

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 855

S. P. 275

Referred to Committee on Public Utilities.
ordered printed.

In Senate, February 2, 1965

Sent down for concurrence and

EDWIN H. PERT, Secretary

Presented by Senator Violette of Aroostock.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT Providing for the Formation of Sanitary Districts.

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

R. S., T. 38, c. 11, additional. Title 38 of the Revised Statutes is amended by adding a new chapter 11 to read as follows:

CHAPTER 11

SANITARY DISTRICTS

SUBCHAPTER I

GENERAL PROVISIONS

§ 1061. Short title

This chapter shall be known and may be cited as the **Maine Sanitary District Enabling Act**.

§ 1062. Declaration of policy

It is declared to be the policy of the State to encourage the development of sanitary districts consisting of a municipality or 2 or more municipalities of sufficient size so that said districts may economically construct and operate sewage systems so as to assist in the abatement of the pollution of public streams, lakes and inland and ocean waters and enhance the public health, safety and welfare of the citizens of the State.

A sanitary district consisting of a municipality or 2 or more municipalities may only be formed where the **Water Improvement Commission** finds that there is a need throughout a part or all of the territory embraced within the pro-

posed district for the accomplishment of the purpose of providing an adequate, efficient system and means of collecting, conveying, pumping, treating and disposing of domestic sewage and industrial wastes within the proposed district and that such purposes cannot be effectively accomplished throughout a part or all of the territory of the proposed district by any existing public agency or agencies and that such purposes can be effectively accomplished therein on an equitable basis by a sanitary district if created and that the creation and maintenance of such a district will be administratively feasible and in furtherance of the public health, safety and welfare.

§ 1063. Purpose

The purpose of each sanitary district formed under this chapter shall be to construct, maintain, operate and provide a system of sewerage, sewage and commercial and industrial waste disposal and sewage treatment and of storm and surface water drainage, for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district.

§ 1064. Exemption from taxation

The property, both real and personal, rights and franchises of any sanitary district formed under this chapter shall be forever exempt from taxation.

§ 1065. Powers exercised according to general laws

All the rights, powers and duties conferred upon sanitary districts under this chapter shall be exercised and performed in accordance with, and subject to any applicable provisions of Title 35, chapters 1 to 17.

§ 1066. Provisions supplemental to other law

This chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing.

§ 1067. Reimbursement of costs to municipalities

Any municipality or municipalities which fall within a sanitary district formed under this Act shall be entitled to reimbursement from said sanitary district when the sanitary district is in a position to reimburse said costs. The term "costs" as used in this section shall include but shall not be limited to the following cost of preparation of an engineering study or studies; legal costs with relation to the application and presentation of any application for the formation of a sanitary district; other engineering costs that may not be included in a study; costs for financial advice; administrative expense and such other expense as may be necessary or incident to the action of any municipality under this Act.

SUBCHAPTER II

ORGANIZATION

§ 1101. Formation

The residents of and the territory within a single municipality or within 2 or

more municipalities may form a sanitary district, which shall be a body politic and corporate, by proceeding as follows:

1. Application. The municipal officers of the municipality or municipalities that desire to form a sanitary district shall file an application with the Water Improvement Commission on a form or forms to be prepared by said commission, setting forth the name or names of the municipality or municipalities that propose to form said district, and they shall furnish such other data as the commission may determine necessary and proper. The application shall contain but shall not be limited to, a description of the territory of the proposed district, the name proposed for the district which shall include the words "Sanitary District," a statement showing the existence in such territory of the conditions therein requisite for the creation of a sanitary district as prescribed in section 1062. A copy of an engineering study or studies shall be filed with said application.

2. Public hearing. Upon receipt of the application, the Water Improvement Commission shall cause a public hearing to be held thereon, in one of the municipalities within the proposed district. Notice of the hearing stating in general terms that the application for the creation of the proposed district has been filed and describing the proposed name and territory thereof shall be given by the commission by publication for 2 successive weeks in a newspaper of general circulation in the territory described in such application and also by causing the posting of said notice in at least one public and conspicuous place in each municipality in the proposed district at least 7 days before the date set for the hearing.

