

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-SECOND LEGISLATURE

H. P. No. 1172

H. D. No. 392

House of Representatives, March 13, 1925.

Reported by Mr. Hale of Portland from Committee on Judiciary and laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

STATE OF MAINE

**IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-FIVE**

AN ACT to Incorporate the South Portland Sewerage District.

Whereas, there are certain thickly built up portions of the city of South Portland which, at the present time, are unprovided with public sewerage facilities of any sort, and

Whereas, owing to the presence of numerous cesspools and other similar structures, the health of the inhabitants of such districts is endangered, and

Whereas, it is necessary to provide such sewerage facilities before the time that this act would become effective, and

Whereby, by reason of the foregoing facts, an emergency exists, as is contemplated by the constitution of this state, and the passage of this act is immediately necessary for the preservation of public peace, health and safety,

Now therefore,

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

Section 1. That that part of the territory of the city of
2 South Portland, in the county of Cumberland, embraced
3 within the following limits, to wit: Wards one, two, three,
4 four, five, six and seven, (except that part of ward seven
5 that lies within the following bounds, to wit: Beginning
6 at a point formed by the intersection of the Cummings road,
7 so called, in said ward seven, with the line of the town
8 of Scarboro; thence northwesterly by said Scarboro town
9 line to the line of the city of Westbrook; thence northeast-
10 erly by said Westbrook city line to the Cummings road
11 aforesaid; thence southerly by said Cummings road to the
12 point begun at) and the inhabitants within said territory,
13 shall constitute a body politic and corporate, under the name
14 of South Portland Sewerage District, for the purpose of
15 providing a system of sewerage and drainage for public
16 purposes and for the health, comfort and convenience of
17 the inhabitants of said district.

Sect. 2. Said district is hereby authorized and empowered
2 to accept, by action of its trustees hereinafter mentioned,
3 from the city of South Portland, and said city of South
4 Portland is hereby authorized to convey, by deed signed by
5 the mayor, duly authorized by vote of the council, to said
6 district, any and all right, title and interest which said city
7 may have in and to the drains and sewers now located with-
8 in the limits of said district, but any amounts now owed by
9 said city of South Portland upon said sewers and drains, or

10 any interest now or hereafter due on any amounts owed
11 by said city, shall be paid by said city of South Portland,
12 and any assessments or amounts, now or hereafter due
13 said city, by reason or on account of any sewer or drain
14 heretofore built by said city, shall be paid to said city. Said
15 district is further authorized and empowered to take and
16 hold by purchase, lease or the exercise of the right of emi-
17 nent domain, which right of eminent domain is expressly
18 granted to said district, or otherwise, personal property,
19 land or real estate, or easements therein, necessary for form-
20 ing basins or outlets, for laying pipes and maintaining the
21 same, and for laying and maintaining conduits for carrying
22 and collecting, discharging and disposing of sewerage mat-
23 ters and waters, and for all other objects and purposes
24 necessary, convenient and proper for the purposes of this
25 act.

The property of said district, wherever located, shall be
2 exempt from taxation.

Sect. 3. Said district may lay pipes and conduits, take up,
2 repair, and maintain the same, or may contract for the same
3 to be done, in and through the streets of the city of South
4 Portland, within said district, and in and through ways and
5 highways, public or private, located in said district, and
6 through land of any corporation, firm or individual, as here-
7 inafter provided, and under any railroad in manner pre-
8 scribed by law, to and into Fore river, or Portland harbor,
9 or any part thereof, adjacent to the territory of said dis-

10 trict, or to and into any drain or sewer now or hereafter
11 built which empties into said Fore river or Portland harbor,
12 or any part thereof, the discharge therefrom to be at such
13 point or points in said Fore river or Portland Harbor as
14 shall be most convenient and reasonable for said district,
15 and convey through the same sewerage, surface water and
16 the natural flow of existing water courses, and secure and
17 maintain basins, reservoirs and outlets; may construct, main-
18 tain, renew, and repair flush tanks, manholes, catch-basins
19 and such other appliances for collecting, holding, distribut-
20 ing and disposing of sewerage matters and waters as may
21 be necessary and proper; and in general to do any and all
22 other acts or things necessary, convenient and proper for
23 the purposes of this act. Provided, however, that said dis-
24 trict shall not construct any system of drainage or sewerage,
25 without first having submitted its plans to the public utilities
26 commission and obtained its approval therefor, under power
27 vested in said commission by chapter ninety-eight of the
28 public laws of nineteen hundred and seventeen. It is fur-
29 ther provided that the trustees of said district shall have
30 access to any and all profiles and plans relating to sewers
31 within the limits of said district which have been made by,
32 or are in the possession of, said city.

