county in which the real estate is situated by leaving a true and attested copy of the vote, statement, description and plat with each of such persons personally, or at the last and usual place of abode in this state with some person living there, and in case any such persons are absent, from this state and have no last and usual place of abode therein occupied by any person, such copy shall be left with the person or persons, if any, in charge of, or having possession of such real property taken of such absent persons, and another copy thereof shall be mailed to the address of such person, if the same is known to the officer serving such notice.

(h) After the filing of such vote, description and plat, the board shall cause a copy of the vote and description to be published in some newspaper having general circulation in the town of Portsmouth at least once a week for three (3) successive weeks.

(i) If any party shall agree with the board upon the price to be paid for the value of the real property so taken and of appurtenant damage to any remainder or for the value of his or her estate, right or interest therein, the court, upon application of the parties in interest, may order that the sum agreed upon be paid forthwith from the money deposited, as the just compensation to be awarded in said proceedings; provided, however, that no payment shall be made to any official or employee of the district for any property or interest therein acquired from such official or employee unless the amount of such payment is determined by the court to constitute just compensation to be awarded in said proceedings.

(j) Any owner of, or person entitled to any estate or right in, or interested in any part of the real property so taken, who cannot agree with the board upon the price to be paid for his or her estate, right or interest in such real property so taken and the appurtenant damage to the remainder, may, within three (3) months after personal notice of said taking, or if he or she has no

personal notice, may within one year from the time the sum of money estimated to be just compensation is deposited in the superior court to the use of the persons entitled thereto, apply by petition to the superior court for the county in which said real property is situated, setting forth the taking of his or her land or his or her estate or interest herein and paying for an assessment or damages by the court or by a jury. Upon the filing of such petition the court shall cause twenty (20) days' notice of the pendency thereof to be given to the district by serving the moderator or treasurer of the district with a certified copy thereof.

(k) After the service of such notice the court may proceed to the trial thereof. Such trial shall be conducted as other civil actions at law are tried. Such trial shall determine all questions of fact relating to the value of such real property, and any estate or interest therein, and the amount thereof and the appurtenant damage to any remainder and the amount thereof, and such trial and decision or verdict of the court or jury shall be subject to all rights to except to rulings, to move for new trial, and to appeal, as are provided by law. Upon the entry of judgment in such proceedings execution shall be issued against the money so deposited in court and in default thereof against any other property of the district.

(l) In case two (2) or more petitioners make claim to the same real property, or to any estate or interest therein, or to different estate or interests in the same real property, said court shall, upon motion, consolidate their several petitions for trial at the same time, and may frame all necessary issues for the trial thereof.

(m) If any real property or any estate or interest therein, in which any infant or other person not capable in law to act in his or her own behalf is interested, is taken under the provisions of this act, said superior court, upon the filing therein of a petition by or behalf of such infant or person or by the district may appoint a guardian ad litem for such infant or other person. Guardians may, with the advice and consent of said superior court, and upon such terms as said superior court may prescribe, release to the district all claims for damages for the land of such

infant or other person or for any such estate or interest therein. Any lawfully appointed, qualified and acting guardian or other fiduciary of the estate of any such infant or other person, with the approval of the court of probate within this state having jurisdiction to authorize the sale of lands and properties within this state of such infant or other person, may before the filing of any such petition, agree with such infant or other person for any taking of his or her real property or of his or her interest or estate therein, and may upon receiving such amount, release to the district all claims for damages for such infant or other person for such taking.

(n) In case any owner of or any person having an estate or interest in such real property shall fail to file his or her petition as above provided, the superior court for the county in which the real property is situated, in its discretion, may permit the filing of such petition within one year subsequent to the year following the time of the deposit in the superior court of the sum of money estimated to be just compensation for the property taken; provided, such person shall have had no actual knowledge of the taking of such land in season to file such petition; and provided, no other person or persons claiming to own such real property or estate or interest therein shall have been paid the value thereof; and provided, no judgment has been rendered against the district for the payment of such value to any other person or persons claiming to own such real estate.

