

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1306

H. P. 1158

House of Representatives, March 5, 1953.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Travis of Westbrook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT to Incorporate the Westbrook Sewerage District.

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

Sec. 1. Incorporation. That part of the territory of the city of Westbrook, in the county of Cumberland, embraced within the following limits, to wit: wards 1, 2, 3, 4 and 5, and the inhabitants within said territory, shall constitute a body politic and corporate, under the name of "Westbrook Sewerage District." The purpose of said district shall be to take over, control, manage and operate the sewers now owned by the city of Westbrook with all appurtenances thereto; to extend, increase, enlarge and improve said sewers; to extend the present system or systems so as to furnish sewerage facilities to portions of the city not now served with such facilities; to provide for removal of sewage and a system of sanitary sewerage for public purposes and for the health and comfort and convenience of the inhabitants of said district.

Sec. 2. Authority to acquire and hold property; right of eminent domain conferred. Upon acceptance of this act as hereinafter provided, title to all public sewers in the city of Westbrook shall pass to and vest in said district, and said district shall maintain and operate same except as hereinafter provided. For the purpose of providing a system of sewers and

drainage for the comfort, convenience and health of the inhabitants of said district, the said district is hereby authorized and empowered to acquire and hold real estate and personal estate necessary and convenient for the purposes aforesaid, subject to all duties and obligations of the city of Westbrook with respect thereto, which duties and obligations are to be assumed by said district. The district is hereby authorized to take and hold by purchase, lease or the exercise of the right of eminent domain, as hereinafter provided, or otherwise, any land or real estate or easement therein necessary for forming basins, reservoirs and outlets; for erection of buildings for pumping works and sewage treatment; for laying pipes and maintaining same; for laying and maintaining conduits for carrying and collecting, discharging and disposing of sewage matter and rain water and for other objects necessary, convenient and proper for the purpose of this act; and all of such property, wherever located, shall be exempt from taxation.

Provided, however, nothing herein contained shall be construed as authorizing said sewer district to take by right of eminent domain any of the now existing sewers without the consent of a majority of the owners of said sewers or any of the property or facilities of any other public service corporation or district used or acquired for future use by the owner thereof in the performance of a public duty, unless expressly authorized thereto herein or by subsequent act of the legislature.

Sec. 3. Procedure in exercise of right of eminent domain. The trustees hereinafter provided for said district may exercise the right of eminent domain vested in said district for the purposes of this act after hearing, notice of the time and place of the said hearing having been given by publication in any paper published within the county of Cumberland for 2 weeks previous to the time appointed for said hearing, and the clerk of said district shall keep a record of their proceedings, and their determination and decision, which shall set forth a description of the land or easement taken, and the owners, if known, and the amount of damages awarded therefor. Upon the signing of said record of said trustees and the filing of the same in the registry of deeds for the county of Cumberland, said trustees may enter upon such land and take possession of the same or an easement therein, as the case may be, for the purposes of this act. Any person aggrieved by the decision of said trustees, as it relates to the damages for land or easements therein so taken, shall have the same rights of appeal as are provided in the case of the laying out of town ways.

Sec. 4. Right to lay pipes and other particular right enumerated. Said district may lay pipes and construct conduits in manner aforesaid in and

through said district and convey through the same sewage, surface water and the natural flowage of existing water courses, and secure and maintain basins, reservoirs and outlets; may build and maintain pumping stations and buildings convenient for same; may construct and maintain treatment plants, flush tanks, manholes, storm water inlets and such usual appliances for collecting, holding, distributing and disposing of sewage and storm water; may supply water for such flush tanks and for flushing said system of sewers and for any other purposes for which said district may deem the same desirable, and install all pipes and necessary structures and appliances to this end; may establish through and by its trustees regulations for the use of sewers and fix and collect the prices to be paid for entering same, and also the service charges for the use thereof; may enter into contract with persons, corporations or municipalities outside the boundaries of the district to care for sewage or drainage through the district's system; and said district is hereby authorized, for the purposes aforesaid, to lay down, in and through the streets, highways and land of said district, and take up, replace and repair all such conduits, pipes and fixtures as may be necessary or desirable for the objects of its incorporation; to carry and lay conduits and pipes under any water course, way, public or private, or railroad, in the manner prescribed herein and to cross any water pipe, gas pipe, electric conduit, drain or sewer, or, if necessary, to change its direction in such a manner as not to obstruct its use, by the construction of any of the works of said district, either during such construction or after the same has been completed, or while the same shall be undergoing repairs or extensions are being made; and said district shall be liable to the city of Westbrook, public utilities and private persons for any and all costs, damages and expenses which each may suffer or be put to by reason of the default, neglect, negligence or carelessness of said district or any of its officers, servants or agents in creating, maintaining, repairing or extending said sewerage system. The trustees of said district may purchase all maps, plans and files relating to sewers and drainage which are in the possession of the city of Westbrook. In case of crossing 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 such 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. 5. Abutting owners have right to enter. Said district, at all times after it shall commence receiving pay for the facilities supplied by it, shall