3. Approval of application. After the public hearing on the evidence received at said hearing the commission shall make findings of fact and conclusions thereon and determine of record whether or not the conditions requisite for the creation of a sanitary district exist in the territory described in the application. If the commission finds that such conditions do exist, it shall issue an order, approving the proposed district as conforming to the requirements of the act, and designating the name of the proposed district. The commission shall also give notice to the municipal officers within such municipality or municipalities of a date, time and place of a meeting of the municipal officers if a single municipality, or a joint meeting of all of the municipal officers if the proposed district includes more than one municipality. The notice shall be in writing and sent by registered or certified mail, return receipt requested, to the addresses as shown on the application mentioned in subsection 1. A return receipt properly endorsed shall be evidence of the receipt of notice. The notice shall be mailed at least 10 days prior to the date set for the meeting.

4. Denial of application. If the commission after such public hearing determines that the creation of a sanitary district in the territory described in the application is not warranted for any reason, it shall make findings of fact and conclusions thereon and enter an order denying its approval. The commission shall give notice of such denial by mailing certified copies of the decision and order to the municipal officers of the municipality or municipalities involved. No application for the creation of a sanitary district, consisting of exactly the same territory shall be entertained within one year after the date of the issuance

of an order denying approval of the formation of such sanitary district, but this provision shall not preclude action on an application for the creation of a sanitary district embracing all or part of the territory described in the original application, provided that another municipality or fewer municipalities are involved.

5. Appeal. An appeal may be taken from an order of the Water Improvement Commission, approving or refusing to approve a sanitary district, to the Superior Court within and for the County of Kennebec by following the appropriate procedure set forth in the Maine Rules of Civil Procedure. This appeal shall go directly to the court and Title 5, chapters 301 to 307 shall not apply. The court may affirm, modify or set aside the order, or remand the case for further proceeding before the commission.

6. Joint meeting. The municipal officers of the municipality or municipalities within the proposed sanitary district shall meet at the time and place appointed. In the case where more than one municipality is involved they shall organize by electing a chairman and a secretary. No action shall be taken at any meeting of the municipal officers unless at the time of the convening thereof there are present at least $\frac{1}{2}$ of the total number of municipal officers eligible to attend and participate at said meeting, other than to report to the Water Improvement Commission that a quorum was not present and to request said commission to issue a new notice for another meeting. The purpose of the meeting shall be to determine a fair and equitable number of trustees, subject to section 1104, to be elected by and to represent each participating municipality. When a decision has been reached on the number of trustees and the number to represent each municipality within the limitations hereinafter provided, this decision shall be reduced to writing by the secretary and must be approved by a vote of $\frac{2}{3}$ of those present. Where 2 or more municipalities are involved, the vote so reduced to writing and the record of the meeting shall be signed by the chairman and attested by the secretary and filed with the Water Improvement Commission. In cases where a single municipality is involved, a copy of the vote of the municipal officers duly attested by the clerk of the municipality shall be filed with the Water Improvement Commission.

7. Submission. When the record of the municipality or the record of the joint meeting, where municipalities are involved, has been received by the Water Improvement Commission and found to be in order, the commission shall order the question of the formation of the proposed sanitary district and other questions relating thereto to be submitted to the legal voters of the municipality or municipalities which fall within the proposed sanitary district. The order shall be directed to the municipal officers of the municipality or municipalities which propose to form said sanitary district, directing them to forthwith call town meetings or city elections, as the case may be, for the purpose of voting in favor of or in opposition to each of the following articles or questions, as they may apply, in substantially the following form:

A. Article : To see if the municipality will vote to join with the municipalities of (naming them) to form a sanitary district to be known as the (name) Sanitary District.

B. Article : To see if the inhabitants of and the territory within the

Town or City of _____ (name of town or city) will vote to incorporate as a sanitary district to be known as (name) Sanitary District.

C. Article : To see if the municipality will vote to approve the allocation of representation among the municipalities on the board of trustees as determined by the municipal officers and listed as follows:

Total number of trustees shall be _____ and the town of _____ shall be entitled to _____ trustees, etc.

D. Article : To see if the municipality will vote to approve the number of trustees determined by the municipal officers of the municipality and determined to be as follows:

The total number of trustees shall be _____

E. Article : To choose (number) of trustees to represent the municipality on the board of trustees of the (name) Sanitary District. At any such town meeting or city election trustees shall be chosen to represent the municipality in the manner provided in section 1101.