(o) If any real property or any estate or interest therein is unclaimed or held by a person or persons whose whereabouts are unknown, after making inquiry satisfactory to the superior court for the county in which the real property lies, the board, after the expiration of two (2) years from the first publication of the copy of the vote, statement and description, may petition such court that the value of the estate or interest of such unknown person or persons be determined. After such notice by publication to such person or persons as the court in its discretion may order, and after hearing on said petition, the court shall fix the value of said estate or interest and shall order said sum to be deposited in the registry of such court in a special account to accumulate for

the benefit of the person or persons, if any, entitled thereto. The receipt of the clerk of the superior court therefor shall constitute a discharge of the district from all liability in connection with such taking. When the person entitled to the money deposited shall have satisfied the superior court of his or her right to receive the same, the court shall cause it to be paid over to him or her, with all accumulations thereon.

(p) The superior court shall have power to make such orders with respect to encumbrances, liens, taxes and other charges on the land, if any, as shall be just and equitable.

(q) Whenever in the opinion of the board a substantial saving in the cost of acquiring title can be affected by conveying other real property, title to which is in the district, to the person or persons from whom the estate or interest in real property is being purchased or taken, or by the construction or improvement by the district of any work or facility upon the remaining real property of the person or persons from whom the estate or interest in real property is being purchased or taken, the board shall be and hereby is authorized to convey such other real property to the person or persons from whom the estate or interest in real property is being purchased or taken and to construct or improve any work or facility upon the remaining land of such person or persons.

(r) At any time during the pendency of any proceedings for the assessment of damages for property or interests therein taken or to be taken by eminent domain by the district, the board or any owner may apply to the court for an order directing an owner or the district, as the case may be, to show cause why further proceedings should not be expedited, and the court may upon such application make an order requiring that the hearings proceed and that any other steps be taken with all possible expedition.

**SECTION 14. Construction and maintenance of pipes, aqueducts, and other structures -- Tax exemption.** -- The board may within and without the district, and without the consent of any municipality, drive, lay, make, construct, and maintain pipes, aqueducts, conduits,

machinery, or other equipment or appliances, or authorize the construction and maintenance to be done, and regulate their use; and may carry out any works to be constructed, or authorized to be constructed by it, over or under any highway, turnpike, railroad, or street, in any manner so as not to permanently obstruct or impede travel; and may enter upon and dig up any highway, turnpike, road, or street for the purpose of laying down pipes or building aqueducts, upon or beneath the surface or for the purpose of repairing the pipes or aqueducts, and, if in the course of the making, constructing, or repairing, any pipe, conduit, or other structure lawfully located in a highway, turnpike, road, or street is damaged, or if the location of the pipe, conduit, or other structure is changed, the district shall reimburse the owner of the pipe, conduit, or other structure for the damage, or for the expense of the change of location. The district shall restore the highway, turnpike, road, or street so dug up, to as good a condition as before the work was done.

**SECTION 15. Taxes -- Assessments -- Penalty for nonpayment.** -- The board of the district, at any of the meetings of the district, have power to order taxes, and provide for assessing and collecting the taxes on the ratable real estate and tangible personal property of the district, as it deems necessary for the purpose of obtaining and maintaining a supply of water and distributing the water for the extinguishing of fire; for power, domestic, and other uses; for establishing and maintaining and constructing water works and driving wells, and operating the water works and wells; for acquiring and leasing real estate and other property and property rights necessary for a water supply, and laying and maintaining pipes, conduits, aqueducts, and other structures connected with them, and purchasing implements, machinery, and other appliances; for the payment of the current expenses of the district; for the payment of officers, employees, and other agents as the district and the board are authorized to elect, appoint, or otherwise choose under this act; and for the payment of any indebtedness that has been or may be incurred by the district; and the taxes so ordered shall be assessed by the assessor of the district on the taxable inhabitants and the property in the district according to the last valuation made by the assessors of

the town or towns wherein the property to be assessed lies, next previous to the assessment, adding, however, any taxable property which may have been omitted by the town assessors or afterwards acquired, and in all cases where the town assessors have included property within and without the district in one valuation, the assessor of the district shall make an equitable valuation of that portion of the property lying within the district; and in the assessing and collecting of the taxes, proceedings shall be had by the officers of the district, as near as may be, as are required to be held by the corresponding officers of towns in assessing and collecting town taxes; and the collector of taxes for the district shall, for the purpose of collecting taxes assessed by the district, have the same powers and authority as are now by law conferred on collectors of taxes for towns in this state. The board may provide for a deduction, from the tax assessed against any person if paid by an appointed time, or for a penalty, by way of percentage on the tax if not paid at the appointed time, not exceeding twelve percent (12%) per annum, as it deems necessary to insure punctual payment.

