

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1752

H.P. 1247

House of Representatives, May 16, 2019

### **An Act To Amend the Charter of the Boothbay Harbor Sewer District**

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative STOVER of Boothbay.

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

2 **Sec. 1. P&SL 1961, c. 161**, as enacted by P&SL 1961, c. 161; and amended by  
3 P&SL 1971, c. 54; P&SL 1991, c. 81, §1; P&SL 1993, c. 59, §1; P&SL 1997, c. 14, §1;  
4 and P&SL 2005, c. 34, §§1 and 2, is further amended to read:

5 **Sec. 1. Territorial limits; incorporation.** The territory and the inhabitants of  
6 the Town of Boothbay Harbor in the County of Lincoln and the territory and the  
7 inhabitants of the Town of Boothbay in the County of Lincoln constitute a public  
8 sewerage district and a body politic and corporate under the name of "Boothbay Harbor  
9 Sewer District." The purpose of this district, subject to the provisions of section 10, is to  
10 take over, control, operate and manage the sewers now owned by the Town of Boothbay  
11 Harbor with all appurtenances thereto; to extend, increase, enlarge and improve these  
12 sewers; to extend the present system or systems so as to furnish sewerage facilities to  
13 parts of the district not now served with those facilities; to provide for removal and  
14 treatment of sewage when, as and if that treatment becomes necessary; and generally to  
15 construct, maintain, operate and provide a system of sewerage, sewage disposal and  
16 sewage treatment for public purposes and for the health, welfare, comfort and  
17 convenience of the inhabitants of the district.

18 **Sec. 2. Authority to locate, construct and maintain; coordination with**  
19 **municipal planning.** Within said territory and the territory of any adjoining  
20 municipality, said Boothbay Harbor Sewer District is authorized to lay pipes, drains,  
21 sewers and conduits, and to take up, repair and maintain the same or to contract for the  
22 same to be done, in, along and through any public or private ways and public grounds,  
23 and in, along and through lands of any person or corporation as hereafter provided, to and  
24 into tidal waters, rivers, watercourses or treatment works or to or into any drain or sewer  
25 now or hereafter built which empties into tidal waters, rivers, watercourses or treatment  
26 works, the discharge therefrom to be at such points consistent with the requirements of  
27 public health as shall be found convenient and reasonable for said district and the flow of  
28 existing watercourses; to locate, construct and maintain treatment works, pumping  
29 stations, basins, reservoirs, flush tanks and such other appliances for collecting, holding,  
30 purifying, distributing and disposing of sewage matter, commercial and industrial waste  
31 and, subject to the provisions of section 10, of ~~surface~~ and waste water, all as may be  
32 necessary or proper; and in general, do any or all other things necessary or incidental to  
33 accomplish the purposes of this act.

34 The following provisions facilitate coordination of municipal planning and sewer  
35 extension planning.

36 1. The trustees of the district shall cooperate with municipal officials in the  
37 development of municipal growth management and other land use plans and ordinances.

38 2. Municipal officers shall cooperate with the trustees of the district during the  
39 consideration of development applications that may affect the operations of the district.

40 **Sec. 3. Authority to acquire and hold property; right of eminent domain**  
41 **conferred.** ~~Upon acceptance of this act as hereafter provided, and subject to the~~

1 provisions of section 10, title to all public sewers in the Town of Boothbay Harbor shall  
2 forthwith pass to and be vested in said district, and said district thereafter shall maintain  
3 and operate the same. The said district is authorized and empowered to acquire and hold  
4 real and personal property necessary or convenient for the purposes of this act, and is  
5 expressly granted the right of eminent domain, and for the purposes of this act is  
6 authorized to take and hold, either by exercising its right of eminent domain, or by  
7 purchase, lease or otherwise, as for public uses any land, real estate, easements or  
8 interests therein, and any sewers, drains or conduits and any sewer or drainage rights  
9 necessary for constructing, establishing, maintaining and operating sewers, drains,  
10 reservoirs, flush tanks, manholes, catch basins, treatment works, pumping stations and  
11 other appliances and property used or useful for collecting, holding, purifying,  
12 distributing and disposing of sewage matter and commercial and industrial waste and  
13 surface and waste waters. Nothing herein contained should be construed as authorizing  
14 said district to take by right of eminent domain any of the property or facilities of any  
15 other public ~~service corporation~~ utility or district used or required for future use by the  
16 owner thereof in the performance of a public duty, unless expressly authorized by  
17 subsequent act of the Legislature. The authority and procedures for the exercise of  
18 eminent domain by the district must conform to the Maine Revised Statutes, Title 38,  
19 sections 1152, 1152-A, 1153 and 1154, as amended.

20 **Sec. 4. Notice; procedure under eminent domain.** The district shall provide  
21 notice to the owner and to any tenants and shall hold a public hearing on the advisability  
22 of the proposed exercise of the right of eminent domain as required by the Maine Revised  
23 Statutes, Title 38, section 1152-A, as amended. In exercising from time to time the right  
24 of eminent domain conferred upon it, said district, by its board of trustees, shall file in the  
25 office of the county commissioners of Lincoln County and cause to be recorded in the  
26 registry of deeds in said county plans of the location of all lands, real estate, easements or  
27 interest therein, and sewers, drains or conduits and any sewer or drainage rights to be  
28 taken, with an appropriate description and the names of the owners thereof, if known.  
29 When for any reason the district fails to acquire property which it is authorized to take  
30 and which is described in such location, or if the location so recorded is defective and  
31 uncertain, it may, at any time, correct and perfect such location and file a new description  
32 thereof; and in such case the district is liable in damages only for property for which the  
33 owner had not previously been paid, to be assessed as of the time of the original taking,  
34 and the district shall not be liable for any acts which would have been justified if the  
35 original taking had been lawful. No entry shall be made on any private lands, except to  
36 make surveys, until the expiration of 10 days from such filing, whereupon possession  
37 may be had of all said lands, real estate, easements or interests therein and other property  
38 and rights as aforesaid to be taken, but title thereto shall not vest in said district until  
39 payment therefor.

40 **Sec. 5. Assessment of damages by county commissioners; procedure on**  
41 **appeals.** If any person sustaining damages by any taking as aforesaid shall not agree  
42 with said district upon the sum to be paid therefor, either party, upon petition to the  
43 county commissioners of Lincoln County, may have said damages assessed by them; the  
44 procedure and all subsequent proceedings and right of appeal thereon shall be had under  
45 the same restrictions, conditions and limitations as are or may be by law prescribed in the

1 case of damages by the laying out of highways: by the county commissioners, except  
2 only:

3 1. Title to the lands, real estate, easements or interests therein and other property and  
4 rights to be taken do not vest in the district until payment to the owner of the amount  
5 awarded therefor or, if such payment is refused upon tender, until tender thereof to the  
6 Treasurer of Lincoln County, for escrow at interest for the benefit of the owner pending  
7 final determination of the amount to which the owner is entitled; and

8 2. In the event of an appeal of the amount awarded as damages for such taking:

9 A. The petition for assessment of damages must be filed with the clerk of the Lincoln  
10 County commissioners, by either party, within 30 days following the filing and  
11 recording of plans of the location of all the property, facilities and rights taken; and

12 B. If the return of the Lincoln County commissioners has not been made within 120  
13 days following the filing of the petition for assessment, the county commissioners  
14 shall be conclusively presumed to have confirmed the award of damages by the  
15 district and either party may, within 30 days following that 120-day period, appeal  
16 the amount of the damages awarded by the district to the Superior Court.

