

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 770

H. P. 535

House of Representatives, February 8, 1967

Referred to Committee on Natural Resources. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Couture of Lewiston.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Establishing the Lewiston-Auburn Water Pollution Control Authority.

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

Sec. 1. Incorporation and purposes. There is hereby created a nonprofit body corporate and politic to be known as The Lewiston-Auburn Water Pollution Control Authority, hereinafter called "the authority". The purposes of the authority shall be to plan, acquire facilities for, construct, operate, maintain and improve a sewage treatment plant or plants and other facilities necessarily incident thereto, to receive and treat and dispose of the waste waters discharged by the sewage systems of the City of Lewiston and the Auburn Sewerage District. The authority shall have all such powers, rights, privileges and immunities as may be necessary for the accomplishment of the aforesaid purposes, whether or not such powers are hereinafter specifically given.

Sec. 2. Acquisition of property; right of eminent domain. The authority may acquire by purchase or otherwise, or through the exercise of the power of eminent domain, such real property, personal property, easements or other interests therein as may be necessary or convenient to accomplish its purposes. The authority is also authorized to lay and maintain its pipes and equipment in the public highways of Lewiston and Auburn and across other public lands where such construction and repair would not unduly interfere with some other existing public purpose of either city. If public highways are entered for said purposes, the work shall be done expeditiously and with as little obstruction to the public traffic as possible. At the completion of the work, the highway or other public land shall be restored as nearly as practicable to its previous condition. The authority shall assume responsibility for all costs of such work and shall indemnify the cities for any liability which they may incur to 3rd persons from negligent performance of the work.

Sec. 3. Crossing public utilities. Where it is proposed that the sewer lines or other installations of the authority shall cross or otherwise occupy property of a public utility and where consent of said utility to such crossing or installation is refused, application shall be made to the Public Utilities Commission to determine the place, manner and condition of such crossing or installation. Such crossing or installation shall thereafter be made only to the extent permitted and subject to conditions imposed by the Public Utilities Commission and such work shall be performed under its supervision.

Sec. 4. Procedure in eminent domain proceedings. When property is to be taken through the exercise of the power of eminent domain, the authority shall cause to be recorded in the Androscoggin County Registry of Deeds a description identifying the property to be taken with reasonable accuracy and indicating the names of the owners thereof, if known, together with a notice that the same is to be taken by the authority, signed by a majority of the members of the board. Copies of the notice and description shall also be sent at the same time by registered mail to all persons whose whereabouts are known having an interest of record in such property. No entry shall be made upon private lands so taken within 10 days after such recording except to make surveys. At the end of said 10-day period, title to said property shall vest in the authority and possession of the same may be taken. After the expiration of said 10-day period, the authority shall promptly submit in writing to the persons or corporations whose property is taken an offer in writing to pay an amount found by the board to represent fair compensation therefor. The offer of the authority as to the amount of damages due shall be final and binding upon all parties having an interest in the property unless, within 60 days from the date on which such offer is made, an appeal is taken from the authority's determination of damages to the Androscoggin County Superior Court. Such appeal shall be taken in the manner prescribed by Rule 80B of the Maine Rules of Civil Procedure and any amendments thereto, except in those respects in which proceedings under the rule would be inconsistent with the express provisions of this Act.

In the event of such appeal, any person having an interest in the property to be taken may petition any justice of the Superior or Supreme Judicial Court to order that the authority furnish security to be deposited with the clerk of the Superior Court in an amount found to represent the value of such person's interest. Such judge or justice may hear such evidence as he may require to reach an initial determination of the value of such interest. The amount so deposited may be used to satisfy any judgment recovered against the authority, the excess, if any, to be returned to the authority.

Sec. 5. Disposal of surplus property. When the authority determines that any real or personal property or interests therein in its possession are no longer needed in the accomplishment of the purposes of the authority, it may dispose of the same on such terms as it shall judge to be in the best interests of the authority.

