

MAINE STATE LEGISLATURE

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(New Title)
New Draft of : H. P. 497, L. D. 699

ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1528

H. P. 1059

House of Representatives, April 18, 1963

Reported by Mr. Tyndale from Committee on Public Utilities. Printed under Joint Rules No. 10.

HARVEY R. PEASE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT to Incorporate the Berwick Sewer District.

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

Sec. 1. Territorial limits; incorporation. The inhabitants and territory comprising the Town of Berwick in the County of York shall be and is hereby created a body politic and corporate under the name of Berwick Sewer District, hereinafter called the district, for the purposes of providing and maintaining within the district a system of sewers, drains, sewage facilities and sewage disposal plants, including the existing sewers owned, operated and maintained by the Town of Berwick, for public purposes and for the health, comfort, convenience and welfare of the inhabitants of said district.

Within said district and the territory of any adjoining municipality said Berwick Sewer District is authorized to lay pipes, drains, sewers and conduits, and to take up, repair and maintain the same or to contract for the same to be done, in, along and through any public or private ways and public grounds, and in, along and through lands of any persons or corporations to and into tidal waters, rivers, watercourses or treatment works, or to or into any drain or sewer now or hereinafter built which empties into tidal waters, rivers, watercourses or treatment works, the discharge therefrom to be at such points consistent with the requirements of public health as shall be found convenient and reasonable for said district and the flow of existing watercourses; to construct and maintain treatment works, pumping stations, basins, reservoirs, flush tanks and such other appliances for collecting, holding, purifying, distributing and disposing of sewage matters and industrial waste and, subject to the provisions of section 7. of surface and waste waters, all as may be necessary or proper; and in general

to do any or all other things necessary or incidental to accomplish the purposes of this act.

Sec. 2. Authority to acquire and hold properties; right of eminent domain conferred. The district is hereby authorized and empowered to acquire and hold real and personal property necessary and convenient for the purposes of this act, and is expressly granted the right of eminent domain, and for the purposes of this act is authorized to take and hold, either by exercising it's rights of eminent domain, or by purchase, lease or otherwise, as for public uses any land, real estate, easement or interest therein and any sewer, drain or conduit and any sewer or drainage rights necessary for constructing, establishing, maintaining and operating sewers, drains, reservoirs, flush tanks, manholes, catch basins, treatment works, pumping stations or other appliances and property used or useful for collecting, holding, purifying, distributing and disposing of sewage matters and industrial waste and surface and waste waters located within the district or elsewhere.

It is also empowered through it's trustees to make contracts with persons or corporations including the Town of Berwick, for the collection, discharge or disposal of sewage and other waste matters. It may discharge sewage into the Salmon Falls River at points most reasonable and convenient for said district and said district is hereby invested with all the powers, rights, privileges and immunities incident to similar corporations or necessary for the accomplishment of their purposes.

Sec. 3. Assessment of damages; procedure on appeals. If any person sustaining damages by any taking as aforesaid shall not agree with the trustees of said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of York County, may have said damages assessed by them; the procedure and all subsequent proceedings and the rights of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be prescribed in the case of damages by the laying out of highways by municipalities.

Sec. 4. Power to lay and maintain sewers; liability for injuries. The district is hereby authorized to lay in, along and through streets, highways or private lands, under any watercourse, public or private way, or railroad, within and without the district, and to maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures as may be necessary and convenient for it's corporate purposes. Whenever said district shall lay any pipes, aqueducts or fixtures in, along or through any streets, roads, way or highways, or private lands, it shall cause the same to be done with as little obstruction as possible to the public travel or owners and shall at it's own expense without unnecessary delay cause the earth and pavement removed by it to be replaced in proper condition. Whenever the character of the work is such as to endanger travel on any public way, the selectmen of the Town of Berwick or the municipal officers of any adjoining municipality, wherever the instance may apply, may order a temporary closing of such way, upon request of said district, and the way shall remain closed to public travel until said municipal officers deem it is restored to a condition safe for traffic.

Sec. 5. Offenses and penalties. Any person who shall place, discharge or leave any offensive or injurious matter or material on or in the conduits, catch basins or receptacles of said district contrary to its rules or regulations, or shall willfully 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 the acts of willful injury aforesaid shall be punished by a fine of not exceeding \$200 and by imprisonment not exceeding one year, or by both.

