

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 798

H. P. 610

House of Representatives, February 12, 1969

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Drigotas of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT to Amend the Charter of the Auburn Sewerage District.

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

Sec. 1. P. & S. L., 1917, c. 193, § 8, repealed and replaced. Section 8 of chapter 193 of the private and special laws of 1917 is repealed and the following enacted in place thereof:

Sec. 8. Rates; application of revenues. All persons, firms and corporations, whether private, public or municipal, shall pay to the district the rates and other lawful charges established by the trustees for the sewer or drainage service used or available to the real estate owned or occupied by them. Said rates may include a charge for the district's readiness to serve against the owners or occupants of all real estate whether improved or not abutting or reasonably accessible to the sewers and drains of the district even though such premises are not actually connected thereto.

Rates and other lawful charges shall be uniform within the district whenever the cost of installation and maintenance of sewers and their appurtenances and the cost of service is substantially uniform. The district may, however, establish a higher rate or other lawful charge in areas where, for any reason, the cost to the district of construction and maintenance, or the cost of service, exceeds the average, but such higher rate, or other lawful charges shall be uniform throughout the sections in which they apply.

The rates established may be based or computed upon the quantity of water used, the number and size of drain or sewer connections, the number and kind of plumbing fixtures in use in the premises connected with the drain or sewer, the number or average number of persons residing or working in

or otherwise connected with such premises, the type or character of such premises, or upon any other factor bearing a reasonable relation to the nature and extent of the facilities and service furnished. Rates applicable to industrial plants obtaining all or part of their water supply from sources other than the public water supply may be determined by gauging or metering or in any other manner approved by the trustees of the district. In cases in which the character of the sewage from any industrial plant, building or premises is such that it imposes an unusual burden upon the drain or sewer or upon any facility to which such sewage is piped for treatment, an additional charge fairly reflecting such additional burden may be made therefor or the trustees may in their discretion require that such sewage be treated according to prescribed specifications before being discharged into any drain or sewer maintained by the district.

The district may assess the City of Auburn for the use of the sewer system to drain off storm water a sum not to exceed \$3,000 per year. Other municipal use of the sewer system shall be charged for in the same manner as such services are charged to private customers.

Pending the adoption by the trustees of the district of a rate system based upon factors related to the volume and kind of sewage discharged into the system and service required to produce sewage service to a particular person, firm, corporation or to the City of Auburn, the district may continue to establish its rates on the basis of the repealed sections 8 and 9 of this charter. Prior to adoption of a new rate system, the trustees shall publish the proposed rules and regulations not less than once in a newspaper having general circulation in the City of Auburn and by holding a public hearing thereon at a public meeting place in the City of Auburn not less than 7 days after publication of the proposed rules and regulations, such publication also to state the time and place of the meeting. After adoption of such rules and regulations, copies of the same shall be printed and made available upon request to rate-payers or prospective rate-payers of the district.

The rates and other lawful charges shall be established so as to provide revenue for the following purposes:

1. To pay any estimated expenses of operating and maintaining the sewerage system during the ensuing year including any assessment which may be levied by the Lewiston-Auburn Water Pollution Control Authority.
2. To provide for the payment of interest and principal on indebtedness of the district.
3. To provide for a sinking fund in accordance with the provisions of section 6.

If any surplus remains at the end of the year, it may be transferred to the sinking fund.

After adoption of the new rate system, any rate-payer may within 30 days after receipt of his bill for sewer charges make written application to the trustees for an abatement setting forth the grounds of his request.

Notice mailed to the last known address of the rate-payer shall be presumed to have been delivered in the ordinary course of the mail. Abatements shall be granted in case of error in computation or where the rate is arbitrary or bears no reasonable relation to the volume and kind of sewage discharged into the sewer system. An appeal from the decision of the trustees may be taken to the Androscoggin county commissioners in the same manner provided for appeals from assessments of municipal taxes.