Sec. 6. Inspection, rules and regulations. The authority shall prevent, insofar as practicable, the discharge into the sewers of substances which might damage the sewage treatment facilities or interfere with their maintenance and

operation. Its officers and agents shall have free access to all premises served by the sewage treatment facilities at reasonable times in order to inspect the sewers, drains, sewage pumping stations, tanks or treatment works, and determine the amount and character of sewage, drainage or other wastes flowing therefrom and whether such sewage, drainage or other wastes are, or are likely to, damage or impair the sewage treatment facilities or interfere with their maintenance and operation.

The authority may, for the proper operation of its sewage treatment facilities, issue rules and regulations which shall be binding on the Auburn Sewerage District and the City of Lewiston and the inhabitants of each, as to the quantity and character of any sewage, drainage or other waste distribution into any sewer connected with said plant.

Sec. 7. Contracts. In the performance of its purposes, the authority is authorized to enter binding contracts with other persons, corporations, governmental bodies or agencies thereof, and to negotiate for, receive and use grants and loans from any governmental body or agency which are available for use in furtherance of any of the purposes of the authority.

Sec. 8. Bonds. For the purpose of financing construction of a sewage treatment plant and related facilities together with all necessary organizational expenses of the authority whether incurred by it or by someone else on its behalf, the authority is authorized to borrow money and issue, from time to time, bonds, notes or other evidences of indebtedness of the authority in one series, or in separate series, in such amounts and bearing interest at such rates as it shall determine to be advisable. The authority is also authorized to borrow money and issue, from time to time, bonds, notes or other evidences of indebtedness as aforesaid for the purpose of paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness issued under the authority of this section and for the purpose of financing necessary improvements to or extensions of the sewage treatment plant and related facilities. In anticipation of any such permanent borrowing permitted by this section, the authority is authorized to issue its temporary notes payable from the proceeds of the bonds or other evidences of indebtedness.

Any such notes, bonds or other evidences of indebtedness may be issued to mature serially or made to run for such periods as the board of the authority may determine and each authorized issue shall constitute a separate loan. When bonds are issued to mature on a fixed date after issuance rather than serially, they shall be retired, in whole or in part, through the creation of a sinking fund in which the authority shall annually deposit a sum equal to at least 1% of the indebtedness secured by said bonds. The sinking fund shall be invested in such investments as are authorized for savings banks of this State and shall be held, together with accumulated income thereon, for the sole purpose of paying the principal of said bonds. Bonds, notes, or other 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 board of the authority 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 the authority, and if coupon bonds are issued, the

interest coupons attached thereto shall bear the facsimile signature of the treasurer of the board. All bonds, notes, and other evidences of indebtedness issued by the authority shall be legal investments for savings banks in the State of Maine and shall be tax exempt. All such bonds and notes shall also be deemed to be negotiable instruments under the laws of this State.

All such bonds, notes and other evidences of indebtedness of the authority shall be legal obligations of the Authority enforceable against all property of whatever kind owned by it.

In the event of default in the payment of any of the bonds or the coupons attached thereto, any holder thereof may petition any Justice of the Supreme Judicial Court, for the benefit of himself as well as for the benefit of all other holders of bonds, to declare the authority insolvent and enforce the lien of the bonds by appointment of a receiver for the authority and by sale of its property according to the usual practice in the case of insolvent private corporations.

Sec. 9. Temporary borrowing. The authority is authorized to issue from time to time its temporary notes and renewal notes in anticipation of assessments to be paid by the City of Lewiston and the Auburn Sewerage District pursuant to section 12. The aggregate amount of such temporary notes shall not exceed the total of the assessments made for the fiscal year in which such temporary notes are issued, and any such temporary notes shall be payable in such fiscal year; provided, however, that if the assessments for the existing fiscal year have not yet been made, the aggregate amount of such temporary notes shall not exceed the estimated assessments for such fiscal year as determined by the board.