Sec. 6. Officers; meetings. The affairs of the district shall be managed by a board of 5 trustees appointed by the board of selectmen of the Town of Berwick which trustees shall be residents of the district and who shall hold office as hereinafter provided.

The first board of trustees shall be appointed by the board of selectmen within 10 days after the acceptance of this act by the voters of the district to serve as follows: One to serve until the first annual meeting of said Town of Berwick following acceptance of this act and until his successor is appointed and qualified, two to serve until the 2nd annual meeting of said Town of Berwick following acceptance of this act and until their successors are appointed and qualified, and 2 to serve until the 3rd annual meeting of said Town of Berwick following acceptance of this act and until their successors are appointed and qualified. Thereafter, the board of selectmen of the Town of Berwick within 10 days after each annual meeting of said Town of Berwick shall fill the vacancies on said board of trustees by appointing the required number of trustees of said district each to serve until the 3rd annual meeting of said Town of Berwick following their appointment and until their successors have been appointed and qualified. Any vacancy on said board of trustees arising from any cause other than the termination of their original appointment shall be filled by the board of selectmen for the unexpired term. When a trustee ceases to be a resident of the district his office as trustee shall be declared vacant by the board of selectmen of the Town of Berwick.

The initial board of trustees, provided for in this act shall meet at some convenient place within the district within 10 days after their appointment. This initial meeting to be called by one of them in writing designating the time and place of such meeting and delivered in hand to the other trustees not less than 2 full days before the meeting; provided, however, that they may waive such notice and meet by agreement. At this initial meeting the board of trustees shall organize by electing from amongst their members a chairman and a clerk, by appointing a treasurer to serve at the pleasure of the board and by adopting a corporate seal.

The board of trustees from time to time shall adopt and establish bylaws consistent with the laws of the State of Maine which to them may be convenient for the proper management of the affairs of the district, fix the fees to be paid for entry into the system and fix the rentals to be paid for the use of the system and also the manner of collecting the same, choose and employ and fix the compensation of any officers or agents which to them may be necessary or convenient and

who shall serve at the pleasure of the board of trustees, and do and perform any and all other acts within the powers delegated to them by law. The treasurer shall furnish bond in such sum and with such sureties as the board of trustees may approve and the expense of the bond shall be borne by the district. The trustees each shall be sworn for the faithful performance of their duties which shall include the duties of any member who shall serve as clerk or clerk pro tem and each trustee shall receive as compensation for his services the sum of \$50 per year and this sum, by a vote of the district at any special meeting, may be increased to a maximum sum of \$100 per year. Members of the board of trustees shall be eligible to any office under the board and shall be eligible for reappointment to the board. They shall make and publish an annual report including a report of the treasurer, and such report may be included in and published as a part of the annual town report of the Town of Berwick.

Special meetings of the district may be called by the board of trustees at any time and shall be called, held and conducted in the same manner as for a town meeting as provided for in the Revised Statutes of 1954, chapter 90-A, and all acts amendatory thereof and additional thereto, except that the warrant for such meeting shall be signed by the chairman and clerk of the board of trustees.

Sec. 7. May hold property; right of eminent domain. Said district is hereby authorized and empowered to accept, by action of its board of trustees, from the inhabitants of the Town of Berwick and said Town of Berwick is hereby authorized to convey to said district, by deed signed by a majority of the selectmen of the Town of Berwick any and all right, title and interests which said town may have in and to the sewers now located within the limits of said district excluding storm and surface water drains or sewers, and any amounts owed by said town upon said sewers and any interest due on any amounts owed by said town, by reason of or on account of said sewers or drains heretofore built by said town, shall be paid by said district.

Any provision of this act to the contrary notwithstanding, the district shall be under no duty or obligation to construct, maintain, improve, extend or provide drains, pipes, catch basins or any other facilities for storm or surface water drainage. However, any sewer owned by the Town of Berwick at the time of the acceptance of this act and any sewer or drain used or owned by the Town of Berwick at the time of the acceptance of this act for both sanitary sewage disposal and storm and surface water drainage shall pass to and be vested in said district; provided, however, that when the district shall construct and provide a sewer or drain which permits separation of sanitary sewage previously disposed of through any such combined sewer or drain then the said district by vote of its board of trustees shall transfer and convey back to the Town of Berwick the facilities for storm and surface water drainage.