§ 1102. Approval and organization

When the residents of the municipality or each municipality, where more than one is involved, have voted upon the formation of a proposed sanitary district and all of the other questions submitted therewith, the clerk of each of the municipalities shall make a return to the Water Improvement Commission in such form as the commission shall determine. If the commission finds from the returns that a majority of the residents within each of the municipalities involved, voting on each of the articles or questions submitted to them, have voted in the affirmative, and they have elected the necessary trustees and the names thereof to represent each municipality, and that all other steps in the formation of the proposed sanitary district are in order and in conformity with law, the Water Improvement Commission shall make a finding to that effect and record the same upon its records. The Water Improvement Commission shall, immediately after making its findings, issue a certificate of organization in the name of the sanitary district in such form as the commission shall determine. The original certificate shall be delivered to the trustees on the day that they are directed to organize and a copy of said certificate duly attested by the Chairman of the Water Improvement Commission shall be filed and recorded in the office of the Secretary of State. The issuance of such certificate by the Water Improvement Commission shall be conclusive evidence of the lawful organization of said sanitary district. The sanitary district shall not be operative until the date set by the Water Improvement Commission under section 1106.

§ 1103. Transfer of property and assets

When the territory of a municipality falls within a sanitary district which has been issued its certificate of organization and has assumed the management and control of the operation of the sewage facilities within its territorial limits, the trustees of said sanitary district shall determine what sewer property or properties including treatment plants owned by any municipality within said sanitary district shall be necessary to carry on the functions of the sanitary district and shall request in writing that the municipal officers of any municipality within

said sanitary district convey the title to such sewer property to such sanitary district and said municipal officers shall make such conveyance without payment of consideration.

§ 1104. Trustees

All of the affairs of a sanitary district shall be managed by a board of trustees which shall consist of not less than 5 nor more than 18 members, the exact number to be determined as set forth in section 1101. No municipality within any sanitary district shall have less than one trustee. The number of trustees that such municipality shall be entitled to shall be in accordance with the determination that has been previously made and approved by the voters as provided in section 1101.

§ 1105. Election of trustees

Trustees shall be nominated and elected in the same manner as municipal officers are nominated and elected under Title 30, or in accordance with a municipal charter, whichever is applicable. Upon receipt of the names of all the trustees, the Water Improvement Commission shall set a time, place and date for the first meeting of the trustees, notice thereof to be given in the same manner as set forth in section 1101, to determine the length of their terms. The terms shall be determined by lot in accordance with the following table:

TERM

Total number of Trustees	1 year	2 years	3 years
5	1	2	2
6	2	2	2
7	2	2	3
8	2	3	3
9	3	3	3
10	3	3	4
11	3	4	4
12	4	4	4
13	4	4	5
14	4	5	5
15	5	5	5
16	5	5	6
17	5	6	6
18	6	6	6

The trustees shall enter on their records the determination so made. The trustees shall serve their terms as determined at the organizational meeting and an additional period until the next regular election of the municipality. Thereafter the trustees' terms of office shall date from the time of each regular municipal election.

They shall organize by election from their own members a chairman, a vice-chairman, a treasurer and a clerk and choose and employ and fix the compensation of such other necessary officers and agents who shall serve at their pleasure,

and they shall also adopt a corporate seal. Prior to the election of said officers each trustee shall be sworn to the faithful performance of his duties.

The trustees may from time to time adopt, establish and amend by bylaws consistent with the laws of the State of Maine, and necessary for their own convenience and the proper management of the affairs of the district and perform any other acts within the powers delegated to them by law.

After the original organizational meeting the trustees shall meet annually at a time determined by their bylaws for the purpose of electing from among the members a chairman, vice-chairman, treasurer and clerk to serve until the next annual election and until their successors are elected and qualified. 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 chairman, vice-chairman, treasurer and clerk may receive such compensation for serving in these capacities as the trustees shall determine. This compensation shall be in addition to the compensation payable to them as trustees. The trustees shall also make and publish an annual report including a report of the treasurer.

At the expiration of the terms so determined the vacancy shall be filled for a term of 3 years and the trustees shall notify the municipal officers of the municipalities within the sanitary district before the annual town meeting or before the regular city election if a city falls within the sanitary district, of the fact that a vacancy will occur so that the municipal officers in these municipalities may provide for the election of a trustee or trustees to fill the vacancy that will occur. All trustees shall serve until their successors are elected and qualified and may receive such compensation, not exceeding \$10 per meeting, as the trustees may determine.

