

MAINE STATE LEGISLATURE

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N I N E T Y - F O U R T H L E G I S L A T U R E

Legislative Document

No. 1276

H. P. 1914

House of Representatives, March 4, 1949.

Referred to Committee on Public Utilities. Sent up for concurrence and order printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Stevens of Boothbay.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT to Incorporate the Boothbay Harbor Water and Sewer District.

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

Sec. 1. Territorial limits; incorporation; purposes. The inhabitants and territory within the town of Boothbay Harbor are hereby created a body politic and corporate under the name of "Boothbay Harbor Water and Sewer District" for the purpose of supplying the town and certain outlying territories and the inhabitants thereof with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishments of fires, and of supplying the town of Boothbay Harbor and the inhabitants of said town or any part of said town with suitable and adequate sewerage facilities.

Sec. 2. Powers. The district is hereby authorized, for the purposes aforesaid, to take over and hold the existing water and sewerage system of the town and said town is hereby authorized to transfer and convey to said district any property, real, personal or mixed, now or hereafter owned or held by the town of Boothbay Harbor for water or sewerage purposes. Before transferring and conveying any of said property or turning over any of said assets, the municipal officers of the town of Boothbay Harbor shall be duly authorized to do so by a majority vote of the legal voters

present at any annual or special town meeting, the call for which shall have given notice of proposed action. Said district shall have all the authority given to said town by sections 2 and 3 of chapter 56 of the private and special laws of 1895, as amended, and further to do all things necessary in providing a system of sewerage and drainage for public purposes and for the health, comfort and convenience of the inhabitants of said district.

Sec. 3. May exercise eminent domain. The said district, for the purposes of its incorporation, is hereby authorized to take and hold as for public uses, real estate and personal estate, and any interest therein necessary for such purposes, by purchase, lease, or otherwise, and is hereby authorized to exercise the right of eminent domain as hereinafter provided, to acquire for such purposes any land or interest therein or water rights necessary for erecting and maintaining dams, plants and works, for flowage, for power, for pumping, for supplying water through its mains and sewerage system, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining mains, aqueducts and other structures for taking, distributing, discharging and disposing of water and sewage, for forming basins, reservoirs and outlets in a sewage system, for erection of buildings for pumping works for use therein, for laying pipes and sewers and maintaining same, and for laying and maintaining conduits for carrying, collecting, discharging and disposing of sewage matters and waters, for filtering, rectifying, treating and disposal plants, works and facilities, for such other objects necessary, convenient and proper for the purposes of its incorporation, and for rights-of-way or roadways to the sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures, plants works, facilities and lands.

The said district is hereby authorized to lay in and through the streets, roads, ways and highways within the town, and across private lands therein, and to maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures as may be necessary and convenient for any of its corporate purposes and authorities, and whenever said district shall lay or install any pipes, aqueducts or fixtures in any street, road, way or highway, it shall cause the same to be done with as little obstruction as practicable to the public travel, and shall at its own expense without unnecessary delay cause the earth and pavement removed by it to be so replaced as to leave the surface in proper condition.

Sec. 4. Authority as to sewers. Said district may take into, receive

and convey through its pipes, conduits and system, surface water and the natural flowage of existing water courses; may establish through and by its trustees regulations for the use of sewers and fix and collect the prices to be paid for entering the same, and also the annual rentals for the use thereof; may carry and lay conduits and pipes under any water course, and cross any drain or sewer, or, if necessary, to change its direction in such manner as not to obstruct the use thereof, and in general to do any other acts or things necessary, convenient and proper to be done for the purposes of its incorporation.

Sec. 5. Abutting owner may enter sewer. Said district at all times, after it shall commence receiving pay for the sewerage facilities supplied by it, shall be bound to permit the owners of all the premises abutting upon its lines of pipes and conduits to enter the same with all proper sewerage upon conformity to its rules and regulations and payment of the prices and rentals established therefor.

Sec. 6. Procedure as to the exercise of right of eminent domain. In exercising any rights of eminent domain that are herein conferred upon said district, the district shall file for record in the registry of deeds in said county plans of the location of lands or interest therein to be taken, with an appropriate description, and the names of the owners thereof, if known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective or uncertain, it may, at any time correct and perfect such location and file a new description thereof, and in such case the district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any act which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of 10 days from such filing; whereon possession may be had of all such lands or interest therein so taken, but title thereto shall not vest in said district until paid for.

Sec. 7. Liability for damages. If any person, sustaining damages by any taking as aforesaid, shall not agree with said district upon the sum to be paid therefor, either party upon petition to the county commissioners of Lincoln county may have said damages assessed by them, the procedure and all subsequent proceedings and rights of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by laying out of highways.