The district is authorized and empowered to acquire and hold real and personal property necessary and convenient for the purposes of this act and is expressly granted the right of eminent domain. And for the purposes of this act it is authorized to take and hold either by exercising its right of eminent domain or by purchase, lease or otherwise any land, real estate, easement or interest therein and any sewer, drain or conduit and any sewer or drainage rights necessary or convenient for constructing, establishing, maintaining and operating, sewers,

drains, reservoirs, flush tanks, manholes, catch basins, treatment works, pumping stations or other appliances used or useful for collecting, holding, purifying, distributing and disposing of sewage matters, industrial waste, and surface and waste waters located within the district or elsewhere.

In exercising from time to time the right of eminent domain conferred upon it, the district by its board of trustees shall file for record in the office of the county commissioners of York County and cause to be recorded in the registry of deeds in said York County plans of the locations of all lands, real estate, easements or interest therein, and sewers, drains or conduits and any sewer or drainage rights 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 and uncertain, the district 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 that property or interest for which the owner had not previously been paid and which damages are to be assessed as of the time of the original taking and the district shall not be liable for any acts which would have been justified, if the original taking had been lawful.

No entries shall be made upon any private lands except to make surveys, until the expiration of 10 days from such filing, whereupon possession may be had of all said land, real estate, easements or interest therein and other property and rights, as aforesaid, to be taken but title thereto shall not vest in said district until payment therefor. However, the district and its authorized agents and employees may enter upon any lands, waters and premises in the Town of Berwick or any adjoining municipality for the purposes of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of this act and such entries shall not be deemed a trespass.

Nothing herein 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 owners thereof in the performance of a public duty unless expressly authorized herein or by subsequent act of the Legislature.

Sec. 8. Procedure on crossing a public utility. 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 consent is requested by said district, the Public Utilities Commission shall determine the place, manner and condition of such crossing and all work on the property of such public utility shall be under the supervision and to the satisfaction of such public utility but at the expense of the district.

Sec. 9. Rights of abutters or others to enter. The district at all times shall be bound to permit the owners of 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 the district and the payment of the rates, prices and rentals established therefor. No person may enter his private sewer into the sewer pipes and conduits of the district until he has obtained a permit in writing from the

trustees of the district and conformed to the rules and regulations of the district. All such permits shall be recorded by the clerk of the district in it's records before the same are issued.

Sec. 10. Buildings to connect with sewer if available. All buildings or premises intended for industrial, business, recreational use, or for human habitation, occupancy or use which abut on a street in which there is a sewer owned, operated or maintained by the district or where the property line of the premises containing any such building or structure is within 100 feet of a sewer owned, operated or maintained by the district, shall have a drainage system which shall be caused to be connected with such sewer by the owner, person in possession, or person against whom taxes on the premises are assessed, in the most direct manner possible within 90 days after receiving a request therefor from the district, or within such further time as the trustees of the district may grant and, if feasible, with a separate connection for each house or building.

Sec. 11. Authorized to borrow money; issue bonds and notes. To procure funds for the purposes of this act and for such other expenses as may be necessary for the carrying out of it's purposes the district by vote of it's board of trustees but without a district vote, except as hereinafter provided, is hereby authorized to borrow money temporarily and to issue therefor it's negotiable notes for the purposes of renewing and refunding the indebtedness so created or for paying any necessary expenses and liabilities incurred by the district or incurred by the Town of Berwick prior to the organization of the district in acquiring properties, paying damages, laying sewers, drains and conduits, constructing, maintaining and operating a sewage plant or system and making renewals, additions, improvements and extensions to the same and to cover interest payments during the period of construction, the district being authorized to reimburse said Town of Berwick for any such expenses incurred or paid by it. The district by vote of its board of trustees and without district vote, except as hereinafter provided, is hereby authorized to issue from time to time bonds, notes or other evidences of indebtedness of the district in such amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine. The total indebtedness of the district at any one time outstanding shall not exceed the sum of \$700,000. In the case of a vote by the trustees to authorize bonds or notes to pay for the acquisition of property, for the cost of a sewage plant or system or part thereof, for the cost of renewals or additions or other improvements in the nature of capital cost, the estimated cost of which singly or in the aggregate is \$25,000 or more, but not for renewing or refunding the existing indebtedness or to pay for maintenance, repairs or current expenses, notice of the proposed debt and the general purpose or purposes for which the same were authorized shall be given by the clerk by publication at least once in a newspaper having a general circulation in the Town of Berwick. No debt may be incurred under such vote of the board of trustees until the expiration of 7 full days following the date in which such notice was first published. Prior to the expiration of said notice period, the board of trustees may call a special meeting of the district for the purpose of permitting the voters of the district to express their approval or disapproval of the amount of the debt so authorized and the board of trustees shall call such a special meeting of the district if, within 7 days following the publication of said notice, there shall have been

