

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. 1413

H. P. 1225

House of Representatives, April 2, 1953.

Reported by Majority from Committee on Public Utilities and printed under Joint Rules No. 10.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT Creating the Old Orchard Beach Sewerage District.

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

Sec. 1. Territorial limits; corporate name and purposes. The territory of the town of Old Orchard Beach in the county of York, and the inhabitants within the same and the area comprising the ocean bed of Saco bay adjoining said Old Orchard Beach, extending 3,500 feet beyond high-water mark, in order to accomplish the purposes of this act, shall be and hereby are constituted a body politic and corporate under the name of the Old Orchard Beach Sewerage District, hereinafter called the district, for the purpose of providing and maintaining within the district a sewer system, drains and sewage disposal plants, when, as and if such sewer system, drains and sewage disposal plants become necessary, for public purposes and for the health, comfort and convenience of the inhabitants of said district, and for insuring the purity of the bathing waters of Saco bay, adjacent to said Old Orchard Beach, and said district is hereby invested with all the powers, rights, privileges and immunities necessary for the accomplishment of these purposes.

Sec. 2. Authorized to accept title from town of all its sewers; right of eminent domain conferred; property tax exempt. Upon acceptance of this act, as hereinafter provided, title to all public drains and sewers and sewer

facilities and appliances in the town of Old Orchard Beach shall pass to and vest in said district, subject to all indebtedness then owed by said town with respect thereto, together with interest now or hereafter due thereon, which indebtedness and interest shall be assumed and paid by said district as it becomes due. Said district is further authorized and empowered to take and hold by purchase, lease or the exercise of the right of eminent domain, which right of eminent domain is expressly granted to said district, or otherwise, personal property, land or real estate, or easements therein, necessary for forming basins or outlets, for laying pipes and maintaining the same, and for laying and maintaining conduits for carrying and collecting, discharging and disposing of sewage matters and waters, and for all other objects and purposes necessary, convenient and proper for the purposes of this act.

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

Sec. 3. Authorized to lay pipes, conduits, etc. Said district may lay pipes and conduits, take up, repair, and maintain the same, or may contract for the same to be done, in and through the streets of the town of Old Orchard Beach, within said district, and in and through ways and highways, public or private, located in said district, and through land of any corporation, firm or individual, as hereinafter provided, and under any railroad in manner prescribed by law, to and into Saco bay, or any part thereof, adjacent to the territory of said district, or to and into any drain or sewer now or hereafter built which empties into said Saco bay, or any part thereof, the discharge therefrom to be at such point or points in said Saco bay as shall be most convenient and reasonable for said district, and convey through the same sewage, surface water and the natural flow of existing water courses, and secure and maintain basins, reservoirs and outlets; may construct, maintain, renew and repair flush tanks, manholes, catch-basins, sewage treatment plants and such other appliances for collecting, holding, distributing and disposing of sewage matters and waters as may be necessary and proper; and in general, to do any and all other acts or things necessary, convenient and proper for the purposes of this act.

Sec. 4. 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:

- I. To pay the current expenses for operating and maintaining a sewerage system;
- II. To provide for the payment of the interest on the indebtedness created by such system;
- III. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness of the district for the extinguishment of the debt. The trustees shall preferably issue bonds of the district so that not less than 1% of the bonds issued shall mature and be retired annually. If this is not feasible at any time, then a sinking fund shall be set aside and either used for the retirement of the obligations of the district or invested in securities lawful for savings banks.
- IV. If any surplus remains after the year's operation, this surplus shall be used for necessary construction, set aside for future improvements or added to the sinking fund.

Sec. 5. Procedure in exercise of right of eminent domain and crossing public utilities. The trustees of 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 said hearing having been given by publication in 2 weekly papers published in the county of York, 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, and upon the signing of said record by said trustees, and the filing the same in the registry of deeds for the county of York, said trustees may en-

ter 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, so far 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.

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. Provided, however, nothing herein contained shall be construed as authorizing said district to take by right of eminent domain 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 herein or by subsequent act of the legislature.

Sec. 6. Rights and obligations of abutters or others to enter. Any person may enter his private drain into any sewer of the district while the same is under construction and before completion, and before assessments for an entrance charge are made, on obtaining a permit in writing from the trustees; but after the sewer is completed and said assessments made, no person shall enter his private drain into such sewer until he has paid his assessment and obtained a permit in writing from the trustees as aforesaid. All such permits shall be recorded by the clerk of the district in its records before the same are issued.