When a vacancy on the board of trustees occurs by reason of death, resignation or otherwise, the municipal officers of the municipality that the trustee represented shall fill the vacancy by electing a trustee from the municipality to serve until the municipality shall fill the vacancy at its next annual town meeting or next regular city election. The person so chosen shall serve until his successor is elected and qualified. In case any member of the board of trustees shall remove from the municipality that he represents, a vacancy shall be declared to exist by the board of trustees and the municipal officers shall thereafter choose another trustee as provided.

No member of the board of trustees shall be employed for compensation as an employee or in any other capacity by the sanitary district of which he is a trustee, except as above provided.

§ 1106. Operational date of sanitary districts

Notwithstanding the prior issuance of a certificate of organization, a sanitary district shall not be in operation and shall not exercise any of its powers granted herein until the date set by the Water Improvement Commission as provided in section 1105. On the date so set, the sanitary district shall become operative and the trustees shall assume the management and control of the operation of all of the public sewers, storm and surface water drains, treatment plants and related structures within the sanitary district, and the municipalities within said sanitary district on and after said date shall have no responsibility for the operation or

control of the public sewers and storm and surface water drains and treatment plants within their respective jurisdiction other than to pay for services rendered to the municipality by the sanitary district.

SUBCHAPTER III

POWERS

§ 1151. Powers

Each sanitary district formed under this chapter shall have the power, within the district and within the territory of any adjoining municipality, 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 person or corporation, to and into tidal waters, rivers, watercourses and treatment works or to or into any drain or sewer now or hereafter built which empties into tidal waters, rivers, watercourses and 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 matter and commercial and industrial waste and of storm and surface water, all as may be necessary or proper; and in general, do any or all other things necessary or incidental to accomplish the purposes of the district.

§ 1152. Right of eminent domain

Each sanitary district formed under this chapter is authorized and empowered to acquire and hold real and personal property necessary or convenient for its purposes, and is granted the right of eminent domain, and for such purposes is authorized to take and hold, either by exercising its right of eminent domain or by purchase, lease or otherwise, as for public uses any land, real estate, easements or interest therein, and any sewers, drains or conduits 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 and other appliances and property used or useful for collecting, holding, purifying, distributing and disposing of sewage matter and commercial and industrial waste and surface and waste waters.

§ 1153. Condemnation proceedings

Each sanitary district formed under this chapter, in exercising from time to time the right of eminent domain conferred upon it by section 1152, shall file in the office of the county commissioners of the county in which the property to be taken is located and cause to be recorded in the registry of deeds in said county plans of the location 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 any such 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, it may, at any time, correct and perfect such location and

file a new description thereof; and in such case any such district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and any such district shall not be liable for any acts which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of 10 days from such filing, whereupon possession may be had of all said lands, real estate, easements or interests therein and other property and rights as aforesaid to be taken, but title thereto shall not vest in the district until payment therefor.

§ 1154. Appeal

If any person sustaining damages by any taking by a sanitary district under section 1153 shall not agree with such district upon the sum to be paid therefor, either party, upon petition to the county commissioners of the county in which the property is located, may have said damages assessed by them; the procedure and all subsequent proceedings and right of appeal thereon 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 by the county commissioners.

§ 1155. Crossing other public utilities

If any sewer line of any sanitary district formed under this chapter crosses the property or line of any other public utility, unless consent is given by such other 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. Nothing herein contained shall be construed as authorizing any such sanitary district to take by right of eminent domain any of the property or facilities of any other public utility used, or acquired for future use by the owner thereof, in the performance of a public duty unless expressly authorized by special Act of the Legislature.

§ 1156. Entry of private sewer

Any person may enter his private sewer into any sewer of a sanitary district formed under this chapter while the same is under construction and before completion of such sewer at the point of entry, on obtaining a permit in writing from the trustees of the district; but after the sewer is completed to the point of entry and an entrance charge established on that location, no person shall enter his private sewer into such sewer until he has paid the entrance charge and obtained a permit in writing from the trustees. All such permits shall be recorded by the clerk of the district in its records before the same are issued.

