

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 1413

H. P. 1039

House of Representatives, March 23, 1965

Received by unanimous consent. Referred to Committee on Legal Affairs.
Sent up for concurrence and ordered printed.

JEROME G. PLANTE, Clerk

Presented by Mr. Knight of Westbrook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT Repealing Westbrook Sewerage District and Transferring Assets to City of Westbrook.

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

Sec. 1. P. & S. L., 1907, c. 257, §§ 15 - 15-I, additional. Chapter 257 of the private and special laws of 1907, as amended, is further amended by adding 10 new sections to be numbered 15 to 15-I, to read as follows:

'Sec. 15. Public works department divisions. Under the department of public works, there shall be a sewerage division and such other divisions as the council may establish and the head of the department may also serve as the head of such divisions as authorized by the council.

Sec. 15-A. Sewerage division. The sewerage division of the department shall maintain and operate the public sewerage system in the city as it now exists or is hereafter extended.

Sec. 15-B. Sewerage commission; election and duties.

(a) The council shall establish a board of sewerage commissioners composed of 3 members, who shall be residents of the city and not otherwise connected with the city government. The members shall be elected by the council for a term of 3 years from the 2nd Monday in January and until their successors are elected, except that on the 2nd Monday in January, or as soon as practicable thereafter, following the approval of this Act, the council shall first elect such members to serve one, 2 and 3-year terms, respectively. Compensation, if any, to such members shall be fixed by the council and vacancies shall be filled by election for the unexpired term. If any member of such board shall cease to be a resident, the office shall thereby become vacant.

(b) The board shall, subject to the approval of the council, establish rules and regulations for the operation and maintenance of the public sewerage system as it now exists or is hereafter extended and shall administer the same under the general supervision of the mayor.

(c) The board shall formulate a budget for the division, plan its work and recommend to the council such extensions to the system as it may deem necessary or advisable for the benefit and development of the city in accordance with the city's master plan.

(d) At the request of the council, the board shall advise as to what, if any, rates for entrance and other charges should be charged relative to use of said sewerage system, but all such charges shall be fixed by the city council. It shall also perform such other duties relative to the operation and maintenance of the system as the council may require.

Sec. 15-C. Public sewers, extensions. Upon the acceptance of this Act, title to all the public sewers, their rights-of-way, their pumping stations and other appurtenances throughout the city, formerly of the Westbrook Sewerage District, shall become vested in and maintained by the city and the city council shall have the right to determine what extensions to the sewerage system shall be made to furnish sewerage facilities to portions of the city not now served with such facilities, subject to the authority of the State Department of Health and Welfare and the Water Improvement Commission, and the city shall have the power to make assessments for the costs of such extensions. The council may also establish such rates for entrance and other charges for the use of said sewerage system against the owners of the property served by said system or to which such service is available as it may deem necessary to help defray the cost of maintaining and operating the system.

Sec. 15-D. Assessments. When any extension to the sewerage system is completed, the municipal officers shall, with the advice of the board of sewerage commissioners, determine what lots or parcels of land are benefited thereby and assess upon such lots and parcels of land and against the owner or co-owner thereof, or against whom the taxes thereon are assessed, whether person or corporations, such sums not exceeding such benefit as it may deem just and equitable towards defraying the costs of constructing and completing such extensions together with its necessary appurtenances, provided that the whole of such assessments shall not exceed $\frac{2}{3}$ the cost of same, and such extensions shall thereafter be maintained by the city.

Sec. 15-E. Hearing; notice; appeal. After making such assessments, the municipal officers shall conduct a hearing thereon with due notice thereof in accordance with the procedures set forth in the Revised Statutes of 1964 relative to assessments for public sewers and may revise such assessments; and any aggrieved party may appeal as therein set forth.

Sec. 15-F. Liens. There shall be a lien on the real estate served by the said sewerage system, or to which such service is available, to secure payment of the charges and assessments established, as herein provided for, which shall take precedence over all other claims on such real estate, excepting only claims for

taxes. Such liens may be perfected and enforced in accordance with the provisions set forth in the Revised Statutes of 1964 relative to liens for municipal sewer assessments.

Sec. 15-G. Collection of assessments and charges. In addition to the right to perfect and enforce the lien for such charges and assessments herein created and without waiver of such rights, the city may proceed by any other method provided under the general laws of this State for the collection of charges and assessments for public sewers by a special tax assessment and shall also have the right to maintain a civil action against the party so assessed for the amount of said assessment with interest on same from the date of the assessment and costs, as therein provided for.

Sec. 15-H. Right of eminent domain. The city is hereby authorized and empowered to exercise the right of eminent domain to acquire any land, real estate or easement therein which it may deem necessary for the operation and maintenance of said sewerage system and extensions thereof; provided, however, nothing herein shall be construed as authorizing the city to take by right of eminent domain any of the property or facilities of any other public service corporation, used or acquired by it for future use in the performance of a public duty, contrary to the laws of this State. Such right of eminent domain shall be exercised only after due notice and a hearing thereon in accordance with the procedure set forth in the Revised Statutes of 1964 relative to the taking of property for town ways.

Sec. 15-I. Westbrook Sewerage District; reversion to city. Upon the acceptance of this Act, the Westbrook Sewerage District shall cease to be a body politic and cease to function as a legal entity and all its property, real, personal and mixed, actions, choses in action, obligations, accounts payable and accounts receivable shall revert to the City of Westbrook, as provided for by section 7 of chapter 107 of the Private and Special Laws of 1963.'

Sec. 2. P. & S. L., 1955, c. 176, repealed. Chapter 176 of the private and special laws of 1955, as amended, is repealed.

Referendum; effective date; certificate to Secretary of State. This Act shall take effect 90 days after adjournment of the Legislature, only for the purpose of permitting its submission to the qualified voters of the City of Westbrook at a special election to be held on the first Monday of October, 1965, an appropriate article being inserted in the call for such election.

The city clerk shall reduce the subject matter of this Act to the following question: "Shall 'An Act Repealing Westbrook Sewerage District and Transferring its Assets and Liabilities to the City of Westbrook', passed by the 102nd Legislature, be accepted?"

The provisions of this Act shall become effective only if the majority of the votes cast by the legal voters of said city is in favor of the acceptance of such Act, and provided further, that the total number of votes cast for or against the acceptance of this Act at said election equals or exceeds 20% of the total number of votes cast for all candidates for Governor in said city at the next previous gubernatorial election.

The result of the vote on the question shall be declared by the municipal officers of the City of Westbrook and due certificate thereof shall be filed by the city clerk with the Secretary of State.