filed with the clerk of the district a petition or petitions signed by not less than 100 qualified voters of the district requesting that such a special district meeting be called. If at such district meeting a majority of the voters present and voting thereon express disapproval of the amount of debt authorized by the trustees, then the said debt shall not be incurred and the vote of the board of trustees authorizing the same shall be void and of no effect. Such bonds, notes and evidences of indebtedness may be issued to mature serially in annual installments of not less than 2% of the face amount of the issue and beginning not later than 3 years after the date thereof or made to run for such period as the trustees may determine but no issue shall run for a longer period than 40 years from the date of the original issue thereof. Bonds, notes or other evidences of indebtedness may be issued with or without provisions for calling the same prior to maturity and, if callable, may be made callable at par or at such premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "Berwick Sewer District", shall be signed by the treasurer and countersigned by the chairman of the board of trustees of the district, and if coupon bonds are issued the interest coupons attached thereto shall bear facsimile of the signature of the treasurer. All such bonds, notes or other evidences of indebtedness so issued by the district shall be legal obligations of the district, which is hereby declared to be a quasi-municipal corporation within the meaning of the Revised Statutes of chapter 90-A, section 23, as amended, and all the provisions of said section shall be applicable thereto. The district, from time to time, may issue in one series or in separate series, its bonds, notes or other evidences of indebtedness for the purpose of paying, redeeming or refunding outstanding bonds, notes or other evidences of indebtedness and each such authorized issue shall constitute a separate loan. All bonds, notes or other evidences of indebtedness issued by the district shall be legal investments for saving banks in the State of Maine and shall be tax exempt. The district is authorized and empowered to enter into agreements with the State or Federal Government to grant or loan money to or otherwise assist in the financing of projects such as the district is authorized to carry out, and to accept grants and to borrow money from such government agency, corporations, commission or board as may be necessary or desirable to carry out the provisions of this act.

Sec. 12. Sinking fund provided for; issue of refunding bonds authorized. In case any bonds or notes of the district are made to run for a period of years a sinking fund shall be established by the trustees of said district for the purpose of redeeming each issue of such bonds or notes when they become due and beginning not later than the 3rd year following the date of each such issue and a sum equal to not less than 2% of the original face amount of the bonds or notes so issued on account of or in behalf of said district, as aforesaid, shall be turned in to said sinking fund each year to provide for the final extinguishment of said district's funded debt.

The money set aside for a sinking fund and any increment thereon shall be devoted to the retirement of such notes and bonds and shall be used for no other purposes and such fund shall be invested in such securities as savings banks are allowed to hold, provided, however, that any surplus in a sinking fund not required for the retirement of a particular issue of notes or bonds may be

transferred to a sinking fund established for any other issue of notes or bonds of the district at the time outstanding or, if there are no such outstanding notes or bonds, for any lawful purpose.

Whenever any bonds or notes of the district for which a sinking fund has been established becomes due or can be purchased by said trustees on favorable term the board of trustees shall, if sufficient funds have accumulated in said sinking fund for such issue, redeem or purchase said bonds or notes and cancel them. In no case shall bonds or notes cancelled or redeemed be reissued.

In case the amount in said sinking fund shall not be sufficient to pay the total amount of the bonds or notes falling due at any one time, authority to issue new bonds sufficient to redeem so many of said bonds or notes as can not be redeemed from the sinking fund is hereby granted to said trustees.