§ 1157. Contracts for disposal of sewage

Any sanitary district formed under this chapter is authorized to contract with persons, corporations, districts and other municipalities, both inside and outside the boundaries of the district, and with the State of Maine and the United States

Government or any agency of either, to provide for disposal of sewage and commercial and industrial waste and storm and surface water through the district's system and through the system of any such person, corporation, district or other municipality; and every other district and municipality of the State of Maine is authorized to contract with such sanitary district for the collection, distribution, treatment and disposal of sewage and commercial and industrial waste and storm and surface water, and for said purposes any such municipality may raise money as for other municipal charges.

§ 1158. Conditions for carrying out work

When any sanitary district formed under this chapter shall enter, dig up or excavate any public way or other land for the purpose of laying its sewers, drains or pipes, constructing manholes or catch basins or their appurtenances, or maintaining the same, or for any other purpose, the work shall be done expeditiously, 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 as good. Whenever the character of the work is such as to endanger travel on any public way, the municipal officers of the municipality in which the work is being done may order a temporary closing of such way, and of any intersecting way, upon request of said district, and the way shall remain closed to public travel until such municipal officers deem it restored to a condition safe for traffic.

§ 1159. Inspection of sewers

The officers or agents of each sanitary district formed under this chapter shall have free access to all premises served by its sewers, at all reasonable hours, for inspection of plumbing and sewage fixtures, to ascertain the quality and quantity of sewage discharged and the manner of discharge, and to enforce the provisions of this chapter and the rules and regulations prescribed by the trustees of the district.

§ 1160. Connection of private sewers

Every building in a sanitary district formed under this chapter intended for human habitation or occupancy or with facilities for discharge or disposal of sewage or commercial or industrial waste, which is accessible to a sewer or drain of such district, shall have a sanitary sewer or drainage system which shall be caused to be connected with such sewer or drain of the district by the owner or person against whom taxes on the premises are assessed, in the most direct manner possible, within 90 days after receiving 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 such building. Existing buildings which are already served by a private sewer or drainage system shall not be required to connect with any such sewer or drain of the district so long as, in the judgment of the trustees, such private sewer or drainage system functions in a satisfactory and sanitary manner, and does not violate any law or ordinance applicable thereto or any applicable requirement of the State Plumbing Code. A building shall be deemed to be accessible to a sewer or drain of the district for the purposes of this section if such building, or any private sewer or drain directly or indirectly connected thereto or carrying sewage or commercial or industrial waste therefrom, shall at any point be or come within 100 feet of a sewer or drain of the

district; provided that nothing in this section shall require the owner of any such building to acquire any real property or easement therein for the sole purpose of making such connection.

§ 1161. Injury to property of districts

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 any sanitary district formed under this chapter contrary to its 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 such district shall be liable to pay twice the amount of the damages to the district, to be recovered in any proper action; and such person, on conviction of any of said acts or willful injury aforesaid and any person who violates section 1159 or 1160 shall be punished by a fine of not more than \$200 or by imprisonment for not more than one year, or by both.

SUBCHAPTER IV

BONDS, RATES AND ASSESSMENTS

§ 1201. Bonds

Any sanitary district formed under this chapter for the purposes of accomplishing its objectives, of paying and refunding its indebtedness, of paying any necessary expenses and liabilities incurred under this chapter, including organizational and other necessary expenses and liabilities whether incurred by the district or any municipality therein, the district being authorized to reimburse any municipality therein for any such expenses incurred or paid by it, and in acquiring properties, paying damages, laying sewers, drains and conduits, constructing, maintaining and operating sewage and treatment plants, or systems, and making renewals, additions, extensions and improvements to the same, and to cover interest payments during the period of construction, by resolutions of its board of trustees, without district vote, but subject to approval of the Public Utilities Commission under Title 35, chapters 1 to 17, is authorized to borrow money and issue, from time to time, bonds, notes or other evidences of indebtedness of the district in one series, or in separate series, in such amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine, subject to such approval of said Public Utilities Commission. Any such bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the trustees, subject to such approval of the Public Utilities Commission, may determine. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same prior to maturity, and if callable, may be made callable at par or at such premium as the trustees, subject to such approval of the Public Utilities Commission, may determine. All bonds, notes or other evidences of indebtedness 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 the facsimile of the signature of the treasurer. All such bonds, notes and evidences of indebtedness so issued by any such district shall be legal obligations of the district, and all districts formed under this chapter are declared to be quasi-municipal corporations within the meaning of Title 30, section 5053.