In respect to the manner of constructing drains and sewers
2 in said district, the assessment of abutting owners for the
3 cost of the same and the collection of said assessments, the
4 issuing of permits and in respect to all other matters cov-

5 ered by the sections herein referred to, the trustees of said
6 district shall be governed by the provisions of sections five
7 to twenty-five inclusive of chapter twenty-two of the revised
8 statutes of the state of Maine, and the district is hereby
9 granted the same power and authority in said premises as
10 have the municipal officers of cities and towns in like cases,
11 and the words "town clerk," in said sections, shall be con-
12 strued to mean the clerk of said district, and the inhabitants
13 of said district shall have the same rights and privileges,
14 and be subject to the same regulations and restrictions, as
15 are now granted to and imposed upon individuals under
16 said sections. In the application of said sections five to
17 twenty-five, the trustees of the said district shall perform
18 all the acts and duties, and be subject to all responsibilities
19 of municipal officers, as is provided by said sections. Said
20 trustees shall have the power to determine when and where
21 in said district sewerage facilities are most needed, and
22 how said sewers shall be built; where, when, and what re-
23 pairs, renewals, and extensions are necessary, and how the
24 same shall be built, and their decision in such matters, ex-
25 cept as is otherwise provided in the sections above referred
26 to, shall be final. It is provided, however, that the municipi-
27 pal officers of said city may make written recommendation
28 to the trustees of said district regarding sewerage necessi-
29 ties in said district.

In prosecuting the work contemplated by this act, said
2 trustees may engage the services of engineers and laborers;

3 may purchase all necessary material and supplies, and con-
4 struct said drains and sewers under their own supervision,
5 or they may, if they deem it advantageous, contract with
6 some responsible person, firm, or corporation, for the con-
7 struction of said drains and sewers, but said district shall
8 in no case be released from liability, as set forth in article
9 five of this act, by reason of having contracted with any
10 person, firm, or corporation, as provided above, for the
11 construction of any sewer, drain or other structure.

And it is further provided that no person, while he is a
2 trustee of said district, shall be interested, either directly or
3 indirectly, in any contract or agreement for the construction
4 of any sewer, drain or other structure, in said district, en-
5 tered into by said district. This provision, however, shall
6 not prevent said district from entering upon, or taking land,
7 or any easement therein, of any officer of said district, while
8 he is such an officer, and awarding damages therefor, if, in
9 the opinion of said trustees, such entering or taking is neces-
10 sary for the purposes of said district.

Sect. 4. The trustees of said district may exercise the
2 right of eminent domain vested in said district for the pur-
3 poses of this act after hearing, notice of the time and place
4 of said hearing having been given, by publication in two
5 daily papers published in the city of Portland, for two weeks
6 previous to the time appointed for said hearing, and the
7 clerk of said district shall keep a record of their proceed-
8 ings, and their determination and decision, which shall set

9 forth a description of the land or easement taken, and the
10 owners, if known, and the amount of damages awarded
11 therefor, and upon the signing of said record by said trus-
12 tees, and the filing of the same in the registry of deeds for
13 the county of Cumberland, said trustees may enter upon
14 such land and take possession of the same, or an easement
15 therein, as the case may be, for the purposes of this act. Any
16 person aggrieved by the decision of said trustees, so far as
17 it relates to the damages for land or easements therein so
18 taken, shall have the same rights of appeal as are provided
19 in the case of the laying out of town ways.