Sec. 13. Rates and application of revenues. All persons, firms and corporations, whether public, private or municipal, shall pay to the treasurer of said district the rates, tolls, rent, entrance charges or other lawful charges established or revised by the board of trustees for the sewer or drainage service used or available with respect to their real estate and which rates, tolls, rent, entrance charges or other lawful charges shall be fair and reasonable charges for connection with and for the use of the sewer or drainage service and the same may include a charge or rate for the district's readiness to serve to be charged against owners, or persons in possession, or person against whom the taxes are assessed of all buildings or premises, whether the same are occupied or not, which abuts on a street or location through which said district maintains or has constructed a sewer line, or the property line of which is within 100 feet of a sewer line owned, operated or maintained by the district, but not actually connected thereto, whether or not such real estate is improved. In establishing or revising such rates, tolls, rents or charges the trustees may classify the property connected or to be connected with the district's sewage system and may give consideration to any factors relating to kind, quality or the extent of use of any such property or qualification of property including: (a) The volume of water discharged into the sewage system; (b) The type and size of buildings connected with such system; (c) The number of plumbing fixtures connected with such system; (d) The number of persons customarily using the property served by such system; (e) In the case of commercial or industrial property the average number of employees, customers and guests using the property, and (f) The quality and character of the material discharged into the sewage system. The trustees may establish minimum charges in connection with and for the use of it's sewer system.

Rates, tolls, rents, entrance charges or other lawful charges shall be uniform whenever the cost to the district of installation and maintenance of sewers and drains and their respective appurtenances and the costs of services is substantially uniform; but, however, nothing in this act shall preclude the district from establishing a higher rate, toll, rent, entrance charge or other lawful charge than the regular rates, tolls, rent, entrance charges or other lawful charges in sections where, for any reason, the cost to the district for construction and maintenance or the cost of service exceeds the average; but, however, such higher rates, tolls,

rents, entrance charges or other lawful charges shall be uniform throughout the section where they apply.

The rates shall be so established as to provide revenue for the following purposes:

I. To pay the current running expenses for operating and maintaining the sewage system including provisions for depreciation;

II. To provide for the payment of interest on the indebtedness created by the district;

III. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness of the district, which sum shall be turned into a sinking fund for the final extinguishment of the debt. The money so set aside shall be devoted to the retirement of the obligations of the district, or invested in securities lawful for savings banks; provided, however, that the trustees may, in their discretion, in lieu of the establishment of a sinking fund, issue bonds or notes or other evidences of indebtedness of the district, so that not less than 1% of the notes, bonds or other evidences of indebtedness issued shall mature and be retired annually;

IV. If any surplus remains after the years operation, this surplus may be added to the sinking fund, if any, or held as a reserve to pay maturing serial debts, or if no funded debt of the district is outstanding then for any lawful purpose.

Sec. 14. Assessment against lot benefited. When the district has constructed and completed a common sewer the board of trustees may if they so determine in order to defray a portion of the expenses thereof determine what lot or parcels of land are benefited by such sewer, whether or not there are buildings or other structures located thereon and whether they are otherwise improved or not, and shall estimate and assess upon such lots and parcels of land and against the owners thereof, or persons in possession, or persons against whom taxes thereon are assessed, whether said persons to whom the assessments are so made shall be the owner, tenant, lessee or agent, or against the heirs or devisees of a deceased owner without designating any of them by name and whether the same is occupied or not, such sum not exceeding such benefit as they may deem just and equitable toward defraying the expense of constructing and completing said sewer, together with such sewage disposal units and appurtenances as may be necessary, the whole of such assessment not to exceed $\frac{1}{2}$ of the cost of said sewer and sewage disposal unit. The trustees shall file with the clerk of the district a plan showing the location of such sewer and sewage disposal units, their assessments rolls containing a statement of the amount assessed upon each lot or parcel of land so assessed, a description of each lot or parcel of land so assessed, and the name of the person against who said assessment is made and the clerk of the district shall record the same in a book kept for that purpose and each person so assessed shall be notified of such assessment by having an authenticated copy of said assessment roll together with an order and notice signed by the clerk of said district stating the time and place for hearing upon the subject matter of said assessment and which notice shall be

given to each person so assessed or left at his usual place of abode in said district at least 10 days before said hearing, or by mailing the same to each person so assessed by certified mail addressed to his last known address and by publishing the same once a week for 3 successive weeks in any newspaper of general circulation in said district, said mailing and the last such publication to be at least 30 days before the hearing. A return made upon the copy of such notice by a sheriff or his deputy or by any constable in the Town of Berwick or the production of the paper containing such notice or the certificate of the clerk of such mailing and publication shall be conclusive evidence that said notice has been given, and upon such hearing the trustees shall have power to revise, increase or diminish any of such assessments, and any such revision, increases or diminutions shall be in writing and recorded by the clerk of the district. Supplemental assessments may be made within 5 years from the date of any assessment roll whenever it appears that any lot or parcel of land benefited has been omitted from the assessment or that said assessment or any part thereof is invalid or void for any reason. The trustees for the time being may make such supplemental assessments according to the procedure and the principles of the original assessment and such supplemental assessment shall be valid even though it may, when added to the original, exceed one half of the cost of the sewer and sewage disposal unit.