The owner, or persons in possession, or against whom taxes are assessed, of all buildings or premises intended for human habitation, occupancy or use, abutting on a street in which there is a sewer maintained by this district, or if such buildings stand on premises which are within 100 feet of a public sewer and to which sewer service is available, shall connect with said sewer in the most direct manner possible within 90 days after receiving notice thereof from the sewerage district, or within such further time as its trustees may grant.

Sec. 7. Contracts with municipalities authorized. Said district is authorized to contract with persons and corporations, including the town of Old Orchard Beach and said town is authorized to contract with said district for the collection, distribution, and disposal of sewage, surface water or other waste matter, and for said purposes, said town may raise money as for other municipal charges.

Sec. 8. Excavation or repair work; closing of ways. Whenever said district shall enter, dig up or excavate any public way or other land for the purpose of laying its sewers or pipes, constructing manholes or catch basins or their appurtenances, or maintaining the same, or for any other purpose, the work shall be expeditiously done with the least possible interruption, and on completion of the work, the district shall restore said way or land to the condition it was in prior to such work or to a condition equally good.

Whenever the character of the work of said district is such as to endanger travel on any public street or way, the municipal officers of the town of Old Orchard Beach shall direct the temporary closing of such streets or ways, and of any intersecting streets or ways, upon request of said district, and such streets or ways shall remain closed to public travel until the work of said district is completed and said municipal officers deem it is restored to a condition safe for traffic.

Sec. 9. Sanitary provisions and penalty for violation. Any person who shall place or leave any offensive or injurious matter or material on or in 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, 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. 10. Officers. All of the affairs of the district shall be managed by a board of 5 trustees, residents and qualified voters of the district, who shall be chosen as hereinafter provided.

As soon as may be after the acceptance of this act, as hereinbefore provided, the municipal officers of the town of Old Orchard Beach shall appoint 5 trustees of said district to hold office as follows:

Two to serve until the first annual meeting of the district following the acceptance of this act,

Two to serve until the second annual meeting of the district thereafter, and

One to serve until the third annual meeting of the district thereafter.

At each annual meeting of the district after the initial appointment of the first board of trustees, as many trustees shall be elected by the district

as shall be necessary to fill the vacancies of those whose terms have then expired, they to serve until the annual meeting of the district occurring 3 years thereafter. If a vacancy occurs in the board of trustees otherwise than by expiration of term, the remaining trustees shall choose another trustee to serve for the unexpired term of the trustee whose office has become vacant. Following each annual meeting of the district, the trustees shall choose a chairman, clerk and treasurer to serve until the next annual meeting of said district and until their successors are elected and qualify.

As soon as convenient after said first election, the trustees shall hold a meeting at some convenient place in the district to be called by any member thereof in writing, designating the time and place of such meeting and delivered in hand to the other 4 members not less than 2 full days before the meeting; provided, however, that they may meet by agreement without such notice. They shall then organize by the election, from their own number, of a chairman and a clerk. They shall choose a treasurer, adopt a corporate seal and by-laws. They may choose and fix the compensation of a manager and any other necessary officers and agents who shall serve at their pleasure but if the town of Old Orchard Beach has a town manager, such town manager shall also be chosen manager of the district. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost thereof to be paid by the district. The compensation of the trustees and the treasurer shall be a nominal sum to be set by the voters of the district at each annual meeting of the district. Members of the board of trustees shall be eligible to any office under the board except manager when the town of Old Orchard Beach has a manager.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member who shall serve as clerk or clerk pro tem. They shall make and publish an annual report, including a report of the treasurer.

Sec. 11. Annual meeting 1st Saturday of April; qualifications of voters of district. The annual meeting of the district shall be held on the 1st Saturday of April in each year at such time and place as the trustees shall designate. Notice of such meeting, signed by the chairman or clerk of the board of trustees, shall be posted conspicuously in 2 public places in the district, at least 7 days before the meeting. Said notice shall specify the business to be acted upon. Special meetings of the district may be called by the trustees at such time and place as the trustees may designate, notice thereof specifying the business to be transacted shall be posted in like manner as hereinbefore specified for the annual meeting and shall be called if a

petition for the same, specifying the business to be acted upon, is presented to the trustees and signed by 10% of the voters of the district.

All persons resident in said district and qualified to vote for governor under the laws of this state shall be entitled to vote in any meeting of the district, including the meeting for the acceptance of this charter. The voting list of the town of Old Orchard Beach shall be considered to be the voting list of the district. Eleven persons qualified to vote in any of said meetings shall constitute a quorum.