17 **Sec. 6. Limitations on crossing a public utility.** In case of crossing of any  
18 public utility, unless consent is given by the company owning or operating such public  
19 utility as to place, manner and conditions of the crossing within 30 days after such  
20 consent is requested by said district, the Public Utilities Commission shall determine the  
21 place, manner and conditions of such crossing; and all work on the property of such  
22 public utility shall be done under the supervision and to the satisfaction of such public  
23 utility, but at the expense of the district. If any sewer line of the district as provided  
24 above crosses the property or line of any railroad corporation, the procedure is the same  
25 as stated in the previous sentence, except that the Department of Transportation must be  
26 substituted for the Public Utilities Commission. Nothing herein contained shall be  
27 construed as authorizing said district to take by right of eminent domain any of the  
28 property or facilities of any other public service corporation or district used or acquired  
29 for future use by the owner thereof in the performance of a public duty unless expressly  
30 authorized herein or by subsequent act of the Legislature.

31 **Sec. 7. Rights of abutters or others to enter.** A person not otherwise required  
32 to connect a private sewer into a sewer of the district may connect to the district's sewer if  
33 that person obtains a permit from the district and pays any charges required by this  
34 section. Any such person may enter ~~his~~ the private sewer into any sewer of the district  
35 while the same is under construction and before completion of said sewer at the point of  
36 entry, and before an entrance charge is established, on obtaining a permit in writing from  
37 the ~~trustees~~ superintendent of the district; but after the sewer is completed to the point of  
38 entry and an entrance charge established on that location, no such person shall enter ~~his~~  
39 the private sewer into such sewer until ~~he~~ the person has paid the entrance charge and  
40 obtained a permit in writing from the ~~trustees~~ superintendent as aforesaid. All such  
41 permits shall be recorded by the clerk of the district in its records before the same are  
42 issued.

1           **Sec. 8. Contracts with municipalities authorized.** The said district is  
2 authorized to contract with persons, corporations, districts ~~and other~~, utilities,  
3 municipalities, both the State or other governmental entity whether located inside and or  
4 outside the boundaries of the district, including the Town of Boothbay Harbor and the  
5 Town of Boothbay, to provide for disposal of sewage and commercial and industrial  
6 waste through the district's system and through the system of any such person,  
7 corporation, district ~~or other~~, utility or municipality or the State or other governmental  
8 entity; and said Town of Boothbay Harbor ~~is and~~ Town of Boothbay are authorized to  
9 contract, individually or together, with said district for the collection, distribution and  
10 disposal of sewage, ~~surface water~~ and other waste matter, and for said purposes; said  
11 ~~town~~ towns may raise money as for other municipal charges.

12           **Sec. 9. Excavation or repair work, closing of ways.** Whenever said district  
13 shall enter, dig up or excavate any public way or other land for the purpose of laying its  
14 sewers, drains or pipes, constructing manholes or catch basins or their appurtenances, or  
15 maintaining the same, or for any other purpose, the work shall be expeditiously done with  
16 the least possible interruption, and on completion of the work, the district shall restore  
17 said way or land to the condition it was in prior to such work, or to a condition equally as  
18 good.

19           Whenever the character of the work is such as to endanger travel on any public way,  
20 the municipal officers of the Town of Boothbay Harbor, the Town of Boothbay or the  
21 Department of Transportation, as appropriate, may order a temporary closing of such  
22 way, and of any intersecting way, upon request of said district, and the way shall remain  
23 closed to public travel until said municipal officers or officials of the department deem it  
24 is restored to a condition safe for traffic.

25           **Sec. 10. Surface water facilities; joint facilities; separation of same.** Any  
26 other provision of this act to the contrary notwithstanding, the said district shall be under  
27 no duty or obligation to construct, maintain, improve, extend or provide drains, pipes,  
28 catch basins or any other facilities for storm or surface water drainage, and all drains,  
29 pipes, catch basins or other facilities owned by ~~said the~~ the Town of Boothbay Harbor ~~or the~~  
30 Town of Boothbay and used exclusively for storm or surface water drainage shall remain  
31 the property of ~~said the~~ the town, and no such drain, pipe, catch basin or other facility shall  
32 be transferred to the district to be thereafter maintained and operated by the district  
33 without the joint approval of the ~~selectmen~~ municipal officers of ~~said the~~ the Town of  
34 Boothbay Harbor ~~or the~~ Town of Boothbay and the trustees of said district. Any sewer or  
35 drain owned by said Town of Boothbay Harbor at the time of acceptance of this act and  
36 used for both sanitary sewage disposal and storm and surface water drainage shall pass to  
37 and be vested in said district, and said district shall be entitled to charge said town for the  
38 use of the same for storm or surface water drainage at such rates as the trustees may  
39 determine. No additional catch basins or other facilities draining into any such combined  
40 sewer or drain shall be constructed without the approval of said trustees. If and when the  
41 district shall construct and provide a sewer or drain which permits separation of sanitary  
42 sewage previously disposed of through any such combined sewer or drain, the said  
43 district, by vote of the trustees, shall transfer and convey back to said Town of Boothbay  
44 Harbor the facilities for storm and surface water drainage.

1            **Sec. 10-A. Lease of property.** The district may enter into a lease and leaseback  
2 transaction with respect to some or all of its real or personal property, other than land, and  
3 may take all other necessary action, including, but not limited to, the granting of  
4 mortgages and liens, to effectuate the transaction. For purposes of this section, "lease"  
5 includes a lease of any length, including leases that may be defined as sales for income  
6 tax purposes.

7            **Sec. 11. Free access to premises.** The officers or agents of the district shall have  
8 free access to all premises served by its sewers, at all reasonable hours, for inspection of  
9 plumbing and sewage fixtures, to ascertain the quality and quantity of sewage discharged  
10 and the manner of discharge, and to enforce the provisions of this act and the rules and  
11 regulations prescribed by the trustees hereunder.

12            **Sec. 12. Buildings to connect with sewer if available.** ~~Every~~ Except as  
13 provided in this section, upon receiving a request from the district to connect a building in  
14 the district intended for industrial, business or recreational use or for human habitation or  
15 occupancy which or that has facilities for discharge or disposal of waste water or  
16 commercial or industrial waste and that is located within 400 200 feet of a public sewer  
17 on property abutting on a street or way in which there is a public sewer, or any such  
18 building within 400 200 feet of a public sewer, shall have a house drainage system which  
19 shall be caused to be connected with the sewer by the owner or person against whom  
20 taxes on the premises are assessed in the most direct manner possible the owner of that  
21 building shall arrange to have the building connected through a sanitary sewer or  
22 drainage system to the district's accessible sewer or drain within 90 days after receiving  
23 request therefor from the district, or within such further time as the trustees of the district  
24 may grant, and, if feasible, with a separate connection for each house or building;  
25 provided, however, that existing buildings which are already served by a satisfactory  
26 private sewer system which meets and continues to meet, in the judgment of the trustees,  
27 the applicable requirements of the State Plumbing Code state plumbing code adopted  
28 pursuant to the Maine Revised Statutes, Title 32, section 3403-B and all applicable laws  
29 and ordinances shall not be required to connect with the public sewer, as determined by  
30 the municipal plumbing inspector or alternate, or, in the event that both are trustees or  
31 employees of the sewer district, the Department of Health and Human Services, Division  
32 of Health Engineering. A person who receives a notice in accordance with this section to  
33 connect to a building and fails to connect to the building in accordance with this section is  
34 subject to a civil penalty not to exceed \$2,500, payable to the district. This penalty is  
35 recoverable in a civil action.