Any person aggrieved by the decision of said trustees as it relates to any assessment for sewage construction shall have the same rights of appeal as are provided in the case of the laying out of a town way.

Sec. 15. Assessments; lien; sheriff's sale. All assessments and supplemental assessments made under the provision of section 14 shall create a lien upon each and every lot or parcel of land so assessed and the buildings upon the same and the lien shall take effect when the trustees file with the clerk of the district the completed assessment roll and such lien shall continue for one year thereafter or for one year after the termination of any appeal and within 10 days after the date of hearing on such assessments the Clerk of the district shall make out a list of all such assessments, the amount of each, and the name of the person against whom the same is assessed and he shall certify the list and deliver it to the treasurer of said district. If such assessments are not paid within 3 months from the date thereof the treasurer may bring civil action in the name of the district against the person against whom such assessment is made for the collection of such assessment. Such action shall be begun by writs of attachment commanding the officer serving it to specially attach the real estate upon which the lien is claimed and shall be served as other writs of attachment to enforce liens on real estate. The complaint in such action shall contain a statement of such assessment, a description of the real estate against which the assessment is made, and an allegation that a lien is claimed on said real estate to secure the payment of the assessment. If no service is made upon the defendant or if it shall appear that any other persons are interested in such real estate the court shall order such further notice of such action as appears proper and shall allow such other persons to become parties thereto. If it shall appear upon trial of such action that such assessment was legally made against said real estate, remains unpaid, and that there is an existing lien on the real estate for the payment of such assessments then judgment shall be rendered for such assessment,

interest and costs of suit against the defendants and against the real estate upon which the assessment was made and execution shall issue thereon to be enforced by sale of such real estate in the manner provided for a sale on execution of real estate attached on original writs, however, in making such sale the officer shall follow the procedure in selling and conveying and there shall be the same rights of redemption as are provided for in Revised Statutes of 1954, chapter 91-A, section 87, as amended.

Sec. 16. Additional method of collection of assessments. If assessments, under section 15, are not paid and the district does not proceed to collect unpaid assessments by a sheriff's sale of the real estate upon which such assessments are made, under section 15, or does not collect or is in any manner delayed or defeated in collecting such assessments by a sheriff's sale of said real estate, under section 15, then the treasurer in the name of said district may maintain a civil action against the party so assessed for the amount of such assessment as for money paid, laid out and expended in any court of competent jurisdiction and in such suit may recover the amount of such assessment with interest at the rate of 10% per year on the same from the date of said assessment and its costs.

Sec. 17. Assessments paid by other than owner, how recovered. When any assessment, under section 15, shall have been paid by any person against whom such assessment has been made, who is not the owner of such lot or parcel of land, then the person so paying the same shall have a lien upon such lot or parcel of land with the buildings thereon for the amount of said assessment so paid by said person, and incidental charges, which lien shall continue for one year and which lien may be enforced in a civil action as for money paid, laid out and expended and by attachment in the same way and manner as provided for in the Revised Statutes of 1954, chapter 178, as amended for the enforcement of liens upon buildings and lots.

Sec. 18. Lien certificate; procedure. Liens created by section 15 on lots or parcels of land may be enforced in the following manner in addition to other methods established by law.

The treasurer may, after the expiration of 8 months and within one year after the date of the assessment roll or termination of any appeal, give to the person against whom such assessment is made, leave at his last and usual place of abode or send by certified mail to his last known address a notice in writing signed by said treasurer stating the amount of such assessment, describing the real estate on which the assessment is made, alleging that a lien is claimed on said real estate to secure the payment of the assessment, and demanding the payment of said assessment within 10 days after service or mailing of such notice. In the case of supplemental assessments the treasurer may give such notice after the expiration of 8 months and within one year after the date of the supplemental roll or the termination of any appeal therefrom. If an owner or occupant of real estate against whom any assessment is made shall die before such demand is made on him then such demand may be made upon the executor or administrator of his estate or upon any of his heirs or devisees.