Subject to the foregoing provisions of this section, any such district may, from time to time, issue in one series or in separate series, its bonds, notes and other evidences of indebtedness, for the purpose of paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness, and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by any such district shall be legal investments for savings banks in the State of Maine and shall be tax exempt.

Any such district is authorized and empowered to enter into agreements with the State of Maine or United States Government, or any agency of either, or any municipality, corporation, commission or board authorized to grant or loan money to or otherwise assist in the financing of projects such as such district is authorized to carry out, and to accept grants and borrow money from any such government, agency, municipality, corporation, commission or board as may be necessary or desirable to accomplish the purposes of the district.

§ 1202. Rates

All persons, firms and corporations, whether public, private or municipal, shall pay to the treasurer of any district formed under this chapter the rates, tolls, rents, entrance charges and other lawful charges established by the trustees and approved by the Public Utilities Commission for the sewer or drainage service used or available with respect to their real estate, which rates shall include rates for such district's readiness to serve charged against owners of real estate, abutting on or accessible to, sewers or drains of the district, but not actually connected thereto, whether or not such real estate is improved.

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

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

1. Current operating expenses. To pay the current expenses of operating and maintaining the sewerage, drainage and treatment system of the district;
2. Payment of interest and principal. To provide for the payment of interest and principal on the indebtedness created by the district;
3. Sinking fund for retirement of obligations. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of said indebtedness. Money set aside for the sinking fund shall be devoted to the retirement of the obligations of said sanitary district, and invested in such securities as savings banks in this State are allowed to hold;

4. **Surplus.** If any surplus remains at the end of the year, it may be turned into the sinking fund.

§ 1203. Assessments

When any sanitary district formed under this chapter has constructed and completed a common sewer, the trustees may, if they so determine, in order to defray a portion of the expense thereof, determine what lots or parcels of land are benefited by such sewer, and estimate and assess upon such lots and parcels of land, and against the owner thereof, or person in possession or against whom taxes thereon are assessed, whether said person to whom the assessment is so made shall be the owner, tenant, lessee or agent, and whether the same is occupied or not, such sum not exceeding such benefit as they may deem just and equitable towards defraying the expense of constructing and completing such sewer, together with such sewage disposal units and appurtenances as may be necessary, the whole of such assessments not to exceed $\frac{1}{2}$ of the cost of such sewer and sewage disposal units. The trustees shall file with the clerk of the district the location of such sewer and sewage disposal unit, with a profile description of the same, and a statement of the amount assessed upon each lot or parcel of land so assessed, a description of each lot or parcel, and the name of the owner of such lots or parcels of land or person against whom said assessment shall be made, and the clerk of such district shall record the same in a book kept for that purpose, and within 10 days after such filing, each person so assessed shall be notified of such assessment by having an authentic copy of said assessment, with an order of notice signed by the clerk of said district, stating the time and place for a hearing upon the subject matter of said assessments, given to each person so assessed or left at his usual place of abode in said district; if he has no place of abode in said district, then such notice shall be given or left at the abode of his tenant or lessee if he has one in said district; if he has no such tenant or lessee in said district, then by posting said notice in some conspicuous place in the vicinity of the lot or parcel of land so assessed, at least 30 days before said hearing, or such notice may be given by publishing the same once a week for 3 successive weeks in any newspaper of general circulation in said district, the first publication to be at least 30 days before said hearing; a return made upon a copy of such notice by any constable in any municipality within the district or by any sheriff or deputy sheriff or the production of the newspaper containing such notice 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 all such revisions, increases or diminutions shall be in writing and recorded by the clerk of the district.

§ 1204. Appeal on assessment

Any person aggrieved by the decision of said trustees as it relates to any assessment for sewer construction under section 1203 shall have the same rights of appeal as are provided in the case of laying out of town ways.