All meetings of the district shall be presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings. The trustees shall refer to the district meeting all matters pertaining to new construction.

Sec. 12. Authorized to issue notes and bonds; legal investment for savings banks. For accomplishing the purposes of this act, and for such other expenses as may be necessary for the carrying out of said purposes, the said district, without district vote, but by resolution of its board of trustees, is authorized to issue, refund and reissue its notes and bonds in one series, or in separate series from time to time, provided that the aggregate principal amount of such notes and bonds outstanding at any given time shall not exceed the sum of \$600,000. Said bonds shall be a legal obligation of said district, shall be a legal investment for savings banks in the state of Maine, and shall be tax exempt. Each bond or note shall have inscribed on its face the words "Old Orchard Beach Sewerage District Bond" or "Old Orchard Beach Sewerage District Note," as the case may be, and shall bear interest at such rates as the trustees shall determine. If said bonds be issued from time to time, each authorized issue shall constitute a separate loan. Each loan shall be payable in annual amounts of principal, beginning such number of years from its date as said trustees shall determine or made to run for such periods as said trustees shall determine, but no series shall run for a longer period than 30 years from its date.

All bonds or notes issued by said district shall bear the district seal, and shall be signed by the treasurer and countersigned by the president of said district, and if coupon bonds be issued, each coupon shall bear the facsimile signature of the treasurer.

Sec. 13. Lien for payment of rates. There shall be a lien to secure the payment of sewer rates legally assessed on real estate within the Old Orchard Beach Sewerage District which shall take precedence of all other claims on said real estate and interest excepting only claims for taxes. Real estate, for the purpose of this act, shall bear the same definition as

given in section 3 of chapter 81 of the revised statutes. The treasurer of the district shall have the authority and power to collect said sewer rates, and all rates shall be committed to him. In addition to other methods previously established by law for the collection of said rates, the lien herein created may be enforced in the same manner as provided in sections 97 and 98 of chapter 81 of the revised statutes of 1944 and amendments thereto; the treasurer of the district shall have the same powers as a collector of taxes under the above mentioned sections.

Sec. 14. Construction of this act; by-laws and rules authorized. This act shall be construed as authorizing a charge by said district for the use of sewers, sewer systems or drains for disposal purposes.

Said board of trustees may, by by-laws, define the person or persons to whom such special sewer tax or charge shall be assessed and may adopt such other by-laws, rules and regulations as may be necessary to carry out the provisions of this act.

Sec. 15. Incidental powers and rights. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this act, as hereinbefore set forth, are granted to said district; including the right of trustees to determine when and where sewerage facilities are most needed and how said sewers shall be built.

Sec. 16. 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 all the applicable provisions of chapter 40 of the revised statutes of 1944 and all acts amendatory thereof or additional thereto.

Sec. 17. Saving clause. If any part of this act shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the act.

Sec. 18. Local referendum provided for; procedure of election; form of question; certificate to secretary of state. This act shall take effect 90 days after 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 60 days of the effective date of this act. The board of selectmen of the town of Old Orchard Beach shall call said election to be held upon a date to be specified in writing by them. Said board of selectmen shall make and provide a separate check list for such of the voters within said district as are then legal voters therein, and all warrants issued to said district shall be varied ac-

cordingly to show that only such voters therein are entitled to vote thereon. Such election shall be called, advertised and conducted according to the law relating to municipal elections; providing, however, that the selectmen shall not be required to prepare nor the town clerk to post a new check list of voters, and for this purpose said board shall be in session the 2 secular days next preceding such election, the 1st day thereof to be devoted to the registration of voters and the last day to enable the board to verify the corrections of said list and to complete and close up the records of said sessions. The town clerk shall reduce the subject matter of this act to the following question: "Shall the Act Creating the Old Orchard Beach Sewerage District be accepted?" and the voters shall indicate by depositing a ballot in the ballot box with the word "Yes" or "No" on the same, their opinion of the same. The result shall be declared in open meeting and due certificate thereof filed by the town clerk with the secretary of state.

This act shall take effect for all the purposes thereof immediately upon acceptance by a majority vote of the legal voters voting at said meeting; but if and only if the total number of votes cast for and against the acceptance of this act in said meeting equals or exceeds 20% of the total vote for all candidates for governor cast in said town at the next previous gubernatorial election. The result of the vote shall be declared by the municipal officers of the town of Old Orchard Beach and due certificate filed by the town clerk with the secretary of state.