Sec. 8. Procedure if public utility must be crossed. In case of any crossing of any public utility, unless consent is given by the company owning or operating such public utility as to place, manner and conditions of the crossing within 30 days after such consent is requested by said district, the public utilities commission shall determine the place, manner and conditions of such crossing; and all work on the property of such public utility shall be done under the supervision and to the satisfaction of such public utility, but at the expense of the district.

Sec. 9. Trustees. All the affairs of the district shall be managed by a board of 3 trustees, residents therein, whose terms of office shall expire on the 1st Monday of March. The 1st board shall be elected 1 for 1 year, 1 for 2 years and 1 for 3 years at a special town meeting to be called by the municipal officers of Boothbay Harbor within 60 days of the acceptance of this act; and thereafter, 1 member shall be chosen for 3 years at the annual town meeting. All elections of trustees shall be by written ballot in the same manner as other town officers are chosen. As soon as convenient after the members of said board have been elected, said trustees shall hold a meeting in the town of Boothbay Harbor and organize by the election of a president and clerk, adopt a corporate seal, choose a treasurer and, when necessary, all other needful officers and agents who, with the treasurer, shall serve at their pleasure and whose compensation shall be fixed by said trustees. Whenever a vacancy occurs in the office of president, clerk or treasurer it shall be promptly filled by said board of trustees. They may also establish such by-laws as are necessary for the proper management of the affairs of the district. Said trustees shall serve without pay unless otherwise voted by said district. They shall make and publish an annual report which shall also contain a report of the treasurer.

Sec. 10. Authorized to negotiate temporary loans; and to issue notes and bonds; declared a quasi-municipal corporation; notes and bonds legal investment for savings banks. For accomplishing the purposes of this act, said district, through its trustees, without the necessity of a vote of the inhabitants of said district, is authorized to borrow money from time to time, not exceeding \$300,000, and to issue therefor the interest-bearing negotiable notes or bonds of the district, maturing serially or otherwise, and to make subsequent renewals of the same in whole or in part, and for said purposes and for the purpose of refunding any notes, bonds or other lawful indebtedness to establish a fund therefor, of obtaining or providing money to pay or to meet any necessary expenses and liabilities under the

provisions of this act, including expenses in the creation of this district, in securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant and sewage disposal system and making extensions, additions and improvements to the same, the said district, through its trustees, without the necessity of a vote of the inhabitants of said district, may from time to time issue bonds or notes of the district to an amount necessary in the judgment of the trustees therefor, maturing at one time or in uniform or varying installments, and with or without call provisions. Said notes and bonds shall be legal obligations of said district, which is hereby declared to be a quasi-municipal corporation within the meaning of sections 132 and 133 of chapter 49 of the revised statutes of 1944. The said notes and bonds shall be legal investments for savings banks.

Sec. 11. Property, tax exempt. The property of said district shall be exempt from all taxation in the town of Boothbay Harbor.

Sec. 12. Water and sewer rates; application of revenue; sinking fund. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of said district the rates established by said board of trustees for the service used by them, and said rates shall be uniform within the territory supplied by the district and subject to approval of the public utilities commission. Said rates shall be so established as to provide revenue for the following purposes:

1. To pay the current expenses for operating and maintaining the water and sewer system;
2. To provide for the payment of the interest on the indebtedness created by the district;
3. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of said indebtedness. The money set aside for the sinking fund shall be devoted to the retirement of the obligations of the district or invested in such securities as savings banks are allowed to hold. Provided, however, that the trustees may, in their discretion and in lieu of the establishment of a sinking fund, issue the bonds of the district so that not less than 1% of the amount of the bonds so issued shall mature and be retired each year;
4. If any surplus remains at the end of the year, it may be turned into the sinking fund.

Sec. 13. 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 rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of chapter 40 of the revised statutes, and all acts amendatory thereof or additional thereto.

Sec. 14. Local referendum; effective date. This act shall take effect 90 days after adjournment of the legislature only for the purpose of permitting its submission to the legal voters of the town of Boothbay Harbor at either a regular annual town meeting or at a special town meeting to be held prior to January 1, 1950. Such special meeting shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the board of registration in said town shall not be required to prepare for posting, nor the town clerk to post, a new list of voters, and for the purpose of registration of voters said board shall be in session 1 hour preceding such special meeting. The town clerk shall prepare the required ballots on which he shall reduce the subject matter of this act to the following question: "Shall the act to Incorporate the Boothbay Harbor Water and Sewer District be accepted?" and the voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same. The result shall be declared by the municipal officers and due certificate thereof filed by the town clerk with the secretary of state.

This act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at said meeting; provided that the total number of votes cast for and against the acceptance of this act at said meeting equals or exceeds 25% of the total vote for all candidates for governor in said town at the next previous gubernatorial election.