After the expiration of said 10 days and within 10 days thereafter the treas-

urer shall record in the registry of deeds of York County a tax lien certificate signed by the treasurer setting forth the amount of such assessment, a description of the real estate on which the assessment is made, an allegation that a lien is claimed on said real estate to secure the payment of said assessment, that a demand for payment of said assessment has been made in accordance with the provisions of this section, and that said assessment remains unpaid. When the real estate of a deceased person has been assessed to his heirs or devisees without designating any of them by name it will be sufficient to record in said registry a lien certificate in the name of the heirs or the devisees of said decedent without designating them by name.

At the time of the recording of the lien certificate in the York County registry of deeds, as herein provided in all cases, the treasurer shall file in the office of the district a true copy of the lien certificate and shall send by certified mail to each record holder of a mortgage on said real estate, to his last known address, a true copy of the lien certificate. The costs to be paid by the person assessed shall not exceed \$1.50 plus the recording fees and registered mail fees paid for sending the true copies of the lien certificate.

The filing of the lien certificate in the registry of deeds shall create a mortgage on the real estate therein described to the district which shall have priority over all other mortgages, liens, attachments and encumbrances of any nature, except claims for municipal taxes, and shall give to the district all the rights usually incident to a mortgagee, except that the district shall not have any right of possession of said real estate until the right of redemption, hereinafter provided for, shall have expired. In the event that such assessment, interest and costs shall be paid within 12 months after the filing of the lien certificate in the registry of deeds the treasurer shall prepare and record a discharge of the mortgage in the same manner as is now provided for the discharge of real estate mortgages. If the mortgage together with interest and costs shall not be paid within 12 months after the date of the filing of the lien certificate in the registry of deeds then the said mortgage shall be deemed to have been foreclosed and the right of redemption to have expired. The filing of the lien certificate in the registry of deeds shall be sufficient notice of the existence of the mortgage.

The lien certificate or a certified copy of the registry record thereof shall be prima facie evidence in all courts in all proceedings by and against the district, its successors or assigns of the truth of the statements therein and, after the period of redemption has expired, of the title of the district to the real estate therein described and of the regularity and validity of all proceedings with reference to the acquisition of title by such mortgage and the foreclosure thereof.

Sec. 19. Lien for payment of rates. There shall be a lien on real estate served or benefited by the sewers of the district to secure the payment of rates and charges established and due under section 13 which lien shall take precedence of all other claims on said real estate excepting only claims for taxes. Real estate for the purposes of this act shall have the same definition as that given in Revised Statutes of 1954, chapter 91-A, section 4, as amended.

The treasurer of the district shall have full and complete authority and power to collect the rates, tolls, rents and other charges established under section 13 and due and payable to the district. The treasurer may, after demand for pay-

ment, sue in the name of the district in a civil action for any rate, toll, rent or other charge remaining unpaid in any court of competent jurisdiction. In addition to other methods established by law for the collection of rates, tolls, rents and other charges, and without waiver of the right to sue for the same as aforesaid, the lien hereby created may be enforced in the following manner. Whenever any rate, toll, rent or other charge has become payable before the first day of January of any year and remains unpaid, the treasurer during the month of January may give or cause to be given to the person against whom the rate, toll, rent or other charge is assessed, or may leave or cause to be left at such persons last and usual place of abode, or may send by certified mail to such persons last known address a notice in writing signed by the treasurer stating the amount of such rate, toll, rent or other charge, the periods for which they are payable, describing the real estate upon which the lien is claimed, and stating that a lien is claimed on said real estate to secure the payment of said rate, toll, rent or other charge, and demanding payment as aforesaid within 10 days after the service of such notice or the mailing of such notice. If the person from whom any rate, toll, rent or other charge is payable shall die before such demand is made on him, such demand may be made upon the executor or administrator of his estate or upon any of his heirs or devisees. After the expiration of said period of 10 days and on or before February 20th of each year the treasurer shall record in the registry of deeds of York County a tax lien certificate signed by the treasurer setting forth the amount of such rate, toll or other charge, describing the real estate on which the lien is claimed, stating that a lien is claimed on said real estate to secure payment of said rate, toll, rent or other charge, that a notice and demand for payment of the same has been given or made in accordance with the provisions of this section, and that such rate, toll, rent or other charge remains unpaid. At the time of the recording of the lien certificate in the York County registry of deeds, as herein provided in all cases, the treasurer shall file in the office of the district a true copy of the lien certificate and shall send by certified mail to each record holder of a mortgage on said real estate, to his last known address, a true copy of the lien certificate. The fees to be charged by the district to the rate payer for such notice and filing shall not exceed \$1.50, plus the fee paid by the district to the register of deeds for filing and recording the lien certificate and the registered mail fees paid for sending the true copies of the lien certificate.