36            **Sec. 13. Sanitary provisions and penalty for violations.** ~~Any~~ A person who  
37 shall may not place, discharge or leave any offensive or injurious matter or material on or  
38 in the conduits, catch basins or receptacles of said district contrary to its regulations; or  
39 ~~shall willfully~~ knowingly injure any conduit, pipe, reservoir, flush tank, catch basin,  
40 manhole, outlet, engine, pump or other property held, owned or used by said district for  
41 the purposes of this act ~~shall be liable to pay twice the amount of the damages to said~~  
42 ~~district, to be recovered in any proper action; and such person, on conviction of any of~~  
43 ~~said acts or willful injury aforesaid and any person who violates the provisions of sections~~  
44 ~~11 or 12, shall be punished by a fine not exceeding \$200 or by imprisonment not~~  
45 ~~exceeding one year, or by both. A person who violates this section is liable to pay twice~~

1 the amount of the damages to the district to be recovered in any proper action and is  
2 subject to a civil penalty not to exceed \$2,500 for each violation, payable to the district.  
3 The civil penalty is recoverable in a civil action. Further, the district may seek in a civil  
4 action injunctive relief from an industrial user that violates a pretreatment standard or  
5 requirement administered by the district. The district may seek a civil penalty of up to  
6 \$1,000 per day for each violation by an industrial user of a pretreatment standard or  
7 requirement.

8 **Sec. 14. Trustees and officer; tenure of office; election to office;**  
9 **organization; vacancies; compensation.** All of the affairs of said district shall be  
10 managed by a board of 3 trustees, residents therein, who shall be chosen as hereinafter  
11 provided.

12 ~~As soon as may be after acceptance of this act, the municipal officers of the Town of~~  
13 ~~Boothbay Harbor shall appoint 3 trustees of said district to hold office as follows: one to~~  
14 ~~serve until the first annual meeting of said town following the acceptance of this act; one~~  
15 ~~to serve until the 2nd annual meeting of said town following such acceptance; and one to~~  
16 ~~serve until the 3rd annual meeting of said town following such acceptance. At each~~  
17 ~~annual meeting of said town, beginning with the first annual meeting after acceptance of~~  
18 ~~this act, one trustee shall be elected by ballot as hereafter provided to serve until the~~  
19 ~~annual meeting of said town occurring 3 years thereafter and until his successor is elected~~  
20 ~~and qualified. When any trustee ceases to be a resident of said district, he vacates his~~  
21 ~~office as trustee. All trustees, if residents of said district, shall be eligible for reelection~~  
22 ~~or reappointment.~~

23 ~~The nomination of all candidates for trustee to be elected as provided by this act shall~~  
24 ~~be by nomination papers signed in the aggregate for each candidate by not less than 25~~  
25 ~~nor more than 50 qualified voters resident in said district. Each voter signing a~~  
26 ~~nomination paper shall make his signature in person, and each voter may subscribe to as~~  
27 ~~many nominations as there are trustees to be elected in said district and no more. Such~~  
28 ~~nomination papers, before being filed, shall be submitted to the town clerk of the Town of~~  
29 ~~Boothbay Harbor, who shall forthwith certify thereon that number of the signatures which~~  
30 ~~are names of qualified voters resident in said district. One of the signers to each such~~  
31 ~~separate paper shall swear to the truth thereon, and the certificate of such oath shall be~~  
32 ~~annexed to or made upon the nomination papers. Such nomination papers shall be filed~~  
33 ~~with the town clerk of the Town of Boothbay Harbor not less than 14 days, exclusive of~~  
34 ~~Sundays, previous to the day of such election. With such nomination papers shall also be~~  
35 ~~filed the consent in writing of the person or persons nominated. All nomination papers,~~  
36 ~~being filed and being in apparent conformity with the foregoing provisions, shall be~~  
37 ~~deemed to be valid. If not in apparent conformity, they may be seasonably amended~~  
38 ~~under oath. In case any candidate who has been duly nominated under the provisions~~  
39 ~~hereof shall die before the day of election, or shall withdraw in writing, or shall remove~~  
40 ~~his place of residence from said district, the vacancy may be supplied in the manner~~  
41 ~~herein provided for such nominations, except that the time limit for filing such~~  
42 ~~nomination papers shall not apply. The name so supplied for the vacancy shall, if the~~  
43 ~~ballots have not been printed, be placed on the ballots instead of the original nomination;~~  
44 ~~or if the ballots have been printed, new ballots containing the new nomination shall, if~~  
45 ~~practical, be furnished, or slips containing the new nomination shall be printed under the~~



1 direction of the town clerk which shall be pasted upon said ballots and over the name of  
2 the candidate whose nomination has been vacated as aforesaid, and thereafter shall  
3 become part of said ballots as if originally printed thereon. The ballot in said district  
4 shall contain the names of all candidates so nominated in such district alphabetically  
5 arranged, printed in one column under the heading "For Trustee of the Boothbay Harbor  
6 Sewer District." Above such heading shall be printed "Vote for ????" (the number to be  
7 elected to be inserted therein). Make a cross or a check mark to the right of the name(s)  
8 voted for." As many blank spaces shall be left after the names of the candidates as there  
9 are trustees to be elected in which the voter may, by writing, insert the name of any  
10 person or persons for whom he desires to vote. In preparing his ballot the voter shall  
11 mark a cross (X) or a check mark (v) against and to the right of such names on the ballot  
12 as he desires to vote for, not to exceed the number of trustees so to be elected in said  
13 district. At each annual meeting of said Town of Boothbay Harbor, balloting for trustee  
14 of said district shall take place concurrently with balloting for the municipal officers of  
15 said town, but separate ballots shall be provided for the balloting for trustee of the district  
16 as hereinbefore provided. The result of such election shall be declared by the selectmen  
17 of said Town of Boothbay Harbor and due certificate thereof filed with the town clerk  
18 and the clerk of the district. The district shall reimburse the town for the expense of any  
19 district election.

20 As soon as convenient after their appointment, the first board of trustees shall hold a  
21 meeting at some convenient place in the district, to be called by any member thereof in  
22 writing, designating the time and place and delivered in hand to the other 2 members not  
23 less than 2 full days before the meeting; provided, however, that they may meet by  
24 agreement without such notice. At this original meeting the trustees shall organize by  
25 electing from their own members a chairman, a treasurer and a clerk and adopting a  
26 corporate seal. The trustees may adopt and establish by laws, consistent with the laws of  
27 the State of Maine and necessary for their own convenience and the proper management  
28 of the affairs of the district, and perform any other acts within the powers delegated to  
29 them by law.

30 Within one week after each annual election, the trustees shall meet for the purpose of  
31 electing a chairman, treasurer and clerk to serve for the ensuing year and until their  
32 successors are elected and qualified. The trustees from time to time may choose and  
33 employ, and fix the compensation of, any other necessary officers and agents who shall  
34 serve at their pleasure. The treasurer shall furnish bond in such sum and with such  
35 sureties as the trustees shall approve, the cost thereof to be paid by the district.

36 Members of the board of trustees shall be eligible to any office under the board. The  
37 trustees, as such, shall serve without compensation; but the treasurer may be allowed such  
38 compensation as the trustees shall determine.

39 The trustees shall be sworn to the faithful performance of their duties as such, which  
40 shall include the duties of any member who shall serve as clerk or clerk pro tem. They  
41 shall make and publish an annual report, including a report of the treasurer, and such  
42 report may be included in, and published as part of, the town report.

43 Vacancies in the office of trustee from whatever cause shall be filled by appointment  
44 by the remaining trustees until the next annual election. If at any annual election there

1 ~~shall exist a vacancy in an unexpired term, a trustee shall be elected to fill such vacancy~~  
2 ~~for such unexpired term, and the voters of the district shall cast their ballots as~~  
3 ~~hereinbefore prescribed, voting for as many candidates as there are offices to be filled.~~

4 Two trustees must be elected from the Town of Boothbay Harbor and one must be  
5 elected from the Town of Boothbay. Trustees are elected for a term of 3 years. In order  
6 to hold the office of trustee of the district, a person must be a voter in the town in which  
7 that person is elected.

8 1. Nominations and elections of trustees must be conducted in accordance with the  
9 laws relating to municipal elections in the Maine Revised Statutes, Title 30-A, chapter  
10 121, and all elections must be conducted by secret ballot in accordance with Title 30-A,  
11 section 2528.