Sect. 5. Whenever said district shall enter, dig up, or ex-
2 cavate any street, way or highway, or other land, within
3 said district, for the purpose of laying pipes or conduits,
4 constructing manholes or catch-basins, or for the purpose
5 of taking up, repairing, extending or maintaining any sewer,
6 drain, manhole, catch-basin, or other structure, or for any
7 other purpose, said street, highway, way, or other land,
8 shall, at the completion of the work of said district, be re-
9 turned to the condition said street, way, highway, or other
10 land was in prior to the work of said district, or to a con-
11 dition equally as good, and said district shall be liable to
12 any person, firm or corporation injured or damaged by any
13 fault of said district or its servants or agents, or by reason
14 of any defect in any way, street or highway occasioned
15 by the construction of any of the works of said district,
16 either during such construction or after the same has been

17 completed, or while the same shall be undergoing repairs,
18 or extensions are being made; and said district shall be liable
19 to the city of South Portland for any and all costs, damages
20 and expenses which said city may suffer, or be put to by
21 reason of the default, neglect, negligence, or carelessness of
22 said district or any of its officers, servants or agents, in
23 creating, maintaining, repairing, or extending said sewerage
24 system.

Where the character of the work of said district is such
2 as to endanger travel on any street or way, said city of
3 South Portland shall direct the temporary closing of such
4 streets or ways, and of intersecting streets or ways, upon
5 request of said district, and such streets or ways shall re-
6 main closed to public traffic until the work of said district
7 is completed, and the surfaces of said streets or ways are
8 restored to a proper condition, as hereinbefore set forth.

Sect. 6. All the affairs of said district shall be managed,
2 governed and controlled by a board of trustees, composed
3 of four members, one of whom shall be the mayor of the
4 city of South Portland, the term of whose office shall be
5 co-terminous with the term of office as such mayor, and
6 the qualification of said mayor to the office of mayor shall
7 also qualify him as a trustee of said district. Said mayor
8 shall act as president of said board, but shall have no voting
9 power.

The three remaining trustees shall be chosen by the in-
2 habitants of said district as is hereinafter provided, but no

3 two of said trustees shall be elected from the same ward
4 of said city.

Sect. 7. The trustees to be first elected shall be elected by
2 a plurality vote of the legal voters of said district, voting
3 at a special election to be called and held as is provided in
4 section eleven of this act. All nominations of candidates
5 so to be voted for shall be made by nomination papers
6 signed in the aggregate for each candidate by no less than
7 fifty qualified voters of said district. Each voter signing
8 a nomination paper shall make his signature in person, and
9 add to it his place of residence, and each voter may sub-
10 scribe to as many nomination papers as there are trustees
11 to be elected in said district, and no more. Such nomina-
12 tion papers shall, before being filed, be submitted to the city
13 clerk of said city of South Portland, who shall forthwith
14 certify thereon what number of the signatures are names
15 of qualified voters in said district. One of the signers to
16 each such separate paper shall swear to the truth thereof,
17 and the certificate of such oath shall be annexed to, or made
18 upon, the nomination papers. Such nomination papers shall
19 be filed with said city clerk at least seven days, exclusive of
20 Sundays, previous to the day of such election. With such
21 nomination papers shall also be filed, in writing, the consent
22 of the person or persons nominated.

All nomination papers filed, which are in apparent con-
2 formity with the foregoing provisions, shall be deemed to

3 be valid; and if not in apparent conformity, they may be
4 seasonably amended, under oath.

The ballot in said district for the election of trustees shall
2 contain the names of all candidates so nominated in said
3 district, printed in one column, under the heading: "For
4 Trustee of the South Portland Sewerage District," and at
5 the first election, above such heading shall be printed: "Vote
6 for three. Make a cross to the right of each name voted
7 for," which shall be changed to conform to the necessities
8 of each election thereafter, depending upon the number of
9 trustees to be elected. As many blank spaces shall be left
10 after the names of the candidates as there are trustees to
11 be elected, in which the voter may insert the name of any
12 person for whom he desires to vote. In preparing his bal-
13 lot, the voter shall mark a cross (X) against and to the
14 right of such names, on said ballots, as he desires to vote
15 for, not to exceed the number of trustees so to be elected
16 in said district. The result of such election shall be declared
17 by the municipal officers of the city of South Portland, and
18 due certificate thereof filed with the city clerk.

