

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 627

S. P. 253

In Senate, January 24, 1963

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

CHESTER T. WINSLOW, Secretary.

Presented by Mrs. Sproul of Lincoln.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Creating the Damariscotta Sewage District.

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

Sec. 1. Incorporation. All the territory within the Town of Damariscotta, in the County of Lincoln, and all the inhabitants within said territory, shall constitute a body politic and corporate under the name "Damariscotta Sewage District." The purpose of said district shall be to supply the inhabitants of said district with a district sewage system and to acquire, construct, maintain and operate, and to extend and improve the same, all for public purposes and for the health, comfort and convenience of the inhabitants of said district.

Sec. 2. Powers. The district is authorized to acquire, construct, maintain and operate a sewage system, including sewage treatment plant, and to reconstruct, repair, extend and improve the same and to do any and all things necessary in providing a system of sewage as aforesaid. Said district is hereby vested with all the powers, rights, privileges and immunities incident to similar quasi-municipal corporations and as may be necessary for the accomplishment of the purpose for which it is created.

Sec. 3. Transfer of sewage of town; authority to acquire and hold property and the right and procedure of eminent domain conferred. Thirty days after acceptance of this act as hereinafter provided, title to all the public property owned by the Town of Damariscotta and incorporated into the sewage system in any part of said town 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 sewage system for the health, comfort and convenience of the inhabitants of said district, the said district is hereby authorized and em-

powered to acquire and hold real estate and personal estate necessary and convenient for the purpose aforesaid subject with respect to the property acquired from the Town of Damariscotta to all duties and obligations of said town with respect thereto, which duties and obligations are to be assumed by said district.

The said district, for the purpose of its incorporation, is authorized to take and hold for public use, by purchase, lease or the exercise of eminent domain or otherwise, any land or real estate or easement therein necessary, convenient and proper to accomplish the aforementioned powers and purposes; and all such property within the district shall be exempt from taxation. Nothing herein shall be construed as authorizing said district to take by right of eminent domain any of the property or facilities of any 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 by subsequent act of Legislature.

The said district is authorized to lay in and through the streets, roads, ways and highways within the town and across private lands therein, and to install, maintain and 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 and 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. Eminent domain and adjustment of damages. The said district in exercising, from time to time, any right of eminent domain conferred upon it by law shall file written application with the Public Utilities Commission requesting its approval of the proposed taking. Such application shall describe the property or rights to be taken, the purpose of the taking and shall name all parties who shall be interested therein. The commission thereupon shall appoint a time for a hearing near the premises, and shall require such notice as the commission may direct to be given to the persons interested, at least 14 days before the date of the hearing. The commission shall then view the premises, hear the parties, and shall determine how much, if any, of the property described in the petition should be taken for reasonable purposes of the district and for the sale, economical and efficient furnishing of a sewage system, and in authorizing such taking the commission may attach such reasonable terms, limitations and restrictions as justice may require. If the commission shall find that any of the property described in the application is necessary for the aforesaid purposes of the district, it shall make a certificate containing a definite description of the property to be taken, and of any terms, restrictions and limitations in connection therewith, and shall furnish to the district a true copy thereof, attested by the clerk of the commission; and when such a copy of the certificate is filed with the clerk of courts in the county where the property lies, the property shall be deemed and treated as taken. Entry may be made on any private lands prior to the filing of such application for the purpose of making surveys, the district being liable for any damages resulting from the entry. Possession of the district may be had of the property described in the certificate of the commission forthwith upon the filing of such certificate

as hereinbefore provided, but title of such property shall not vest in the district until payment therefor has been made tendered.

If any person sustaining damages by any taking as aforesaid shall not agree with the district upon the sum to be paid therefor, either party, upon petition to the county commissioners of the county in which such property lies, may have the damage assessed by them. The procedure and all subsequent proceedings and right of appeal therefrom shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

Sec. 5. Procedure if public utility is crossed. In case of any crossing of the property 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, if it finds that a reasonable necessity exists for such crossing, 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 reasonable satisfaction of such public utility, but at the expense of the district.

Sec. 6. Abutting owners. Every public or private building on premises abutting on a street, way or highway in which there is a public sewer, or within 100 feet of a public sewer, shall have a domestic sewage collection system which shall be connected with a public sewer by the owner or agent of the premises in the most direct manner possible, and, if feasible, with a separate connection for each house or building, and every such connection shall be in conformity with the rules and regulations of the district.

Sec. 7. Board of trustees, how elected; meetings; vacancies, how filled. All the affairs of said district shall be determined and managed by a board of 3 trustees, who shall be residents of said district, appointed by the selectmen of the Town of Damariscotta and shall hold office as hereinafter provided and until their respective successors are appointed and qualified. Whenever the term of office of a trustee expires, the selectmen of said Town of Damariscotta shall appoint a successor to serve the full term of 3 years and any other vacancy arising from any cause shall be filled in like manner for the unexpired term. When any trustee ceases to be a resident of said district his office as trustee shall be declared vacant. No member of the Town of Damariscotta selectmen shall serve as a member of the board of trustees of the district and the compensation of the trustees shall be no more than \$150 each per year.