12 When the term of office of a trustee expires, the trustee's successor is elected at large by a  
13 plurality vote of the voters of the town that that trustee represents. For the purpose of  
14 election, a special election must be called and held on the date established by the trustees.  
15 The election must be called by the trustees of the district in the same manner as town  
16 meetings are called and, for this purpose, the trustees are vested with the powers of  
17 municipal officers. A vacancy is filled in the same manner for the unexpired term by a  
18 special election called by the trustees of the district.

19 The trustees shall acquire a complete list of all the registered voters residing in the  
20 district. The trustees may acquire this list from the registrar of any town within the  
21 district. The towns may charge a fee for providing the list. The list acquired by the  
22 trustees governs the eligibility of a voter, since a voter eligible to vote for trustees and on  
23 district matters generally must be a voter in the town from which the trustee is elected.  
24 Voters who reside outside the territorial limits of the district, as defined in this act, are not  
25 eligible voters. All warrants issued for elections by the trustees must show that only the  
26 voters residing within the territorial limits of the district are entitled to vote.

27 2. When any trustee ceases to be a resident of the town within said district from  
28 which that trustee was elected, that trustee vacates the office as trustee. A trustee, if a  
29 resident of the town within said district from which elected, is eligible for reelection or  
30 reappointment. A person who is a municipal officer, as defined in the Maine Revised  
31 Statutes, Title 30-A, section 2001, subsection 10, of either of the towns located within the  
32 district is not eligible for appointment, nomination or election as a trustee of that district.

33 3. As soon as convenient after their appointment, the first board of trustees shall hold  
34 a meeting at some convenient place in the district, to be called by any member thereof in  
35 writing, designating the time and place and delivered in hand to the other 2 members not  
36 less than 2 full days before the meeting; except that they may meet by agreement without  
37 such notice. At this original meeting the trustees shall organize by electing from their  
38 own members a chair, a treasurer and a clerk and adopting a corporate seal.

39 4. The trustees may adopt and establish bylaws, consistent with the laws of the State  
40 of Maine and necessary for their own convenience and the proper management of the  
41 affairs of the district, and perform any other acts within the powers delegated to them by  
42 law.

1           5. Within one week after each annual election, the trustees shall meet for the purpose  
2 of electing a chair, treasurer and clerk to serve for the ensuing year and until their  
3 successors are elected and qualified. The trustees from time to time may choose and  
4 employ, and fix the compensation of, any other necessary officers and agents who shall  
5 serve at their pleasure. The treasurer shall furnish bond in such sum and with such  
6 sureties as the trustees shall approve, the cost thereof to be paid by the district.

7 Members of the board of trustees shall be eligible to any office under the board. The  
8 trustees, as such, shall serve without compensation; but the treasurer may be allowed such  
9 compensation as the trustees shall determine.

10           6. The trustees of the district receive compensation as recommended by the trustees  
11 and approved by majority vote of the municipal officers in municipalities representing a  
12 majority of the population within the district, including compensation for any duties they  
13 perform as officers as well as for their duties as trustees. Certification of the vote must be  
14 recorded with the Secretary of State and recorded in the bylaws. Compensation for duties  
15 as trustees must be based on an amount specified in the bylaws for each meeting actually  
16 attended plus reimbursement for travel and expenses, with the total not to exceed a  
17 specific amount as specified in the bylaws. Compensation schedules in effect on January  
18 1, 2013 continue in effect until changed.

19           7. The trustees must be sworn to the faithful performance of their duties as such,  
20 which must include the duties of any member who serves as clerk or clerk pro tem. They  
21 shall make and publish an annual report, including a report of the treasurer, and such  
22 report may be included in, and published as part of, the town report.

23           8. Business of the district must be conducted in accordance with the applicable  
24 provisions of the Freedom of Access Act.

25           9. Vacancies in the office of trustee from whatever cause must be filled by  
26 appointment by the remaining trustees until the next annual election. If at any annual  
27 election there exists a vacancy in an unexpired term, a trustee must be elected to fill such  
28 vacancy for such unexpired term, and the voters of the district shall cast their ballots as  
29 hereinbefore prescribed, voting for as many candidates as there are offices to be filled.

30           ~~**Sec. 15. Special meetings; qualifications of voters of district.**~~ Special  
31 meetings of the district may be called by the board of trustees at any time, and notice of  
32 special meetings, stating the place and time thereof and the business to be transacted  
33 thereat, shall be signed by the chairman or clerk of the board of trustees and shall be  
34 conspicuously posted in at least 2 public places within the district, not less than 7 days  
35 inclusive of Sundays, before the meeting. Any such meeting may be adjourned from time  
36 to time by vote of the qualified voters present thereat, though less than a quorum, and  
37 without notice of the time and place of the adjourned session, other than announcement at  
38 the meeting. Twenty-five persons qualified to vote in such meetings shall constitute a  
39 quorum. All meetings of the district shall be presided over by a moderator chosen in the  
40 same manner and with the same authority as moderators of town meetings. All persons  
41 resident in said district and qualified to vote for Governor under the laws of this State  
42 shall be entitled to vote in any meeting of the district, including the meeting for  
43 acceptance of this charter.

1           **Sec. 16. Property tax exempt.** The property, both real and personal, rights and  
2 franchises of said district shall be forever exempt from taxation.

3           **Sec. 17. Authorized to receive government aid, borrow money, issue**  
4 **bonds and notes.** For accomplishing the purposes of this act, said district, by vote of  
5 its board of trustees, without district vote ~~except as hereinafter provided~~, is hereby  
6 authorized to ~~borrow money temporarily and to issue therefor its negotiable notes, and for~~  
7 ~~the purpose of renewing and refunding the indebtedness so created, of paying any~~  
8 ~~necessary expenses and liabilities incurred under the provisions of this act, including~~  
9 ~~organizational and other necessary expenses and liabilities whether incurred by the~~  
10 ~~district or the Town of Boothbay Harbor, the district being authorized to reimburse said~~  
11 ~~Town of Boothbay Harbor for any such expense incurred or paid by it, and in acquiring~~  
12 ~~properties, paying damages, laying sewers, drains and conduits, constructing, maintaining~~  
13 ~~and operating a sewage plant or system and making renewals, additions, extensions and~~  
14 ~~improvements to the same and to cover interest payments during the period of~~  
15 ~~construction, said Boothbay Harbor Sewer District, by votes of its board of trustees,~~  
16 ~~without district vote except as hereinafter provided, is also hereby authorized to issue,~~  
17 ~~from time to time, bonds, notes or other evidences of indebtedness of the district in such~~  
18 ~~amount or amounts, bearing interest at such rate or rates, and having such terms and~~  
19 ~~provisions as the trustees shall determine~~ receive government aid, borrow money, hold  
20 funds and issue, secure and refund bonds and notes as set forth in the Maine Revised  
21 Statutes, Title 38, section 1052, as amended, and subject to all requirements therein. All  
22 bonds, notes or other evidences of indebtedness issued under this act and the transfer of  
23 and the income from those bonds, notes or other evidences of indebtedness, including any  
24 profit made on the sale, are exempt from taxation in the State. Bonds and notes issued by  
25 the district under this section are securities in which all public officers and public bodies  
26 of the State and its political subdivisions, all insurance companies and associations and  
27 other persons carrying on an insurance business, trust companies, banks, bankers,  
28 banking associations, savings banks and savings associations, including savings and loan  
29 associations, credit unions, building and loan associations, investment companies,  
30 executors, administrators, trustees and other fiduciaries, pension, profit-sharing and  
31 retirement funds, and other persons carrying on a banking business, and all other persons  
32 authorized to invest in bonds or other obligations of the State may properly and legally  
33 invest funds, including capital in their control or belonging to them. The bonds and notes  
34 are securities that may properly and legally be deposited with and received by any state,  
35 municipal or public officer, or any agency or political subdivision of the State, for any  
36 purpose for which the deposit of bonds or other obligations of the State is authorized by  
37 law. The total indebtedness of the district at any one time outstanding may not exceed  
38 the sum of \$8,500,000. In the case of a vote by the trustees to authorize bonds or notes to  
39 pay for the acquisition of property, for the cost of a sewage plant or system or part  
40 thereof, for renewals or additions or for other improvements in the nature of capital costs,  
41 the estimated cost of which singly or in the aggregate is \$50,000 or more, but not for  
42 renewing or refunding existing indebtedness or to pay for maintenance, repairs or for  
43 current expenses, notice of the proposed debt, the general purpose or purposes for which  
44 it was authorized and of the date of a special district meeting for the purpose of voters of  
45 the district voting thereon shall be given by the clerk by publication at least once in a  
46 newspaper having a general circulation in the Town of Boothbay Harbor. After 7 full