As soon as convenient, after the members of said board
2 have been so chosen, the trustees shall meet and organize,
3 adopt a corporate seal, and choose a clerk and such other
4 officers and agents as shall be needful for the proper man-
5 agement of the affairs of said district, but it is hereby pro-
6 vided that the treasurer of said city of South Portland shall
7 be the treasurer of said district, whose term of office shall

8 be co-terminous with the term of office as such city treas-
9 urer, and the qualification of said city treasurer to the of-
10 fice of city treasurer shall also qualify him as treasurer of
11 said district.

Before assuming the duties of his office, the treasurer of
2 said district shall give bond to said district for the faithful
3 performance of said duties, in such sum, and with such sure-
4 ties as said trustees shall determine; the expenses of such
5 bond to be paid by said district.

In the event of a tie between two or more candidates, the
2 matter shall be determined by lot, under the direction of
3 the clerk of said city.

At the first meeting, the trustees so elected shall determine
2 by lot the term of office of each trustee, so elected, so that
3 one of said elected trustees shall retire each year, and the
4 term of office of the first trustee to end shall end at the date
5 of the municipal election of said city of South Portland in
6 nineteen hundred and twenty-six, and thereafter the term
7 of office of a trustee so elected shall end, and his successor
8 shall be chosen at the time of said municipal election, in
9 manner aforesaid.

The trustees so elected shall serve the full term of three
2 years, but when any trustee ceases to be a resident of said
3 district, he vacates the office of trustee. All such trustees
4 shall be eligible to re-election.

In case any vacancy arises in the membership of said board
2 of trustees, it shall be filled, for the unexpired term, by

3 special election, to be called by the municipal officers of
4 said city, and held as hereinbefore set forth.

At the close of each fiscal year, said trustees shall make
2 a detailed report of their doings, of the financial and physi-
3 cal condition of said district, and all such other matters
4 and things pertaining to said district as shall show the in-
5 habitants thereof how said trustees are fulfilling the duties
6 and obligations of their trust; said reports to be filed with
7 the municipal officers of said city.

It is hereby provided that the treasurer of said district
2 shall be paid the sum of one hundred dollars per year for
3 his services as such treasurer, but the trustees of said dis-
4 trict shall serve without pay.

Sect. 8. To procure funds for the purposes of this act,
2 and for such other expenses as may be necessary for the
3 carrying out of said purposes, the said district, without dis-
4 trict vote, but by action of its board of trustees, is author-
5 ized to issue its notes and bonds in one series, or in separ-
6 ate series from time to time, to an amount not exceeding
7 the sum of five hundred thousand dollars. Said bonds shall
8 be a legal obligation of said district, shall be a legal invest-
9 ment for savings banks in the state of Maine, and shall be
10 tax exempt. Each bond or note shall have inscribed on its
11 face the words "South Portland Sewerage District Bond,"
12 or "South Portland Sewerage District Note," as the case
13 may be, and shall bear interest at such rates as the trustees
14 shall determine. If said bonds be issued from time to time

15 each authorized issue shall constitute a separate loan. Each
16 loan shall be payable in annual amounts of principal, begin-
17 ning not more than one year from its date, or made to run
18 for such period as said trustees shall determine, but no series
19 shall run for a longer period than twenty-five years from
20 its date.

All bonds or notes issued by said district shall bear the
2 district seal, and shall be signed by the treasurer and coun-
3 tersigned by the president of said district, and if coupon
4 bonds be issued, each coupon shall bear the facsimile signa-
5 ture of the president and treasurer.

Sect. 9. In case any of said bonds are made to run for
2 a period of years, a sinking fund shall be established by the
3 trustees of said district, for the purpose of redeeming said
4 term bonds when they become due, and not less than three
5 per centum of the aggregate principal of the outstanding
6 sinking fund bonds issued on account of or in behalf of
7 said sewerage district, as aforesaid, shall be turned into said
8 sinking fund each year, to provide for the final extinguish-
9 ment of said district funded debt.

The money set aside for the sinking fund shall be devoted
2 to the retirement of said notes and bonds, and shall be used
3 for no other purpose, and shall be invested in such securi-
4 ties as savings banks are allowed to hold.