The first board of trustees shall be appointed within 30 days after acceptance of this act by the voters of said district, one to serve until the 3rd Monday in March next following the acceptance of this act, one to serve until the 2nd such 3rd Monday in March next following acceptance of this act and one to serve until the 3rd such 3rd Monday in March next following acceptance of this act. Thereafter, members shall be appointed to serve for a term of 3 years. As soon as convenient after their appointment, the trustees first appointed 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 and delivered in hand to the other members not less than 2 full days before the meeting; provided, however, that they may meet by agreement and waiver without such notice. They shall then organize by the election of a chairman and clerk from their own number, adopt a corporate seal and bylaws, and perform any other acts within the powers delegated to them by law. As necessary, they may choose agents and other needful officers who shall serve at their pleasure, and whose compensation shall be fixed by said trustees. They shall choose annually a treasurer to serve for a term of one year, fix the treasurer's salary and fill vacancies in that office. The treasurer shall furnish a bond executed in such sum by a surety company as trustees may approve, and the expense of securing the bond is to be borne by the district.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member as clerk pro tempore. They shall make and publish an annual report which shall also contain a report of the treasurer.

Sec. 8. Authorized to negotiate temporary loans; and to issue notes and bonds; declared a quasi-municipal corporation; notes and bonds legal investments for savings banks. For accomplishing the purposes of this act, said district, through its trustees, is authorized, with the approval of the Public Utilities Commission, to borrow money from time to time, to an amount not exceeding \$250,000 and to issue therefor the interest-bearing negotiable notes 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. For the purpose of obtaining or providing money to pay or to meet any necessary expenses and liabilities under this act, including construction expenses in securing sources of supply, taking water and land, paying damages, laying pipes, and making major extensions, additions and improvements to the same, the said district, through its trustees, may from time to time issue bonds of the district to an amount necessary in the judgment of the trustees therefor maturing and payable at such time or times, in uniform or varying installments, with or without such call provisions, and with or without such a premium or premiums, as said trustees shall determine. 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 the Revised Statutes of 1954, chapter 53, section 137 and chapter 90-A, section 23, as enacted by public laws of 1957, chapter 405, section 1. The said notes and bonds shall be legal investments for savings banks.

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

Sec. 9. Sewer rates, tolls, rent, assessments, entrance charges; use of revenue. Assessments may be made by the district in accordance with the Revised Statutes of 1954, chapter 96, sections 130 to 132, as amended by the public laws of 1957,

chapter 405, section 18, except that any assessment may, if deemed necessary, exceed $\frac{1}{2}$ of the cost of such installation.

All individuals, firms and corporations whether public, private or municipal corporations and persons served shall pay to the treasurer of said district the entrance charges, rates, rents, assessments and other lawful charges established by the trustees 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 the Revised Statutes of 1954, chapter 91-A, section 4, as enacted by the public laws of 1955, chapter 399, section 1, may be applied by the trustees.

Rate, rents, assessments, entrance charges and other lawful charges shall be uniform within the territory served by the district whenever the installation and maintenance of the sewer system and their appurtenances and the cost of service is substantially uniform except that a higher rate may be established should cost of construction or maintenance vary substantially from the average. The rates, tolls, rents, assessments and entrance charges shall be so established as to provide revenue for the following purposes:

- I. To pay current expenses for operation and maintaining a sewerage system;
- II. To provide for the payment of 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 created by said system, 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 the system and may be invested in such securities as savings banks in this state are allowed to hold;
- IV. If any surplus remains at the end of the year, it shall be turned into the sinking fund, or capital reserve fund at the option of the trustees.

There shall be a lien to secure the payment of rates legally assessed on real estate within the Town of Damariscotta, which shall take precedence of all other claims on said real estate and interest, excepting only claims for taxes. The payment of rates, rents, charges and assessments shall be enforced in the same manner as provided for the enforcement of tax liens by the Revised Statutes of 1954, chapter 91-A, sections 88 and 89.

Sec. 10. Incidental rights and privileges. All incidental rights, powers and privileges necessary to the accomplishment of the main object herein set forth are granted to the district hereby created.

Sec. 11. Annual report. The trustees shall make and publish an annual report, including a report of the treasurer, and such report may be included in, and published as part of, the annual town report. Also, a complete report of the doings of the district shall be rendered at the annual town meeting of the Town of Damariscotta by the board of trustees of said district, including a financial report.

Sec. 12. Saving clause. If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

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 statutes and the rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of the Revised Statutes of 1954, chapter 44, and all acts amendatory or additional thereto.

Local 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 of the district, present and voting at a special election or elections to be called by the selectmen of the Town of Damariscotta and held not later than one year after adjournment of the Legislature. Any such special election shall be called, advertised and conducted according to the law relating to municipal elections; provided that the selectmen of 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 selectmen shall be in session on the secular day next preceding any such special election.

The town clerk of said Town of Damariscotta shall prepare the required ballots on which he shall reduce the subject matter of this act to the following question: "Shall the 'Act Creating the Damariscotta Sewage District', passed by the 101st Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same.

This act shall take complete effect for all purposes immediately upon its acceptance by a majority of the legal voters voting thereon at any such election, provided that the total number of votes cast for and against acceptance of this act equals or exceeds 20% of the total vote for all candidates for Governor cast in said town at the next preceding gubernatorial election. If, at the first such special election, the total number of votes cast for and against the acceptance of this act is less than 20% of the total vote for all candidates for Governor cast in said town at the next preceding gubernatorial election, the selectmen may call not more than one more such special election to be held within the time prescribed above.

The result of such elections shall be declared by the selectmen of the Town of Damariscotta and due certificates thereof shall be filed by the town clerk with the Secretary of State.