be bound to permit the owners of all premises abutting upon its lines of pipes and conduits to enter the same with all proper sewage, upon conformity to the rules and regulations of said Westbrook Sewerage District and payments of the prices and rental established therefor.

Sec. 6. Excavations and repair work, property to be left in good condition; liability for damages; closing of streets. Whenever said district shall enter, dig up or excavate any street, way, highway or other land within said district for the purpose of laying pipes or conduits, constructing manholes or catch basins, or for the purpose of taking up, repairing, extending or maintaining any sewer, drain, manhole, catch basin or other structure, or for any other purpose, said street, highway, way or other land shall, at the completion of the work of said district, be returned to the condition said street, way, highway or other land was in prior to the work of said district, or to a condition equally as good, and said district shall be liable to any person, firm or corporation injured or damaged by any fault of said district, either during such construction or after the same has been completed, or while the same shall be undergoing repairs or extensions are being made; and said district shall be liable to the city of Westbrook for any and all costs, damages and expenses which said city may suffer or be put to by reason of the default, neglect, negligence or carelessness of said district or any of its officers, servants or agents in creating, maintaining, repairing or extending said sewerage system.

Where the character of the work of said district is such as to endanger travel on any street or way, said city of Westbrook shall direct the temporary closing of such streets or way, and of intersecting streets or ways, upon request of said district, and such streets or ways shall remain closed to public traffic until the work of said district is completed and the surfaces of said streets or ways are restored to a proper condition as hereinbefore set forth.

Sec. 7. Extensions. The district shall have the right to determine whether extensions to its systems shall be made, subject to the authority of local and state health officials, the sanitary water board and the public utilities commission. It shall have the power to make assessments for the cost of such extensions and charges for the use thereof.

Sec. 8. Sanitary provisions and penalty for violation. Any person who shall place or discharge any offensive or injurious matter or material on or into the conduits, catch-basins or receptacles of said district contrary to its regulations, or shall wilfully injure any conduit, pipe, reservoir, flush tank, catch-basin, inlet, manhole, outlet, engine, pump or other

property held, owned or used by said district for the purposes of this act, shall be liable to pay twice the amount of the damages to said district, to be recovered in any proper action; and such person, on conviction of either of said acts of wilful injury aforesaid, shall be punished by a fine not exceeding \$200 and by imprisonment not exceeding 1 year.

Sec. 9. Trustees; mayor of city to be a member and president of board.

All the affairs of said district shall be managed, governed and controlled by a board of trustees, composed of 4 members, one of whom shall be the mayor of the city of Westbrook, the term of whose office shall be coterminous with the term of office as such mayor, and the qualification of said mayor to the office of mayor shall also qualify him as a trustee of said district. Said mayor shall act as president of said board, but shall have no voting power.

The 3 remaining trustees shall be elected by the city council on the 2nd Monday in January after the acceptance of this act. All members shall be inhabitants of the city of Westbrook at the time of their election to the board of trustees. As soon as convenient after the members of said board have been appointed, said trustees shall hold a meeting in the city of Westbrook and adopt a corporate seal, choose a clerk and 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. At the said 1st meeting they may determine by agreement, or failing to agree they shall determine by lot, the term of office of each trustee so that 1 shall retire each year and the term of office of the 1st trustee to expire shall end at the end of the municipal year of the city of Westbrook following the acceptance of this act; and thereafter, the term of office of a trustee shall expire with the end of each municipal year. Whenever the term of office of a trustee expires, the body which appointed said trustee shall appoint a successor to serve the full term of 3 years, and in case any other vacancy arises from any cause, it shall be filled in like manner for the unexpired term. When any trustee ceases to be a resident of said district he vacates the office of trustee. They may also ordain and establish such by-laws as are necessary for their own convenience and the proper management of the affairs of the district. The trustees may meet monthly, and specially as may be necessary, and each shall receive compensation of \$5 for each regular or special meeting attended; provided, however, that the total annual compensation of each shall not exceed \$100. They shall publish an annual report. Said trustees may procure an office and incur such ex-

pense as may be necessary. The treasurer shall furnish bond in such sum and with such sureties as they may approve. Members of the board shall be eligible to any office under the board.