1 days following the date on which such notice was first published the trustees shall hold a  
2 special district meeting for the purpose of permitting the voters of the district to express  
3 approval or disapproval of the amount of debt so authorized. If at such district meeting a  
4 majority of voters present and voting thereon expresses disapproval of the amount of debt  
5 authorized by the trustees, the said debt shall not be incurred and the vote of the trustees  
6 authorizing the same shall be void and of no effect. If at such district meeting a majority  
7 of voters present and voting thereon expresses disapproval of the amount of debt  
8 authorized by the trustees, the said debt shall not be incurred and the vote of the trustees  
9 authorizing the same shall be void and of no effect. Said bonds, notes and evidences of  
10 indebtedness may be issued to mature serially in annual installments of not less than 1%  
11 of the face amount of the issue and beginning not later than 2 years from the date thereof,  
12 or made to run for such periods as the trustees may determine, but no issue thereof shall  
13 run for a longer period than 40 years from the date of original issue thereof. Bonds, notes  
14 or evidences of indebtedness may be issued with or without provision for calling the same  
15 prior to maturity, and if callable may be made callable at par or at such premium as the  
16 trustees may determine. All bonds, notes or other evidences of indebtedness shall have  
17 inscribed upon their face the words "Boothbay Harbor Sewer District," shall be signed by  
18 the treasurer and countersigned by the chairman of the board of trustees of the district,  
19 and if coupon bonds are issued, the interest coupons attached thereto shall bear the  
20 facsimile of the signature of the treasurer. All such bonds, notes and evidences of  
21 indebtedness so issued by the district shall be legal obligations of the district, which is  
22 hereby declared to be a quasi-municipal corporation within the meaning of the Revised  
23 Statutes of 1954, chapter 90-A, section 23, as amended, and all provisions of said section  
24 shall be applicable thereto. The said district may, from time to time, issue in one series or  
25 in separate series, its bonds, notes and other evidences of indebtedness, for the purpose of  
26 paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness,  
27 and each authorized issue shall constitute a separate loan. All bonds, notes and evidences  
28 of indebtedness issued by said district shall be legal investments for savings banks in the  
29 State of Maine and shall be tax exempt. The said district is authorized and empowered to  
30 enter into agreements with the State or Federal Government, or any agency of either, or  
31 any corporation, commission or board authorized by the State or Federal Government to  
32 grant or loan money to or otherwise assist in the financing of projects such as the district  
33 is authorized to carry out, and to accept grants and borrow money from any such  
34 government agency, corporation, commission or board as may be necessary or desirable  
35 to enforce the provisions of this act. The district may increase this debt limit by  
36 referendum as provided by Title 38, section 1054, as amended.

37 **Sec. 18. Sinking fund provided for; investments.** In case any of said bonds or  
38 notes are made to run for a period of years, a sinking fund shall be established by the  
39 trustees of said district for the purpose of redeeming said bonds or notes when they  
40 become due and a sum equal to not less than 1% of the aggregate principal of the  
41 outstanding bonds or notes issued on account of or in behalf of said district, as aforesaid,  
42 shall be turned into said sinking fund each year to provide for the final extinguishment of  
43 said district funded debt.

44 The money set aside for the sinking fund shall be devoted to the retirement of said  
45 notes and bonds, and shall be used for no other purposes, and shall be invested in such  
46 securities as savings banks are allowed to hold.

1           Whenever any bonds of said district become due, or can be purchased by said trustees  
2 on favorable terms, said trustees shall, if sufficient funds have accumulated in said  
3 sinking fund, redeem or purchase said bonds, and cancel them. In no case shall bonds so  
4 cancelled or redeemed be reissued.

5           In case the amount in said sinking fund shall not be sufficient to pay the total amount  
6 of the bonds falling due at any one time, authority to issue new bonds sufficient to  
7 redeem so many of said bonds as cannot be redeemed from the sinking fund is hereby  
8 granted to said trustees.

9           The district may invest its funds, including the sinking fund, reserve funds and trust  
10 funds, in accordance with the Maine Revised Statutes, Title 38, section 1055, as  
11 amended.

12           **Sec. 19. Rates and tolls; application of revenues.** All persons, firms and  
13 corporations, whether public, private or municipal, shall pay to the treasurer of said  
14 district the rates, tolls, rents, entrance charges and other lawful charges established or  
15 revised by the trustees for the sewer or drainage service used or available with respect to  
16 their real estate, which rates shall be fair and reasonable charges for connection with and  
17 for the use of the sewer or drainage service and may include a charge for the district's  
18 readiness to serve to be charged against owners of real estate abutting on or accessible to  
19 sewers or drains of the district but not actually connected thereto, whether or not such real  
20 estate is improved. In establishing or revising such rates, tolls, rents or charges, the  
21 trustees may classify the property connected or to be connected with the sewerage or  
22 drainage system and may give consideration to any factors relating to kind, quality or  
23 extent of use of any such property or qualification of property including: (a) the volume  
24 of water discharged into the sewerage or drainage system; (b) the type and size of  
25 buildings connected with such system; (c) the number of plumbing fixtures connected  
26 with such system; (d) the number of persons customarily using the property served by  
27 such system; (e) in the case of commercial or industrial property, the average number of  
28 employees, customers and guests using the property; and (f) the quality and character of  
29 the material discharged into the sewerage or drainage system. The trustees may establish  
30 minimum charges in connection with and for the use of a sewerage or drainage system.

31           Rates, tolls, rents and entrance charges shall be uniform within the district whenever  
32 the cost to the district of installation and maintenance of sewers and drains and their  
33 respective appurtenances and the cost of service is substantially uniform; but nothing in  
34 this act shall preclude the district from establishing a higher rate, toll, rent or entrance  
35 charge than the regular rates, tolls, rents and entrance charges in sections where, for any  
36 reason, the cost to the district of construction and maintenance, or the cost of service,  
37 exceeds the average, but such higher rates, tolls, rents and entrance charges shall be  
38 uniform throughout the sections where they apply, and trustees may reduce the impact or  
39 connection fee for sewer service to newly constructed affordable housing.

40           Prior to the adoption of a new rate schedule, the trustees shall hold a public hearing  
41 regarding the proposed rate schedule. The trustees shall publish the proposed rates and  
42 notice of the hearing not less than once in a newspaper having general circulation in the

1 district not less than 7 days prior to the hearing. The district shall mail to each ratepayer  
2 a notice of the public hearing and the proposed rate at least 14 days prior to the hearing.