Sec. 10. Apportionment of capital costs. The board of the authority shall determine the proportionate shares of the initial construction and organizational costs, for which borrowings are authorized under section 9, to be borne by the City of Lewiston and by the Auburn Sewerage District. Such determination shall be based on the estimates of reputable engineers as to the annual volume of sewage and other waterborne wastes which will be piped to the authority's sewage treatment facilities for processing from the respective sewage systems of the City of Lewiston and the Auburn Sewerage District. Such determination shall also take into account estimates of the types of sewage which each sewage system will produce, the relative expense of treating the same, and such other factors as the board may deem necessary or appropriate. As soon as the board has reached its determination, notice thereof and of the basis upon which said determination was reached shall be given to each party. Within 14 days after the receipt of such notice, either party may appeal the determination of the board to the Androscoggin County Superior Court in the manner provided by Rule 80B of the Maine Rules of Civil Procedure and any amendments thereto. The court, acting without a jury, may affirm, modify or reverse the determination of the board, or make such other order as may be appropriate under the circumstances, but in its deliberations the court shall give substantial weight to the findings and determination of the board. The court's decision may be appealed as in other civil actions.

With respect to the costs of the planning and construction of improvements and additions to the sewage treatment plant and related facilities occurring subsequent to the completion of the initial sewage treatment facilities, the board shall issue a new determination as to the proportionate shares of the cost to be borne by the City of Lewiston and by the Auburn Sewerage District, based upon the estimated benefit which each will receive from the use of said proposed new facility. Such determination shall include consideration of such reliable estimates as to the annual volume of sewage and other waterborne wastes produced by the respective sewage systems and of the types of sewage which each system is expected to produce and the relative expense of treating the same as may be available to the board. Notice of such determination shall be given to the respective parties and appeal therefrom may be had in the same manner and subject to the same conditions as is provided herein with respect to determination of the proportionate shares of initial construction costs.

When a determination of the respective proportionate shares of the City of Lewiston and the Auburn Sewerage District has been finally made for a particular project, such proportionate shares shall not be changed until all debts incurred to finance the particular project in respect of which such determination was made have been paid and discharged in full.

Sec. 11. Estimating annual expenses of the authority. The board of the authority shall annually prepare an itemized budget for its coming fiscal year itemizing expenses of operation, maintenance, and repair, costs of contemplated capital construction and payments of principal and interest on fixed indebtedness and other borrowings. Such budget shall include such other details as to present assets, surplus, expenses, and liabilities as the board shall determine to be advisable and as the City of Lewiston and the Auburn Sewerage District may reasonably require. The board shall determine the proportionate share of the estimated expense of operation, maintenance, and repair for its coming fiscal year to be allocated to the City of Lewiston and the Auburn Sewerage District on the basis of the average inflow of sewage and other waterborne wastes metered at the sewage treatment facilities from the respective sewer systems over the previous year, together with such information as may be available to the board regarding the types of sewage being produced by each sewage system and the relative expense of treating the same. The board may also consider, in establishing such proportionate shares, any prospective increases or reductions in the volume or type of sewage produced by the respective sewage systems which are, in its judgment, reasonably certain to occur during the period to be covered by the assessments. In the first year of the sewage treatment plant's operation, however, the proportionate shares of operation, maintenance and other expense may be determined on the same basis as the proportionate share of initial construction costs as provided under section 10.

Sec. 12. Annual assessment of costs. The authority shall submit annually to the City of Lewiston and to the Auburn Sewerage District an assessment of the proportionate share of each, of the costs and expenses of the authority for its next fiscal year. Such assessments shall be submitted to each party by the authority in time for inclusion in their respective budgets for their ensuing

fiscal years. The assessments shall be itemized in at least the following 3 categories:

1. Proportionate share of payments of principal and interest which will become due on indebtedness incurred to finance initial capital construction and related costs.
2. Proportionate share of payments of principal and interest which will become due on indebtedness incurred to finance construction of improvements and additions to the plant and facilities of the authority subsequent to completion of the sewage treatment plant.
3. Proportionate shares of estimated expenses of operation, maintenance and repair for the ensuing fiscal year.

The City of Lewiston and the Auburn Sewerage District shall include the amount of their respective assessments in their budgets for their ensuing fiscal year and shall make provision through assessment of taxes or otherwise to obtain sufficient revenues to pay the same. Such assessments shall be due and payable to the authority on the first day of July next following the receipt of the assessments. In the event of default in the payment of any such assessment, the authority shall be entitled to exercise the remedies provided by the Maine Revised Statutes of 1964, Title 30, section 5053 and any amendments thereto, in collecting the same.