All sums of money received or recovered by said trustees
2 by reason of any assessment upon the persons or property
3 of individuals in said district shall be added to said sinking

4 fund, or used for the payment of notes or temporary loans.

Whenever any bonds of said district become due, or can
2 be purchased by said trustees on favorable terms, said trus-
3 tees shall, if sufficient funds have accumulated in said sink-
4 ing fund, redeem or purchase said bonds, and cancel them.
5 In no case shall bonds so cancelled or redeemed be re-issued.

In case the amount in said sinking fund shall not be suffi-
2 cient to pay the total amount of the bonds falling due at any
3 one time, authority to issue new bonds sufficient to redeem
4 so many of said bonds as cannot be redeemed from the
5 sinking fund is hereby granted to said district, but in no
6 case shall new bonds run beyond twenty-five years from
7 the date of the original issue.

Sect. 10. The trustees of said district shall determine the
2 sum to be paid annually in the sinking fund, or if any of
3 the bonds authorized by this act shall be issued to mature
4 annually, what amount is required each year to meet sinking
5 fund requirements and the bonds falling due, and what sum
6 is required each year to meet the interest on said bonds, and
7 any other necessary expenses of said district, and shall each
8 year, before the first day of April, issue their warrant, in
9 the same form as the warrant of the state treasurer for
10 taxes, with proper changes, to the assessors of the city of
11 South Portland, requiring them to assess the sum so de-
12 termined upon the taxable polls and estates within said dis-
13 trict, and to commit their assessment to the constable or
14 collector of said city of South Portland, who shall have

15 all authority and powers to collect said taxes as is vested by
16 law in him to collect state, county, and municipal taxes.

On or before the thirty-first day of December of the year
2 in which said tax is so levied, the treasurer of said city
3 shall pay the amount of the tax so assessed to the treasurer
4 of said district. In case of the failure on the part of the
5 treasurer of said city to pay said sum, or in case of his fail-
6 ure to pay any part thereof, on or before said thirty-first
7 day of December of the year in which said tax is so levied,
8 the treasurer of said district may issue his warrant for the
9 amount of said tax, or so much thereof as shall then remain
10 unpaid, to the sheriff of Cumberland county, requiring him
11 to levy by distress and sale on real and personal property
12 of any of the inhabitants of said district, and the sheriff, or
13 either of his deputies, shall execute said warrant, except as
14 is otherwise provided herein.

The same authority as is vested in county officials for the
2 collection of county taxes, under the provisions of the re-
3 vised statutes, is hereby vested in the trustees of said dis-
4 trict, in relation to the collection of taxes within said dis-
5 trict. All incidental powers, rights and privileges necessary
6 to the accomplishment of the main objects of this act, as
7 hereinbefore set forth, are granted to the district hereby
8 created, and it is hereby provided that section twenty-five of
9 chapter two hundred and forty-two of the private laws of
10 eighteen hundred and ninety-five shall be repealed upon the
11 acceptance of this act.

The city of South Portland is hereby relieved of any and
2 all duty to build, repair, or maintain drains or sewers within
3 said district.

Sect. 11. This act shall take effect when accepted and
2 approved by a majority vote of the legal voters of the ter-
3 ritory embraced within the limits of said district, voting at
4 an election to be specially called and held for the purpose,
5 and for the purpose of electing trustees, as provided in sec-
6 tion seven, within sixty days after the approval of this act.
7 Such special election shall be called, advertised and con-
8 ducted according to the law relating to municipal elections,
9 provided, however, that the board of registration of said
10 city of South Portland shall not be required to prepare for
11 posting, or the city clerk to post a new list of voters, and
12 for the purpose of registration of voters said board shall
13 be in session the three secular days next preceding such
14 election, the first two days thereof to be devoted to the
15 registration of voters, and the last day to enable the board
16 to verify the corrections of said lists and to complete and
17 close up their records of said sessions. The city clerk shall
18 reduce the subject matter of this act to the following ques-
19 tion: "Shall the act to incorporate the South Portland
20 Sewerage District be accepted?" and the voters shall indi-
21 cate by a cross placed over the words "Yes" or "No" their
22 opinion of the same. The result in said district shall be
23 declared by the municipal officers of said city, and due cer-
24 tificate filed by the city clerk with the secretary of state.