3 The sewer rates, tolls, rents and entrance charges shall be so established as to provide  
4 revenue for the following purposes:

5 I. To pay the current expenses for operating and maintaining the sewerage, drainage  
6 and treatment system;

7 II. To provide for the payment of interest on the indebtedness created pay the  
8 principal of and premium, if any, and interest on all bonds and notes issued by the  
9 district;

10 III. To provide each year a sum equal to not less than 1% nor more than 5% of the  
11 entire indebtedness created by said district, which sum shall be used to pay serial bonds  
12 or notes when due or be turned into a sinking fund and there kept to provide for the  
13 extinguishment of said indebtedness. Money set aside for the sinking fund shall be  
14 devoted to the retirement of the obligations of said sewer district, and invested in such  
15 securities as savings banks in this State are allowed to hold create and maintain reserves  
16 as may be required by any trust agreement or resolution securing bonds and notes;

17 IV. If any surplus remains at the end of the year, it may be turned into the sinking  
18 fund. To provide funds for paying the cost of all necessary repairs, replacements and  
19 renewals of the sewerage, drainage and treatment systems of the district;

20 V. To pay or provide for all amounts that the district may be obligated to pay or  
21 provide for by law or contract, including any resolution or contract with or benefit of the  
22 holder of its bonds and notes; and

23 VI. To provide each year a sum equal to not less than 1% nor more than 5% of the  
24 entire indebtedness created by said district, which sum shall be used to pay serial bonds  
25 or notes when due or be turned into a sinking fund and there kept to provide for the  
26 extinguishment of said indebtedness. Money set aside for the sinking fund shall be  
27 devoted to the retirement of the obligations of said sewer district and invested in such  
28 securities as savings banks in this State are allowed to hold. If any surplus remains at the  
29 end of the year, it may be turned into the sinking fund.

30 **Sec. 20. Sewer extensions; assessment against lot benefited.** ~~When the~~  
31 ~~district has constructed and completed a common sewer, the trustees may, if they so~~  
32 ~~determine, in order to defray a portion of the expense thereof, determine what lots or~~  
33 ~~parcels of land, whether or not buildings or other structures are located thereon or~~  
34 ~~whether or not they are otherwise improved, are benefited by such main or sewer, and~~  
35 ~~estimate and assess upon such lots and parcels of land, and against the owner thereof, or~~  
36 ~~person in possession or against whom taxes thereon are assessed, whether said person to~~  
37 ~~whom the assessment is so made shall be the owner, tenant, lessee or agent, and whether~~  
38 ~~the same is occupied or not, such sum not exceeding such benefit as they may deem just~~  
39 ~~and equitable towards defraying the expenses of constructing and completing such sewer,~~  
40 ~~together with such sewage disposal units and appurtenances as may be necessary, the~~  
41 ~~whole of such assessments not to exceed 1/2 of the cost of such sewer and sewage~~

1 disposal units. The trustees shall file with the clerk of the district the location of such  
2 sewer and sewage disposal unit, with a profile description of the same, and a statement of  
3 the amount assessed upon each lot or parcel of land so assessed, a description of each lot  
4 or parcel, and the name of the owner of such lots or parcels of land of person against  
5 whom said assessment shall be made, and the clerk of such district shall record the same  
6 in a book kept for that purpose, and within 10 days after such filing, each person so  
7 assessed shall be notified of such assessment by having an authentic copy of said  
8 assessment, with an order or notice signed by the clerk of said district, stating the time  
9 and place for a hearing upon the subject matter of said assessments, given to each person  
10 so assessed or left at his usual place of abode in said district. If he has no place of abode  
11 in said district, then such notice shall be given or left at the abode of his tenant or lessee if  
12 he has one in said district. If he has no such tenant or lessee in said district, then by  
13 posting said notice in some conspicuous place in the vicinity of the lot or parcel of land  
14 so assessed, at least 30 days before said hearing, or such notice may be given by  
15 publishing the same once a week, for 3 successive weeks in any newspaper of general  
16 circulation in said district, the first publication to be at least 30 days before said hearing.  
17 A return made upon a copy of such notice by any constable in said Town of Boothbay  
18 Harbor or the production of the paper containing such notice shall be conclusive evidence  
19 that said notice has been given, and upon such hearing the trustees shall have power to  
20 revise, increase or diminish any of such assessments, and all such revisions, increases or  
21 diminutions shall be in writing and recorded by the clerk of the district. The district may  
22 not construct any sewer extension unless it acquires from the municipal officers or the  
23 designee of the municipal officers of any municipality through which the sewer extension  
24 will pass written assurance that:

25 1. Any development, lot or unit intended to be served by the sewer extension is in  
26 conformity with any adopted municipal plans and ordinances regulating land use; and

27 2. The sewer extension is consistent with adopted municipal plans and ordinances  
28 regulating land use.

29 If the municipal officers fail to issue a response to a written request from the district  
30 for written assurance within 45 calendar days of receiving the request in writing, the  
31 written assurance is deemed granted.

32 Not less than 7 days prior to the meeting at which the trustees will take final action on  
33 whether to proceed with the extension, the trustees shall publish notice of the proposed  
34 extension in a newspaper having a general circulation that includes all municipalities  
35 through which the sewer extension will pass.

36 For an intermunicipal sewer extension, when written assurance is denied by  
37 municipal officers pursuant to this section, an aggrieved party may appeal, within 15 days  
38 of the decision, to the Department of Agriculture, Conservation and Forestry for a review  
39 of the municipal officers' decision pursuant to the Maine Revised Statutes, Title 38,  
40 section 1042, subsection 2, as amended.

41 When the district has constructed and completed a common sewer, the trustees may,  
42 if they so determine, in order to defray a portion of the expense thereof, determine what  
43 lots or parcels of land, whether or not buildings or other structures are located thereon or



1 whether or not they are otherwise improved, are benefited by such main or sewer, and  
2 estimate and assess upon such lots and parcels of land, and against the owner thereof, or  
3 person in possession or against whom taxes thereon are assessed, whether said person to  
4 whom the assessment is so made shall be the owner, tenant, lessee or agent, and whether  
5 the same is occupied or not, such sum not exceeding such benefit as they consider just  
6 and equitable towards defraying the expenses of constructing and completing such sewer,  
7 together with such sewage disposal units and appurtenances as may be necessary, the  
8 whole of such assessments not to exceed 1/2 of the cost of such sewer and sewage  
9 disposal units. The trustees shall file with the clerk of the district the location of such  
10 sewer and sewage disposal unit, with a profile description of the same, and a statement of  
11 the amount assessed upon each lot or parcel of land so assessed, a description of each lot  
12 or parcel and the name of the owner of such lots or parcels of land of the person against  
13 whom said assessment shall be made, and the clerk of such district shall record the same  
14 in a book kept for that purpose, and within 10 days after such filing each person so  
15 assessed shall be notified of such assessment by having an authentic copy of said  
16 assessment, with an order or notice signed by the chair of the board of trustees of said  
17 district stating the time and place for a hearing upon the subject matter of said  
18 assessments, given to each person so assessed or left at the person's usual place of abode  
19 in said district. If such person has no place of abode in said district, then such notice shall  
20 be given or left at the abode of the person's tenant or lessee if the person has one in said  
21 district. If such person has no such tenant or lessee in said district, then notice must be  
22 given by posting said notice in some conspicuous place in the vicinity of the lot or parcel  
23 of land so assessed at least 30 days before said hearing or such notice may be given by  
24 publishing the same once a week for 3 successive weeks in any newspaper of general  
25 circulation in said district, the first publication to be at least 30 days before said hearing.  
26 A return made upon a copy of such notice by any constable in the Town of Boothbay  
27 Harbor or the Town of Boothbay or the production of the paper containing such notice  
28 shall be conclusive evidence that said notice has been given, and upon such hearing the  
29 trustees shall have power to revise, increase or diminish any of such assessments, and all  
30 such revisions, increases or diminutions shall be in writing and recorded by the clerk of  
31 the district.

32 **Sec. 21. Right of appeal.** Any person ~~aggrieved by~~ dissatisfied with the decision  
33 of said trustees as it relates to any assessment for sewer construction shall have the same  
34 rights of appeal as are provided ~~in the case of laying out of town ways~~ by the Maine  
35 Revised Statutes, Title 30-A, section 3443, as amended.