Sec. 13. Property tax exempt. The real and personal property, rights and franchises of the authority shall forever be exempt from taxation.

Sec. 14. Lewiston-Auburn Water Pollution Control Board. The authority shall be under the management and direction of a board of directors, which shall be known as the Lewiston-Auburn Water Pollution Control Board, also referred to herein as "the board" or "the board of the authority". The board shall consist of 5 members. The director of the Lewiston department of public works and the chairman of the Lewiston board of public works and the president of the Auburn Sewerage District Trustees and the superintendent of the Auburn Sewerage District shall all be members of the board by virtue of their respective offices and, in the event of the termination of their respective offices as representatives of the Lewiston board of public works or Auburn Sewerage District, shall continue as members of the board of the authority until their replacements in their respective offices are elected or appointed.

At the initial meeting for organization of the authority, or as soon thereafter as practicable, the 4 above-named members of the board shall elect a 5th member who shall be a resident of Auburn or Lewiston but shall not hold any public municipal office or be a member of any municipal board or committee. If the 4 are unable to agree upon the naming of a 5th member of the board, any Justice of the Superior Court or Supreme Judicial Court, shall, on petition of any two of the members, select the 5th member of the board. The 5th member of the board shall serve for a 3-year term and thereafter until his successor is appointed, and may be elected to serve additional 3-year terms of office. The members of the board shall serve without compensation, but shall be reimbursed for their actual expenses incurred in the performance of their duties, on approval of the board.

Sec. 15. Election of officers. The board shall appoint and determine the compensation of an engineer-director who shall be the administrative officer and direct the engineering work of the authority. The board shall also have the power to remove the engineer-director at its pleasure. The engineer-director shall be skilled in sanitary engineering practice and registered under the Maine Revised Statutes of 1964, Title 32, chapter 19; provided, however, that an un-registered person who is nevertheless eligible for registration under the provisions of said chapter may be appointed acting engineer-director and serve as such for a period of up to one year. In its discretion, the board may reappoint the acting engineer-director for additional one-year terms.

The board may appoint, and may at its pleasure remove, a treasurer and a clerk who shall not be members of the board, and both offices, if the board deems it advisable, may be held by the same person. The treasurer shall furnish the board with a bond payable to the authority issued by a surety company authorized to transact business within the State and satisfactory to the board as surety, in such sum as the board may prescribe and conditioned on the faithful performance of his duties. The duties of the treasurer and clerk shall be those usually appertaining to said offices, respectively, and in addition such duties as may from time to time be prescribed by the board. The compensation of the treasurer and of the clerk shall be determined by the board. The engineer-director, with the approval of the board, shall from time to time appoint or employ such other engineers and such experts, agents, officers, clerks and other employees as he deems necessary, and shall determine their duties. The salaries or compensation of all persons appointed or employed under this section, together with other expenses, shall be paid by the authority and shall be considered a part of the expense of operation of the authority.

Sec. 16. Office, records, seal. The board shall establish a fiscal year for the authority and shall adopt such rules and regulations for the conduct of its affairs as it shall deem to be appropriate.

The board shall establish an office at the site of the sewage treatment facilities in which its business may be conducted and in which maps, plans, documents, records and other papers relating to its business, land and other works and property in its charge, shall be kept. It shall at all times keep full and accurate accounts of its receipts, expenditures, disbursements, assets and liabilities, which shall at all reasonable times be open to inspection by representatives of the Cities of Auburn or Lewiston or of the Auburn Sewerage District.

The board shall make an annual report of its activities for the preceding year and shall submit a copy thereof to the mayor of the City of Lewiston, the president of the Auburn Sewerage District Trustees and the Maine Water Improvement Commission.

The authority shall have a seal consisting of a circular die bearing the words "Lewiston-Auburn Water Pollution Control Authority, 1967," which may be used whenever deemed advisable by the board on papers and documents issued or executed by it or its officers or employees on its behalf.