

MAINE STATE LEGISLATURE

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SECOND SPECIAL SESSION

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1861

H. P. 1318

House of Representatives, January 9, 1968

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Martin of Eagle Lake .

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-EIGHT

AN ACT Amending the Maine Sanitary District Enabling Act.

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

Sec. 1. R. S., T. 38, § 1062, amended. Section 1062 of Title 38 of the Revised Statutes, as enacted by chapter 310 of the public laws of 1965, is amended to read as follows:

§ 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, **or a sufficient number of persons residing in unorganized territory**, 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, **or a number of persons residing in unorganized territory** may only be formed where the Water and Air Environmental Improvement Commission finds that there is a need throughout a part or all of the territory embraced within the proposed 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 there-

in 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.

Sec. 2. R. S., T. 38, § 1101, amended. Section 1101 of Title 38 of the Revised Statutes, as enacted by chapter 310 of the public laws of 1965, is amended to read as follows:

§ 1101. Formation

The residents of and the territory within a single municipality or within 2 or more municipalities, **or the residents of a defined area of unorganized territory**, 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, **or the residents of unorganized territory**, that desire to form a sanitary district shall file an application with the **Water and Air Environmental** Improvement Commission on a form or forms to be prepared by said commission, setting forth the name or names of the municipality or municipalities, **or, in the case of residents of unorganized territory, the names of such residents**, 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 and Air Environmental** Improvement Commission shall cause a public hearing to be held thereon, in one of the municipalities within the proposed district, **or, in the case of an application by residents of unorganized territory, at some convenient place within the boundaries of 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, **if any**, and ~~also~~ by causing the posting of said notice in at least one public and conspicuous place in each municipality **or in the unorganized territory** in the proposed district, **and in the case of an application by residents of unorganized territory, in the nearest courthouse in the county in which said unorganized territory is located**, 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~~ **this chapter**, and designating the name of the proposed district. The commission shall ~~also~~ give notice to the municipal officers within such municipality or

municipalities, **or, in the case of unorganized territory, to the persons signing the application mentioned in subsection 1 and to the commissioners of the county wherein such unorganized territory is located**, 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, **or, in the case of unorganized territory, a joint meeting of all the persons signing the application mentioned in subsection 1 and of the commissioners of the county wherein such unorganized territory is located**. The notice shall be in writing and sent by registered or certified mail, return receipt requested, to the addresses shown on the application mentioned in subsection 1 **and, in the case of county commissioners, to the addresses of such commissioners as obtained from the county clerk**. 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, **or, in the case of unorganized territory, to the persons signing the application mentioned in subsection 1 and to the commissioners of the county wherein such unorganized territory is located**. 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, **or, in the case of unorganized territory, that an allegation of change in circumstances from those existing on the date of the previous application must be furnished to the commission with the resubmitted application**.

5. Appeal. An appeal may be taken from an order of the Water and Air Environmental 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, **or, in the case of unorganized territory, the persons signing the application mentioned in subsection 1 and the commissioners of the county wherein such unorganized territory is located**, within the proposed sanitary district shall meet at the time and place appointed. In the case where more than one municipality **or where unorganized territory** is involved, they shall organize by electing a chairman and a secretary. No action shall be taken at any **such** meeting ~~of the municipal officers~~ unless at the time of 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, **or, in the case of unorganized territory, at least 2/3 of the persons signing the application mentioned in subsection 1 and at least 2 commissioners of the county wherein such unorganized territory is located**, other than to report to the **Water and Air Environmental** 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, **or, in the case of unorganized territory, the residents of such territory within the bounds of the proposed district**. When a decision has been reached on the number of trustees and the number to represent each municipality **or the residents of the unorganized territory within the bounds of the proposed district, within** subject to the limitations ~~hereinafter~~ provided, this decision shall be reduced to writing by the secretary and must be approved by a 2/3 vote of those present. Where 2 or more municipalities are **or unorganized territory is** 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 and Air Environmental** 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 and Air Environmental** Improvement Commission.

7. **Submission.** When the record of the municipality or the record of the joint meeting, where municipalities are **or unorganized territory is** involved, has been received by the **Water and Air Environmental** Improvement Commission and found **by it** 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 **or unorganized territory** which falls 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, **or, in the case of unorganized territory, to the commissioners of the county wherein such unorganized territory is located**, directing them to forthwith call town meetings, ~~or~~ city elections, **or a meeting of the residents of the unorganized territory within the bounds of the proposed sanitary district**, 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 inhabitants of the following described section of that unorganized territory known as Township (number), Range (number) will vote to incorporate as a sanitary district to be known as (name) Sanitary District: (legal description of the bounds of the proposed sanitary district.)