36 **Sec. 22. Assessments; lien; enforcement.** All assessments made under the  
37 provisions of section 20 shall create a lien upon each and every lot or parcel of land so  
38 assessed and the buildings upon the same, which lien shall take effect when the trustees  
39 file with the clerk of the district the completed assessment, and shall continue for one  
40 year thereafter; ~~and within.~~ Within 10 days after the date of hearing on said assessment,  
41 the clerk of the district shall make out a list of all such assessments, the amount of each,  
42 and the name of the person against whom the same is assessed, and ~~he~~ shall certify the list  
43 and deliver it to the treasurer of said district. If said assessments are not paid within 3  
44 months from the date thereof, the treasurer may bring ~~an~~ a civil action ~~of debt~~ for the  
45 collection of said assessment in the name of the district against the person against whom  
46 said assessment is made and for the enforcement of said lien. ~~Such action shall be begun~~

1 by writ of attachment commanding the officer serving it to specially attach the real estate  
2 upon which the lien is claimed, which shall be served as other writs of attachment to  
3 enforce liens on real estate. The declaration complaint in such action shall contain a  
4 statement of such assessment, a description of the real estate against which the  
5 assessment is made, and an allegation that a lien is claimed on said real estate to secure  
6 the payment of the assessment. If no service is made upon the defendant or it shall  
7 appear that any other persons are interested in such real estate, the court shall order such  
8 further notice of such action as appears proper, and shall allow such other persons to  
9 become parties thereto. If it shall appear upon trial of such action that such assessment  
10 was legally made against said real estate, and is unpaid, and that there is an existing lien  
11 on said real estate for the payment of such assessment, judgment shall be rendered for  
12 such assessment, interest and costs of suit against the defendants and against the real  
13 estate upon which the assessment was made, and execution issued thereon to be enforced  
14 by sale of such real estate in the manner provided for a sale on execution of real estate  
15 attached on original writs process; provided that in making said sale, the officer shall  
16 follow the procedure in selling and conveying and there shall be the same rights of  
17 redemption as are provided in the Maine Revised Statutes of 1954, chapter 91-A Title 36,  
18 section 87, as amended 941.

19 **Sec. 23. Additional method of collection of assessments.** If assessments  
20 under section 20 are not paid, and said district does not proceed to collect unpaid  
21 assessments by a sheriff's sale of the real estate upon which such assessments are made  
22 proceedings under section 22, or does not collect or is any manner delayed or defeated in  
23 collecting such assessments by a sheriff's sale of said real estate proceedings under  
24 section 22, then the treasurer district, in the its name of said district, may maintain an a  
25 civil action against the party so assessed for the amount of said assessment, as for money  
26 paid, laid out and expended, in any court of competent jurisdiction, and in such suit may  
27 recover the amount of such assessment with 10% interest on the same from the date of  
28 said assessment and costs.

29 **Sec. 24. Assessments paid by other than owner, how recovered.** When any  
30 assessment under section 20 shall be paid by any person against whom such assessment  
31 has been made, who is not the owner of such lot or parcel of land, then the person so  
32 paying the same shall have a lien upon such lot or parcel of land with the buildings  
33 thereon for the amount of said assessment so paid by said person, and incidental charges,  
34 which lien shall continue for one year and which lien may be enforced in an a civil action  
35 of assumpsit as for money paid, laid out and expended, and by attachment in the way and  
36 manner provided for the enforcement of liens upon buildings and lots under the Maine  
37 Revised Statutes of 1954, chapter 178 Title 10.

38 **Sec. 25. Lien for payment of rates.** There shall be a lien on real estate served or  
39 benefited by the sewers of the district to secure the payment of rates established and due  
40 under section 19, which shall take precedence of all other claims on such real estate,  
41 excepting only claims for taxes. Real estate for the purposes of this act shall have the  
42 same definition as given in the Revised Statutes of 1954, chapter 91-A, section 4, as  
43 amended means an identified parcel of land and its improvements, if any, including, but  
44 not limited to, a mobile home.

1           When a rate, toll, rent or other charge has been committed to the treasurer of the  
2 Boothbay Sewer District for collection, the treasurer may, after the expiration of 3  
3 months and within one year after the date when the charge became due and payable, give  
4 to the owner of the real estate served, or leave at the owner's last and usual place of  
5 abode, or send by certified mail, return receipt requested, to the owner's last known  
6 address, a written notice signed by the treasurer or bearing the treasurer's facsimile  
7 signature stating the amount of that rate, toll, rent or other charge, describing the real  
8 estate upon which the lien is claimed and stating that a lien is claimed to secure payment  
9 of the charge and demanding payment within 30 days after service or mailing of the  
10 notice plus \$1 for the treasurer for mailing the notice together with the certified mail,  
11 return receipt requested fee. The notice must contain a statement that the district is  
12 willing to arrange installment payments of the outstanding debt. For the purpose of this  
13 section, a mobile home is defined as real estate. After the expiration of the 30-day period  
14 and within one year, the treasurer shall record in the Lincoln County Registry of Deeds a  
15 certificate signed by the treasurer setting forth the amount of the rate, toll, rent or other  
16 charge, and a description of the real estate on which the lien is claimed, stating that a lien  
17 is claimed to secure payment of the charge and that notice and demand for payment of the  
18 charge has been given or made in accordance with the provisions of this section, and that  
19 the charge remains unpaid. At the time of the recording of a certificate in the Registry of  
20 Deeds, the treasurer shall file in the office of the district a true copy of the certificate and  
21 shall mail a true copy of the certificate by certified mail, return receipt requested, to each  
22 record holder of any mortgage on the real estate, addressed to the record holder at the  
23 record holder's last and usual place of abode.

24           The filing of the certificate in the Registry of Deeds is deemed to create, and creates,  
25 a mortgage on the real estate described in the deed for the district that has priority over all  
26 other mortgages, liens, attachments and encumbrances of any nature, except liens,  
27 attachments and claims for taxes, and gives to the district all the rights usually possessed  
28 by mortgagees, except that the district as mortgagee does not have a right to possession of  
29 the real estate until the right of redemption provided for has expired. If the mortgage,  
30 together with interest and costs, is not paid within 18 months after the date of filing of the  
31 certificate in the Registry of Deeds, the mortgage is deemed foreclosed and the right of  
32 redemption expired. The filing of the certificate in the Registry of Deeds is sufficient  
33 notice of the existence of the mortgage. In the event that the rate, toll, rent or other  
34 charge, with interest and costs, is paid within the period of redemption, the treasurer of  
35 the district shall discharge the mortgage in the same manner as provided for discharge of  
36 real estate mortgages.

37           The cost to be paid by the owner of the real estate served is the sum of the fees for  
38 receiving, recording and indexing the lien, or its discharge, as established by the Maine  
39 Revised Statutes, Title 33, section 751, plus \$13 and all certified mail, return receipt  
40 requested fees.

41           The district shall pay the treasurer \$1 for filing the lien certificate and the amount  
42 paid for certified mail, return receipt requested fees. The fees for recording the lien  
43 certificate must be paid by the district to the Register of Deeds.

1           A discharge of the certificate given after the right of redemption has expired and that  
2 has been recorded in the Registry of Deeds for more than one year terminates all title of  
3 the sewer district derived from that certificate or any other recorded certificate for which  
4 the right of redemption expired 10 years or more prior to the foreclosure date of this  
5 discharge lien, unless the sewer district has conveyed any interest based upon the title  
6 acquired from any of the affected liens.

7           The treasurer of the district has full and complete authority and power to collect rates  
8 and fees established under section 19 or otherwise authorized by law. The treasurer may,  
9 after demand for payment, sue in the name of the district in a civil action in any court of  
10 competent jurisdiction for any rates remaining unpaid. In addition to other methods  
11 established by law for the collection of rates and without waiver of the right to sue for the  
12 collection of rates, the lien created under this section may be enforced in the following  
13 manner.