**SECTION 16. Issuance of bonds and notes.** -- For the purpose of raising money to carry out the provisions of this chapter, the board is authorized and empowered on behalf of the district, to issue bonds and notes in anticipation of bonds. Such bonds and notes may be issued hereunder as general obligations of the district or as special obligations payable solely from particular funds. If issued as general obligations of the district, the district is authorized to issue bonds or notes to such an amount as is authorized for cities and towns pursuant to section 45-12-2 of the general laws. Without limiting the generality of the foregoing, such bonds and notes may be issued to pay or refund notes issued in anticipation of the issuance of bonds, to pay the cost of any acquisition, extension, enlargement, or improvement of the water works system, to pay expenses of issuance of the bonds and the notes, to provide such reserves for debt service repairs and replacements or other costs or current expenses as may be required by a trust agreement or resolution securing bonds or notes of the district, or for any combination of the foregoing

purposes. The bonds of each issue shall be dated, bear interest at a rate or rates, and mature at a time or times not exceeding forty (40) years from their dates of issue, as may be determined by the officers of the district, and may be made redeemable before maturity at a price or prices and under terms and conditions that may be fixed by the officers of the district prior to the issue of the bonds. The officers of the district shall determine the form of the bonds and notes, including interest coupons, if any, to be attached to them, and the manner of their execution, and shall fix the denomination or denominations of the bonds and notes and the place or places of payment of the principal and interest, which may be at any bank or trust company within or without the state. The bonds shall bear the seal of the district or a facsimile of the seal. In case any officer whose signature or a facsimile of whose signature shall appear on any notes, bonds or coupons shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until after such delivery. The board may also provide for authentication of bonds or notes by a trustee or fiscal agent. Bonds may be issued in bearer or in registered form, or both, and, if notes, may be made payable to bearer or to order, as the board may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds or bonds registered as to both principal and interest and for the interchange of bonds registered as to both principal and interest and for the interchange of registered and coupon bonds. The issue of notes shall be governed by the provisions of this chapter relating to the issue of bonds in anticipation of bonds as the same may be applicable. Notes issued in anticipation of the issuance of bonds including any renewals, shall mature no later than five (5) years from the date of the original issue of such notes. The board may by resolution delegate to any member of the board or any combination of them the power to determine any of the matters set forth in this section including the power to award such bonds or notes to a purchaser or purchasers at public sale. The board may sell its bonds and notes in such

manner, either at public or private sale, for such price, at such rate or rates of interest, or at such discount in lieu of interest, as it may determine will best effect the purposes of this chapter.

The district may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The board may also provide for the replacement of any bonds which shall have become mutilated or shall have been destroyed or lost.

**SECTION 17. Issuance of notes in anticipation of revenue or receipt of grants or other aid.** – The board may also provide by resolution for the issuance from time to time of temporary notes in anticipation of the revenues to be collected or received by the district in any year, or in anticipation of the receipt of federal, state or local grants or other aid. Notes issued in anticipation of revenues, including any renewals thereof, shall mature no later than one year from their respective dates, and that notes issued in anticipation of federal, state or local grants or other aid including any renewals thereof, shall mature no later than three (3) years from their respective dates. The issue of such notes shall be governed by the provisions of this chapter relating to the issue of bonds or other notes as the same may be applicable.

**SECTION 18. Payment of bonds and notes.** – The principal of, premium, if any, and interest on all bonds and notes issued under the provisions of this chapter, unless otherwise provided herein, shall be general obligations of the district or shall be payable solely from the funds provided therefor from revenues as herein provided.

In the discretion of the board, any bonds and notes issued hereunder may be secured by a resolution of the board or by a trust agreement between the board, on behalf of the district and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, and such trust agreement shall be in such form and executed in such manner as may be determined by the board. Such trust agreement or resolution may pledge or assign, in whole or in part, the revenues and other moneys held or to be received by the district,

including the revenues from any facilities already existing when the pledge or assignment is made, and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the board, and the proceeds thereof. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights, security and remedies of the bondholders or noteholders as may, in the discretion of the district, be reasonable and proper and not in violation of law, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include the acceleration of maturities and covenants setting forth the duties of, and limitations on, the district in relation to the acquisition, construction, improvement, enlargement, alteration, equipping, furnishing, maintenance, use, operation, repair, insurance and disposition of the water works system, or other property of the district, the custody, safeguarding, investment and application of moneys, the issue of additional or refunding bonds and notes, the fixing, revision and collection of fees, rates, rents, assessments or other charges, the use of any surplus bond and note proceeds, the establishment of reserves, and the making and amending of contracts.

