

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 690

H. P. 488

House of Representatives, January 24, 1963

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Boissonneau of Westbrook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Amending the Charter of the Westbrook Sewerage District.

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

Sec. 1. P. & S. L., 1955, c. 176, § 2-A, additional. Chapter 176 of the private and special laws of 1955, as amended, is further amended by adding a new section 2-A, as follows:

'Sec. 2-A. Drainage and surface waters defined. The use of the terms "drainage" or "surface waters" or like references shall mean those waters resulting from natural deposit and accumulation and net yet contained in the sewage facilities of the district or under the direction thereof. The duties and responsibilities to such waters shall commence only after same have entered the sanitary sewage facilities of the district.'

Sec. 2. P. & S. L., 1955, c. 176, § 4, amended. Section 4 of chapter 176 of the private and special laws of 1955 is amended to read as follows:

'Sec. 4. Right to lay pipes and other particular rights 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 purpose 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 water pipes, gas pipes, electric conduit, drains or sewers, 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. 3. P. & S. L., 1955, c. 176, § 6, amended. The first paragraph of section 6 of chapter 176 of the private and special laws of 1955 is amended to read as follows:

'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 is 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.~~

Sec. 4. P. & S. L., 1955, c. 176, § 7, amended. The last sentence of section

7 of chapter 176 of the private and special laws of 1955 is repealed, as follows: '~~It shall have the power to make assessments for the cost of such extensions and charges for the use thereof~~'

Sec. 5. P. & S. L., 1955, c. 176, § 8, repealed and replaced. Section 8 of chapter 176 of the private and special laws of 1955 is repealed and the following enacted in place thereof:

'Sec. 8. Trustees. All affairs of said district shall be managed, governed and controlled by a board of trustees, composed of 3 members. The mayor shall be a member ex-officio.

The 3 trustees shall be elected by the city council on the 2nd Monday in January after the acceptance of this act. All members shall be residents of the City of Westbrook. As soon as convenient after the members of said board have been elected, said trustees shall hold a meeting in the City of Westbrook and adopt a corporate seal, elect one of their number president, 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 the president, clerk or treasurer it shall be promptly filled by said board of trustees. At the first meeting they may determine by agreement, or failing to agree they shall determine by lot, the term of office of each trustee so that one shall retire each year and the term of office of the first 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 or until the successor trustee has been duly named and has taken office. Whenever the term of office of a trustee expires, the city council of Westbrook shall elect a successor to serve the full term of 3 years, and in case any other vacancy occurs from any cause, it shall be filled in a like manner for the unexpired term. When any trustee ceases to be a resident of said district he vacates his office of trustee.

The trustees shall ordain and establish such regulations as are necessary for the proper management of the affairs of the district. The trustees shall meet whenever necessary to transact the business of the district, and each shall receive compensation as decided by the city council of Westbrook. They may procure an office and incur such expense as may be necessary to maintain it. The annual report of the trustees of the district shall be filed with the City of Westbrook and shall become part of the annual report of said city. The treasurer shall furnish bond in such sum and with the sureties as the trustees may approve. Members of the board shall be eligible to any office under the board.'

Sec. 6. P. & S. L., 1955, c. 176, § 10, repealed and replaced. Section 10 of chapter 176 of the private and special laws of 1955, as amended by section 1 of chapter 48 of the private and special laws of 1961, is repealed and the following enacted in place thereof:

'Sec. 10. Revenue; application thereof; rates to be filed with Public Utilities Commission in certain cases. Each year, within the first 45 days of said year, the city council for the City of Westbrook shall fix a sum equal to 4½% of the total assessment for taxes for the previous taxable year for said City

of Westbrook, which sum shall be paid to the trustees of the Westbrook Sewerage District for the following purposes:

I. To pay current expenses incurred for operating and maintaining a sewage system;

II. To pay interest charges on the indebtedness of the district;

III. To provide for a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by said district, which sum shall be turned into a "sinking fund", so called, and there to be kept to provide for the retirement of said indebtedness. Money set aside for said sinking fund for the purposes aforesaid may be invested by the trustees in such securities as savings banks are allowed to hold under the laws of the State of Maine in such case made and provided;

IV. In the event of a surplus occurring in any year, such surplus may be set aside as a reserve and may be accumulated from year to year provided that the total of such reserve shall not exceed the sum of \$25,000. This sum to be used, in whole or in part, by the trustees, for any of the purposes of the district and for any and all purposes enumerated in this section.

In the event of an emergency arising not already contemplated and provided for within the provisions of the charter of the district, as amended, the trustees shall prepare a written petition addressed to the city council for said city, in which the nature of such emergency shall be fully set forth, the cost to meet the same and whether said emergency presents a temporary problem, a long lasting or permanent one and the council may make such sums available to the district as may be required for the same, in addition to any other sums made available to the district as provided herein.

At the request of the city council for said city, the trustees of the district, after proper study and inquiry, shall fix proper assessments to be made by the city.

If the scale established herein for providing revenue to the district shall exceed the need of said district or if the same should be insufficient therefor, or if any question should arise from the emergency provision herein, or if any party, individual or body politic, fails to accept or perform any of the obligations herein created, then such question, problem or alleged non-performance or noncompliance shall be submitted to the Maine Public Utilities Commission, which after proper notice and hearing, shall make known its finding and order thereon, which finding and order shall have the same effect as any other finding and order of said commission.'

Sec. 7. P. & S. L., 1955, c. 176, § 11-A, additional. Chapter 176 of the private and special laws of 1955 is amended by adding a new section 11-A, to read as follows:

'Sec. 11-A. Reversion to city. In the event that the Westbrook Sewerage District should cease to be a body politic or should cease to function as a legal entity, for any cause, all of its property, real, personal and mixed, actions, choses in action, obligations, accounts payable and accounts receivable shall revert to the City of Westbrook unless otherwise provided by law.'

Referendum; effective date; 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 of the City of Westbrook at the next regular city election or state-wide election, whichever occurs first.

The city clerk shall prepare the required ballots, on which he shall reduce the subject matter of this act to the following question: "Shall the Act Amending the Charter of the Westbrook Sewerage 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 effect for all purposes hereof on the first day of January, 1964 upon its acceptance by a majority of the legal voters voting at such election; but only if the total number of votes cast for and against the acceptance of this act at said election equals or exceeds 20% of the total vote for all candidates for Governor cast in said city at the next preceding gubernatorial election.

The result of such election shall be declared by the municipal officers of said City of Westbrook and due certificate thereof shall be filed by the city clerk with the Secretary of State.