14           1. The treasurer may, after the expiration of 3 months and within one year after the  
15 date when the rates became due and payable, give to the owner of the real estate served,  
16 leave at the owner's last and usual place of abode or send by certified mail, return receipt  
17 requested, to the owner's last known address a notice in writing signed by the treasurer or  
18 bearing the treasurer's facsimile signature, stating the amount of the rates due, describing  
19 the real estate upon which the lien is claimed, stating that a lien is claimed on the real  
20 estate to secure the payment of the rates and demanding the payment of the rates within  
21 30 days after service or mailing, with \$1 added to the demanded rate for the treasurer and  
22 an additional fee to cover mailing the notice by certified mail, return receipt requested.  
23 The notice must contain a statement that the district is willing to arrange installment  
24 payments of the outstanding debt.

25           2. After the expiration of 30 days and within one year after giving notice pursuant to  
26 subsection 1, the treasurer of the district shall record in the Lincoln County Registry of  
27 Deeds a certificate signed by the treasurer setting forth the amount of the rates due,  
28 describing the real estate on which the lien is claimed and stating that a lien is claimed on  
29 the real estate to secure payment of the rates and that a notice and demand for payment  
30 has been given or made in accordance with this section and stating further that the rates  
31 remain unpaid. At the time of the recording of the certificate in the registry of deeds, the  
32 treasurer shall file in the office of the district a true copy of the certificate and shall mail a  
33 true copy of the certificate by certified mail, return receipt requested, to each record  
34 holder of any mortgage on the real estate, addressed to the record holder at the record  
35 holder's last and usual place of abode.

36           3. The filing of the certificate in the Lincoln County Registry of Deeds creates a  
37 mortgage held by the district on the real estate described in the certificate that has priority  
38 over all other mortgages, liens, attachments and encumbrances of any nature, except  
39 liens, attachments and claims for taxes, and gives to the district all the rights usually  
40 possessed by mortgagees, except that the district as mortgagee does not have any right to  
41 possession of that real estate until the right of redemption has expired.

42           4. If the mortgage created under subsection 3, together with interest and costs, has  
43 not been paid within 18 months after the date of filing the certificate in the Lincoln  
44 County Registry of Deeds in accordance with subsection 2, the mortgage is foreclosed

1 and the right of redemption expires. The filing of the certificate in the registry of deeds is  
2 sufficient notice of the existence of the mortgage. In the event that the rate, with interest  
3 and costs, is paid within the period of redemption, the treasurer of the district shall  
4 discharge the mortgage in the same manner as provided for discharge of real estate  
5 mortgages.

6 5. The owner of the real estate shall pay the sum of the fees for receiving, recording  
7 and indexing the lien, or its discharge, as established by the Maine Revised Statutes, Title  
8 33, section 751, plus \$13, plus all certified mail, return receipt requested, fees.

9 6. Not more than 45 days or less than 30 days before the foreclosing date of the  
10 mortgage created under subsection 3, the treasurer of the district shall notify the party  
11 named on the mortgage and each record holder of a mortgage on the real estate in a  
12 writing signed by the treasurer or bearing the treasurer's facsimile signature and left at the  
13 holder's last and usual place of abode or sent by certified mail, return receipt requested, to  
14 the holder's last known address of the impending automatic foreclosure and indicating the  
15 exact date of foreclosure. For sending this notice, the district is entitled to receive \$3 plus  
16 all certified mail, return receipt requested, fees, which must be added to and become a  
17 part of the amount due under subsection 5. If notice is not given in the time period  
18 specified in this subsection, the person not receiving timely notice has up to 30 days after  
19 the treasurer provides notice as specified in this subsection in which to redeem the  
20 mortgage. The notice of impending automatic foreclosure must be substantially in the  
21 following form:

22 **STATE OF MAINE**

23 **BOOTHBAY HARBOR SEWER DISTRICT**

24 **NOTICE OF IMPENDING AUTOMATIC FORECLOSURE**

25 **SEWER LIEN**

26 **IMPORTANT: DO NOT DISREGARD THIS NOTICE**

27 **YOU WILL LOSE YOUR PROPERTY UNLESS**

28 **YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH**

29 **A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE**

30 **BOOTHBAY HARBOR SEWER DISTRICT.**

31 **TO: .....**

32 **IF THE LIEN FORECLOSES,**

33 **THE BOOTHBAY HARBOR SEWER DISTRICT WILL OWN**

34 **YOUR PROPERTY, SUBJECT ONLY TO**

35 **MUNICIPAL TAX LIENS.**

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**District Treasurer**

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7. The district shall pay the treasurer \$1 for the notice, \$1 for filing the lien certificate and the amount paid for certified mail, return receipt requested, fees. The fees for recording the lien certificate must be paid by the qualified sewer district to the Lincoln County Registry of Deeds.

8. A discharge of the certificate given after the right of redemption has expired, which discharge has been recorded in the Lincoln County Registry of Deeds for more than one year, terminates all title of the qualified sewer district derived from that certificate or any other recorded certificate for which the right of redemption expired 10 years or more prior to the foreclosure date of this discharge lien, unless the district has conveyed any interest based upon the title acquired from any of the affected liens.

9. The district has had and continues to have the authority to collect rates and fees in this manner without having to become a qualified sewer district under Title 38, section 1050, and all liens issued and recorded under the district's authority prior to and subsequent to the effective date of this subsection remain valid.

**Sec. 26. Construction of this act; bylaws and regulations authorized; incidental powers and rights.** This act shall be construed as authorizing a charge by said district for the use of sewers, sewer systems and treatment works in addition to any other assessments now lawfully imposed by general law. The trustees may adopt such rules and regulations and bylaws as may be necessary or convenient to carry out the provisions of this act. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this act as set forth herein are granted to said district; including the right of the trustees to determine when and where sewerage facilities are most needed, and when and how sewers shall be built.

**Sec. 27. Existing statutes not affected; rights conferred subject to provisions of law.** Nothing herein contained is intended to repeal or shall be construed as repealing the whole or any part of any existing statute, and all the rights and duties herein mentioned shall be exercised and performed in accordance with any applicable provisions of the ~~Revised Statutes of 1954, chapters 44 and 79 and any acts amendatory thereof or additional thereto~~ laws of the State of Maine.

**Sec. 2. Transition.** The Trustees of the Boothbay Harbor Sewer District in office at the time of acceptance of this Act by referendum shall serve the remainder of their current 3-year terms, but upon the next expiration of a trustee's term following acceptance of this Act, that trustee position must be filled by a person elected from the Town of Boothbay, and thereafter that trustee position must be elected from the Town of Boothbay.

**Sec. 3. Referendum; effective date.** This Act takes effect when approved only for the purpose of permitting its submission to the legal voters of the Boothbay Harbor Sewer District at an election called for that purpose and held by November 5, 2019. The election must be called, advertised and conducted according to the law relating to

1 municipal elections, except that the registrar of voters is not required to prepare or the  
2 clerk to post a new list of voters. For the purpose of registration of voters, the registrar of  
3 voters must be in session the regular workday preceding the election. The subject matter  
4 of this Act is reduced to the following question:

5 "Do you favor adopting the 2019 revision of the Boothbay Harbor Sewer  
6 District charter?"

7 The voters shall indicate by a cross or check mark placed against the word "Yes" or  
8 "No" their opinion of the same.

9 The results must be declared by the municipal officers of the Town of Boothbay  
10 Harbor and the Town of Boothbay and due certificate of the results filed by the clerk with  
11 the Secretary of State.

12 This Act takes effect for all other purposes immediately upon its approval by a  
13 majority of the legal voters voting at the election. Failure to achieve the necessary  
14 approval in any referendum does not prohibit subsequent referenda consistent with this  
15 section as long as the referenda are held within 2 years after the effective date of this Act.

16 **SUMMARY**

17 This bill updates Private and Special Law 1961, chapter 161, the Charter of the  
18 Boothbay Harbor Sewer District, to include language from the Standard Sewer District  
19 Enabling Act. It also provides for representation of the Town of Boothbay on the board  
20 of trustees of the district.