In the discretion of the board, any bonds or notes issued under authority of this chapter, may be issued by the district in the form of lines of credit, loans, or other banking arrangements and under such terms and conditions, not inconsistent with this act, and under such agreements with the purchasers or makers thereof, as the board may determine to be in the best interest of the district. In addition to other security provided herein or otherwise by law, bonds or notes issued by the district under any provision of this chapter may be secured, in whole or in part, by insurance or letters or lines of credit or other credit facilities, and the board may pledge or assign any of the district's revenues as security for the reimbursement by the district to the issuers of such insurance, letters or lines of credit or other credit facilities of any payments made under the insurance or letters or lines of credit or other credit facilities.

It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds, notes, revenues or other moneys under any such trust agreement or resolution and to furnish such indemnification or to pledge such securities and issue such letters of credit as may be required by the board. Any pledge of revenues or other property made by the board on behalf of the district under this chapter shall be valid and binding and shall be deemed continuously perfected from the time when the pledge is made; the revenues, moneys, rights and proceeds so pledged and then held or thereafter acquired or received by the district shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the district, irrespective of whether such parties have notice thereof. Neither the resolution, any trust agreement nor any other agreement by which a pledge is created need be filed or recorded except in the records of the district.

Any holder of a bond or note issued by the district under the provisions of this chapter or of any of the coupons appertaining thereto and any trustee under a trust agreement or resolution securing the same, except to the extent the rights herein given may be restricted by such trust agreement or resolution securing the same, may bring suit upon the bonds or notes or coupons and may, either at law or in equity, by suit, action, mandamus, or other proceedings for legal or equitable relief, including proceedings for the appointment of a receiver to take possession and control of the business and properties of the district, to operate and maintain the same, to make any necessary repairs, renewals and replacements in respect thereof and to fix, revise and collect fees and charges, protect and enforce any and all rights under such trust agreement, resolution or other agreement, and may enforce and compel the performance of all duties required by this act or by such trust agreement or resolution to be performed by the district or by any officer thereof.

**SECTION 19. Refunding bonds and notes.** – The district may issue refunding bonds

and notes for the purpose of paying any of its bonds or notes at maturity or upon acceleration or redemption. Refunding bonds and notes may be issued at such time prior to the maturity or redemption of the refunded bonds or notes as the board deems to be in the public interest.

Refunding bonds and notes may be issued in sufficient amounts to pay or provide the principal of the bonds or notes being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds or notes, the expenses of issue of refunding bonds or notes, the expenses of redeeming bonds or notes being refunded and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds or notes as may be required by a trust agreement or resolution securing bonds or notes. The issue of refunding bonds or notes, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the district in respect of the same shall be governed by the provisions of this chapter relating to the issue of bonds or notes other than refunding bonds or notes insofar as the same may be applicable.

**SECTION 20. Defeasance of bonds or notes.** – The district may at any time deposit with a trustee, a sum sufficient, with amounts then on deposit, including the debt service reserve fund, to purchase direct or guaranteed obligations of the United States of America which are adequate to pay the entire principal amount of the bonds or notes of a series, together with the interest to maturity, or to an applicable redemption date specified by the board to the trustee and any applicable redemption premium, or the district may deposit direct or guaranteed obligations of the United States of America in lieu of money for their purchase. The obligations are deemed adequate if the principal and interest payable on them are sufficient to pay the previously mentioned sums when due. Upon any deposit of money and a request by the board, the trustee shall purchase direct or guaranteed obligations of the United States of America. When adequate direct or guaranteed obligations of the United States of America are held by the trustee pursuant to this section, the bond resolution or indenture shall cease to be in effect with respect to such

series of bonds or notes. The obligations and their proceeds shall be held in trust for the benefit of the bondholders or noteholders, and the trustee shall, on behalf of the district, call bonds or notes for redemption on the applicable redemption date. Any compensation or expenses of the trustee in carrying out this section shall be paid by the district, and any surplus funds held by the trustee under this section shall be remitted by the trustee to the district.