C. D. 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. E. 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:

F. Article : To see if the inhabitants of the above described section of that unorganized territory known as Township (number), Range (number) will vote to approve the number of trustees determined by certain of said inhabitants and the commissioners of the county wherein such unorganized territory is located and determined to be as follows:

The total number of trustees shall be:

E. G. Article : To choose (number) of trustees to represent the municipality (municipality) (above described section of that unorganized territory known as Township (number), Range (number)) on the board of trustees of the (name) Sanitary District. At any such town meeting, ~~or~~ city election, or election by the residents of the proposed sanitary district, trustees shall be chosen to represent the municipality or the unorganized territory within the proposed sanitary district in the manner provided in section 1105.

Sec. 3. R. S., T. 38, § 1102, amended. Section 1102 of Title 38 of the Revised Statutes, as enacted by chapter 310 of the public laws of 1965, is amended to read as follows:

§ 1102. Approval and organization

When the residents of the municipality, or each municipality, where more than one is involved, or of the unorganized territory within the proposed sanitary district, 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, or, in the case of unorganized territory, the county clerk, shall make a return to the Water and Air Environmental 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, or a majority of the residents of the unorganized territory within the proposed sanitary district, voting on each of the articles and questions submitted to them, have voted in the affirmative, and they have elected the necessary trustees and the names thereof to represent each municipality, or the residents of the unorganized territory within the proposed sanitary district, and that all other steps in the formation of the proposed sanitary district are in order and in conformity with law, the Water and Air Environmental Improvement Commission shall make a finding to that effect and record the same upon its records. The Water and Air Environmental 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 and Air Environmental** Improvement Commission shall be filed and recorded in the Office of the Secretary of State. The issuance of such certificate by the **Water and Air Environmental** 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 and Air Environmental** Improvement Commission under section 1106.

Sec. 4. R. S., T. 38, § 1105, amended. Section 1105 of Title 38 of the Revised Statutes, as enacted by chapter 310 of the public laws of 1965, is amended to read as follows:

§ 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; **or, in the case of unorganized territory, in accordance with the procedure for the organization of larger townships set forth in Title 30, section 5602.** Upon receipt of the names of all the trustees, the **Water and Air Environmental** 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 1104~~ **to the trustees by certified or registered mail, return receipt requested, mailed at least 10 days prior to the date set for the meeting,** 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~~ except that in the case of trustees representing a municipality, such trustees shall serve an additional period until the next regular election of the municipality, and ~~Thereafter~~ thereafter the such trustees' terms of office shall date from the time of each regular municipal election; and except that in the case of trustees representing residents of unorganized territory, such trustees shall serve until an election to fill the vacancy caused by the expiration of their terms shall be called by the county commissioners; and such commissioners shall call such election in the same manner as is provided for the initial election of trustees and cause the same to be held on a date as closely following the date upon which such terms expire as may be.

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; **or, in the case of unorganized territory, the trustees shall notify the commissioners of the county wherein the unorganized territory, encompassed by the sanitary district, is located,** of the fact that a vacancy will occur so that the municipal officers in these municipalities **or the county commissioners, as the case may be,** 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. **In the case of vacancy in the office of a trustee representing unorganized territory, the commissioners of the county wherein such unorganized territory is located shall fill the vacancy by electing a trustee from such unorganized territory and resident within the boundaries of the sanitary district until the next election of trustees is held.** 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, **or, in the case of a trustee representing unorganized territory, in case such trustee shall remove without the boundaries of the sanitary district,** a vacancy shall be declared to exist by the board of trustees, and the municipal officers **or the county commissioners, as the case may be,** 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.

Sec. 5. R. S., T. 38, § 1106, amended. Section 1106 of Title 38 of the Revised Statutes, as enacted by chapter 310 of the public laws of 1965, is amended to read as follows:

§ 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 in this chapter~~ until the date set by the **Water and Air Environmental 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 **and residents of unorganized territory** 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~~ **jurisdictions** other than to pay for services rendered to the municipality **or to such residents** by the sanitary district.

Sec. 6. R. S., T. 38, § 1151, amended. Section 1151 of Title 38 of the Revised Statutes, as enacted by chapter 310 of the public laws of 1965, is amended to read as follows:

§ 1151. Powers

Each sanitary district formed under this chapter shall have the power, within the district ~~and~~, within the territory of any adjoining municipality, **and within any adjoining unorganized territory,** 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, water-

courses 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.

Sec. 7. R. S., T. 38, § 1158, amended. The last sentence of section 1158 of Title 38 of the Revised Statutes, as enacted by chapter 310 of the public laws of 1965, is amended to read as follows:

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, **or, if such work is being done in unorganized territory, the commissioners of the county wherein such unorganized territory is located,** 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 **or county commissioners, as the case may be,** deem it restored to a condition safe for traffic.

Sec. 8. R. S., T. 38, § 1201, amended. The first sentence of section 1201 of Title 38 of the Revised Statutes, as enacted by chapter 310 of the public laws of 1965, is amended to read as follows:

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, **or any person residing in unorganized territory encompassed by said district,** the district being authorized to reimburse any municipality therein **or any person residing in unorganized territory encompassed by said district** for any such expenses incurred or paid by it **or him,** 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.