The filing of the lien certificate in the registry of deeds shall create a mortgage on the real estate therein described to the district which shall have priority over all other mortgages, liens, attachments and encumbrances of any nature, except claims for municipal taxes, and shall give to the district all the rights usually incident to a mortgage, except that the district shall not have any right to possession of said real estate until the right of redemption, hereinafter provided for, shall have expired. In the event that said rate, toll, rent or other charge, with interest and costs, as aforesaid, shall be paid within 12 months after the filing of the lien certificate in the registry of deeds the treasurer shall prepare and record a discharge of the mortgage in the same manner as is now provided for the discharge of real estate mortgages. If the mortgage, together with interest and costs, shall not have been paid within 12 months after the date of the filing of the lien certificate in the registry of deeds then the mortgage shall be deemed to have been foreclosed and the right of redemption to have expired.

The filing of the lien certificate in the registry of deeds shall be sufficient notice of the existence of the mortgage.

The lien certificate or a certified copy of the registry record thereof shall be prima facie evidence in all courts in all proceedings by and against the district, its successors or assigns of the truth of the statements therein and, after the period of redemption has expired, of the title of the district to the real estate therein described and of the regularity and validity of all proceedings with reference to the acquisition of title by such mortgage and the foreclosure thereof.

Sec. 20. Quasi-municipal corporation. The district is hereby declared to be a quasi-municipal corporation within the meaning of the Revised Statutes of 1954, chapter 90-A, section 23 and all the provisions of said section shall be applicable thereto. The property, both real and personal, rights and franchises of said district shall be forever exempt from taxation.

Sec. 21. Separability. In the event that any sections or portions of this act shall be held to be unconstitutional or otherwise ineffective and null and void by a court of competent jurisdiction the remaining sections and portions thereof shall be separated from those held to be unconstitutional and null and void and shall continue to be operative.

Sec. 22. Existing statutes not effected. 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 any applicable provisions of the Revised Statutes of 1954, chapter 44 and 79, and all acts amendatory thereof or additional thereto; but the provisions of this section shall not be taken as implying the necessity for approval by the Public Utilities Commission of the State of Maine for the issuance of notes or bonds of the district.

Sec. 23. Effective date; referendum; certificate to Secretary of State. This Act shall take effect 90 days after the adjournment of the Legislature for the purpose of permitting its submission to the legal voters of the district, being the Town of Berwick, at any annual or any special town meetings held prior to January 1, 1965. Said meetings shall be called by the municipal officers of the Town of Berwick and shall be held at the regular meeting place in the town. The dates of said meetings shall be determined by the said municipal officers. The registrar of voters of the Town of Berwick shall prepare and furnish a checklist for the voters within said district as are then legal voters of said town. Such elections shall be called, advertised and conducted according to the law relating to municipal elections. The registrar of voters shall be in session on the 3 secular days next preceding any such election, the first and 2nd days thereof to be devoted to registration of voters and the last day to enable the registrar to verify the correction of said list and to complete and close up his records of said session. 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 creating the Berwick Sewer District, passed by the 101st Legislature, be accepted?" The voters shall indicate by a cross or a check mark placed against the words "Yes" or "No" their opinion of the same.

This act shall take effect for all the purposes hereof immediately upon it's

acceptance by a majority of the legal voters voting at such election; but only if the total number of votes cast for and against acceptance of this act in said election equals or exceeds 10% of the total number of names on the checklist of the voters of said district, provided for herein, which checklist shall be used at such elections; but failure of approval by the necessary percentage of voters shall not prevent subsequent elections and failure of acceptance by the voters shall not prevent subsequent elections within the time limit herein stated. The result of such elections shall be declared by the municipal officers of the Town of Berwick and due certificate thereof filed by the town clerk with the Secretary of State.