**SECTION 21. Credit of state and municipality not pledged.** – Bonds, notes and other evidences of indebtedness issued or entered into under the provisions of this chapter shall not be deemed to be a debt or a pledge of the faith and credit of the state or of any city or town, but shall be payable solely from the revenues of the district. All bonds, notes and other evidences of indebtedness, shall contain on the face thereof a statement to the effect that neither the state nor any city or town shall be obligated to pay the same and that neither the faith and credit nor the taxing power of the state or of any city or town is pledged to the payment of the principal of or interest on such bonds or notes. Each bond or note shall also recite whether it is a general obligation of the district or a special obligation thereof payable solely from particular funds pledged to its payment.

**SECTION 22. Moneys received deemed to be trust funds.** – All moneys received pursuant to the provisions of this chapter, whether as proceeds from the issue of bonds or notes or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this chapter.

**SECTION 23. Bonds eligible for investment.** – Bonds and notes issued under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, co-operative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may property and legally invest funds, including capital in their control or belonging to them. Such bonds and notes are

hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

**SECTION 24. Bonds and notes issued without consent of other entities.** – Bonds and notes may be issued under this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the state or any municipality, including the public utilities commission and the division of public utilities pursuant to chapters 1-5 of title 39 of the general laws, and without any other proceedings or the happening of any other conditions or things, then those proceedings, conditions or things which are specifically required therefor by this chapter, and the validity of and security for any bonds and notes issued by the district shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions or things.

**SECTION 25. Tax exemption.** – The district and all its revenues, income and real and personal property shall be exempt from taxation and from betterments and special assessments and the district shall not be required to pay any tax, excise or assessment to or for the state or any of its political subdivisions; provided, however, that the board is authorized to enter into agreements to make annual payments in lieu of taxes with respect to property of the district located outside the district. Bonds and notes issued by the district and their transfer and the income therefrom, including any profit made on the sale or exchange thereof, shall at all times be exempt from taxation by the state and all political subdivisions of the state. The district shall not be required to pay any transfer tax of any kind on account of instruments recorded by it or on its behalf.

**SECTION 26. Malicious damage – Civil and criminal penalties.** – If any person maliciously or wantonly destroys or damages any hydrant, pipe, aqueduct, conduit, machinery,

equipment, appliance, or other property of the district used for the purposes provided for in this chapter, that person, whether principal or accessory, forfeits to the district, to be recovered by an action of trespass on the case, treble the amount of damages which appear to have been sustained, and shall also be liable to indictment, and, upon conviction, shall be fined not more than one hundred dollars (\$100) or imprisoned not more than one year, or shall suffer both fine and imprisonment.

**SECTION 27. Records, reports, inspection.** – The district shall at all times keep full and accurate accounts of its receipts, expenditures, disbursements, assets and liabilities, which shall be open to inspection by any officer or duly appointed agent of the state.

**SECTION 28. Termination or dissolution of district.** – Upon termination or dissolution of the district, the title to all funds and other properties owned by it which remain after payment of all bonds and notes and other obligations of the district shall vest in the town of Portsmouth.

**SECTION 29. Inconsistent laws or ordinances inoperative.** – Except as otherwise provided herein, any provisions of any special law and part of any special law and all ordinances and parts of ordinances pertaining to the water works system which are inconsistent with the provisions of this chapter shall be inoperative and cease to be effective.

**SECTION 30. Provisions of act controlling.** – The provisions of this chapter shall be deemed to provide an exclusive, additional, alternative and complete method for the doing of the things authorized hereby and shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon the district by law; provided, however, that insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, administrative order or regulation, or law of any municipality, the provisions of this chapter shall be controlling.

**SECTION 31. Pledge not to alter rights of district.** – The state does hereby pledge to

and agree with the holders of the bonds, notes, and other evidences of indebtedness of the district that the state will not limit or alter rights hereby vested in the district until the bonds, notes, or other evidences of indebtedness, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any actions or proceedings by or on behalf of the bondholders and noteholders, are fully met and discharged.

**SECTION 32. Construction of act.** – This chapter, being necessary for the welfare of the district and its inhabitants, shall be liberally construed to effect the purposes hereof.

**SECTION 33. Severability.** – This chapter shall be construed in all respects to meet all constitutional requirements. In carrying out the purposes and provisions of this chapter, all steps shall be taken which are necessary to meet constitutional or other legal requirements whether or not these steps are expressly required by statute. If, after the application of the provisions of this section, any of the provisions of this chapter, or its application to any circumstances, shall be held unconstitutional by any court of competent jurisdiction, that decision shall not affect or impair the validity of the application of those provisions to other circumstances or the validity of any of the other provisions of this chapter.

SECTION 34. This act shall take effect upon passage.

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