Sec. 10. Authority to borrow money. For accomplishing the purposes of this act and for such other expenses as may be necessary for the carrying out of said purposes, said district, through its trustees, without district vote, is authorized to issue its notes and bonds in 1 series or in separate series from time to time and to make subsequent renewals of the same in whole or in part to an amount not exceeding the sum of \$500,000. Said notes and bonds shall be a legal obligation of said district, which hereby is declared to be quasi-municipal corporation within the meaning of section 132 of chapter 49 of the revised statutes of 1944 and all the provisions of said section are applicable thereto; shall be a legal investment for savings banks in the state of Maine; and shall be exempt from all present taxes. Each bond or note shall have inscribed on its face the words "Westbrook Sewerage District Bond" or "Westbrook Sewerage District Note," as the case may be, and shall bear interest at such rates as the trustees shall determine. If said bonds or notes be issued from time to time, each authorized issue shall constitute a separate loan. Each loan may be payable in annual amounts of principal, beginning not more than 1 year from the date, and made to run for such period as said trustees shall determine.

Sec. 11. Rates and tolls; application of revenues. All persons and corporations, whether public, private or municipal, shall pay to the treasurer of said district the entrance charges, rates, tolls, rents and other lawful charges established by the trustees for the sewer or drainage service used, or to which such beneficial service is available with respect to their lots or parcels of land; and in determining real estate interests, "real estate" as defined in section 3 of chapter 81 of the revised statutes may be applied by the trustees.

Rates, tolls, rents and entrance charges shall be uniform within the territory supplied by the district whenever the installation and maintenance of sewers or their appurtenances and the cost of service is substantially uniform; but nothing in this act shall preclude the district from establishing a higher rate, toll, rent or entrance charge than the regular rates, tolls, rents and charges in sections where, for any reason, the cost of construction and maintenance, or the cost of service, exceeds the average; but such higher rates, tolls, rents, and charges shall be uniform throughout the sections where they apply.

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

1. To pay the current expenses for operating and maintaining a sewage system;
2. To provide for the payment of the interest on the indebtedness created by such system;
3. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by said sewer district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of said indebtedness. Money set aside for the sinking fund shall be devoted to the retirement of the obligations of said sewer district, or invested in such securities as savings banks in this state are allowed to hold;
4. If any surplus remains at the end of the year, it may be turned into the sinking fund.

Sec. 12. Existing statutes repealed. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this act, as hereinbefore set forth, are granted to the district hereby created, and it is hereby provided that section 15 of chapter 257 of the private and special laws of 1907 shall be repealed upon the acceptance of this act.

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

Referendum; effective date, certificate to secretary of state. This act shall take effect 90 days after the adjournment of the legislature, only for the purpose of permitting its submission to the legal voters within said district, voting by ballot at an election to be specially called and held for the purpose within 1 year after the effective date of this act. The municipal officers of the city of westbrook shall call said election, to be held upon a date to be specified in writing by them, and shall prepare and furnish separate check lists for such of the voters within said district as are then legal voters of said city and reside in said district, and all notices, warrants or other proceedings shall be varied accordingly so as to show that only such voters as reside in said district as aforesaid are entitled to vote upon the question. Such election shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the board of registration of said city of Westbrook shall not be required to prepare for posting, nor the city clerk to post, a new list of

voters; and for the purpose of registration of voters said board shall be in session the 3 secular days next preceding such election, the 1st 2 days thereof to be devoted to the registration of voters and the last day to enable the board to verify the corrections of said lists and to complete and close up their records of said sessions. The city clerk shall reduce the subject matter of this act to the following question "Shall the act to incorporate the Westbrook Sewerage 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 in said district shall be declared by the municipal officers of said city, and due certificate filed by the city 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 election; provided the total number of votes cast for and against the acceptance of this act equals or exceeds 20% of the total number of names on the check list of voters of said district used at said election.