§ 1205. Lien for unpaid assessments

All assessments made under section 1203 shall create a lien upon each and every lot or parcel of land so assessed and the buildings upon the same, which lien shall take effect when the trustees file with the clerk of the district the completed

assessment, and shall continue for one year thereafter; and, within 10 days after the date of hearing on said assessment 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 said assessments are not paid within 3 months from the date thereof, the treasurer may bring a civil action for the collection of said assessment in the name of the district against the person against whom said assessment is made and for the enforcement of said lien. 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 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, and is unpaid, and that there is an existing lien on said real estate for the payment of such assessment, 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 estate in the manner provided for a sale on execution of real estate attached on original process; provided that in making said sale the officer shall follow the procedure in selling and conveying, and there shall be the same rights of redemption, as provided in Title 36, section 941.

§ 1206. Civil action for unpaid assessments

If assessments under section 1203 are not paid, and any such district does not proceed to collect unpaid assessments by proceedings as prescribed in section 1205, or does not collect or is in any manner delayed or defeated in collecting such assessments by proceedings under section 1205, then the district in its name may maintain a civil action against the party so assessed for the amount of said 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 10% interest on the same from the date of said assessment and costs.

§ 1207. Assessment paid by persons other than owner

When any assessment under section 1203 shall be 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 for money paid, laid out and expended, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots under Title 10.

§ 1208. Collection of unpaid rates

There shall be a lien on real estate served or benefited by the sewers of any district formed under this chapter to secure the payment of rates established and due under section 1202 which shall take precedence over all other claims on such real estate, excepting only claims for taxes.

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 1202 and the same shall be committed to him. The treasurer may, after demand for payment, 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. The treasurer, when a rate, toll, rent or other charge has been committed to him for collection, may, after the expiration of 3 months and within one year after date when the same became due and payable, in the case of a person resident in the district, give, or cause to be given to such person, or leave or cause to be left, at his last and usual place of abode, a notice in writing signed by the treasurer stating the amount of such rate, toll, rent or other charge, 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 within 30 days after the service of such notice payment as aforesaid. In the case of a nonresident of the district the aforesaid notice shall be given by registered or certified mail addressed to his last known address or by publication in a newspaper of general circulation within the district once a week for 2 successive weeks, and shall demand payment within 30 days after the mailing thereof or the first publication of notice thereof as aforesaid. After the expiration of said period of 30 days and within one year thereafter, the treasurer shall record in the registry of deeds of the county in which the property of such person is located a certificate signed by the treasurer setting forth the amount of such rate, toll, rent or other charge, describing the real estate on which the lien is claimed, and stating that a lien is claimed on the real estate to secure payment of said rate, toll, rent or other charge and that a notice and demand for payment of the same has been given or made in accordance with this section and stating further that such rate, toll, rent or other charge remains unpaid. At the time of the recording of any such certificate in the registry of deeds as heretofore provided, the treasurer shall file in the office of the district a true copy of such certificate and shall mail a true copy thereof by registered or certified mail to each record holder of any mortgage on said real estate, addressed to such record holder at his last and usual place of abode. The fee to be charged by the district to the rate payer for such notice and filing shall not exceed \$1.50, and the fee to be charged to the district by the register of deeds for filing and recording shall not exceed \$1.

The filing of the aforesaid certificate in the registry of deeds as aforesaid shall be deemed to create, and 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 liens, attachments and claims for taxes, and shall give to the district all the rights usually possessed by mortgagees, except that the district as mortgagee shall not have any right to possession of said real estate until the right of redemption hereinafter provided for shall have expired. If the mortgage, together with interest and costs, shall not have been paid within 18 months after the date of filing of said certificate in the registry of deeds as herein provided, the mortgage shall be deemed to have been foreclosed and the right of redemption to have expired. The filing of the certificate in the registry of deeds shall be sufficient notice of the existence of the

mortgage hereby provided for. In the event that said rate, toll, rent or other charge, with interest and costs as aforesaid, shall be paid within the period of redemption herein provided for, the treasurer of the district shall discharge the mortgage in the same manner as provided for discharge of real estate mortgages.

§ 1209. Supplementary charges

Any sanitary district formed under this chapter shall be authorized to impose charges, in addition to any other assessments now lawfully imposed by general law, for the use of sewers, sewer systems and treatment works, and the trustees may adopt such rules and regulations as may be necessary or convenient to carry out the purposes of such district. All incidental powers, rights and privileges necessary to the accomplishment of the purposes of the district are granted to the district and its trustees, including the right of its trustees to determine when and where sewerage and treatment facilities and disposal units are needed and when and where the same shall be constructed. '