Sec. 2. P. & S. L., 1917, c. 193, § 9, repealed and replaced. Section 9 of chapter 193 of the private and special laws of 1917 is repealed and the following enacted in place thereof:

Sec. 9. Collection of unpaid rates, assessments and other lawful charges. The clerk of the district shall have full authority to collect rates and other lawful charges including assessments due to the District, but the trustees of the district may vote to transfer this responsibility to some other officer or employee. Bills for such rates and other lawful charges shall be mailed by the district to each rate-payer at his last known address at least 30 days before the date after which interest will be charged thereon. The bill shall state the date upon which the rate or other lawful charge becomes due and payable, the date after which interest will be charged thereon, and the amount of such annual interest not to exceed 8%.

The treasurer may, after the expiration of the time permitted for appeal, institute a civil action in the name of the district to collect any unpaid rates or other lawful charges, including assessments. The district shall also have a lien upon the land and buildings benefited by its sewers and drains to secure payment of rates and other lawful charges including assessments, which shall take precedence over all other claims against such real estate, except claims for taxes. In lieu of or in addition to the right to collect delinquent rates or other lawful charges through the institution of civil proceedings, the district may enforce its lien after the expiration of 3 months and within one year after the date when the bill for rates or other lawful charges became due and payable, by sending by registered or certified mail a notice in writing stating the amount of such rate or other lawful charge, describing the real estate upon which a lien is claimed, and stating that a lien is claimed on said real estate to secure payment of the bill for rates or other lawful charges and demanding payment within 30 days after receipt of the notice. Whenever such notice is returned undelivered, supplemental notice shall be given by publication in a newspaper of general circulation within the City of Auburn once a week for two successive weeks demanding payment within 30 days after the date of the first publication. After the expiration of said 30-day period and within one year thereafter, the district shall cause to be recorded in the Androscoggin County registry of deeds a certificate signed by the treasurer setting forth the amount of the rate or other lawful charge which is due, 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 or other lawful charge and that a notice and demand for payment of the same has been given in accordance with this section. At the time of recording the certificate, a true copy of the

certificate shall be filed in the office of the district and an additional copy shall be sent by registered or certified mail to each record holder of any mortgage on the real estate addressed to such record holder at his or its last known address. 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 the district by the register of deeds for recording the certificate shall not exceed \$1.

The filing of the certificate in the registry of deeds as aforesaid shall be deemed to create a lien on the real estate described which shall have priority over all other liens except liens for taxes, and shall give to the district all of the rights usually possessed by mortgagees, except that the district shall not have any right to possession of the real estate until the right of redemption has expired. If the lien, together with interest and costs, has not been paid within 18 months after the date of filing in the registry of deeds, the lien shall be deemed to have been foreclosed and the right of redemption to have expired. In the event that said rate or other lawful charge, together with interest and costs including the fee for recording a discharge of the lien, shall be paid within the periods of redemption, the district shall cause the lien to be discharged in the same manner provided for the discharge of real estate mortgages.

Sec. 3. P. & S. L., 1917, c. 193, § 10, amended. The first paragraph of section 10 of chapter 193 of the private and special laws of 1917, as amended, is repealed and the following enacted in place thereof:

When any extension of or addition to the existing sewer system has been completed, the trustees of the district shall determine which parcels of land are benefited thereby and assess upon the owners thereof or persons in possession such sum not exceeding the amount of such benefit to be paid toward defraying the costs of the extension of or addition to the sewer system, the total of such assessments not to exceed $\frac{1}{2}$ the cost of such extension or addition.

Any person may within 30 days of receiving notice of an assessment make written application to the trustees for an abatement setting forth the grounds for his request. Abatements shall be granted in cases of error in computation or where the assessment is arbitrary, discriminatory or has no reasonable relation to the benefit conferred upon the parcel of land in question. An appeal from the decision of the trustees may be taken to the Androscoggin county commissioners in the same manner provided for appeals from assessments of municipal taxes.

Sec. 4. P. & S. L., 1917, c. 193, § 10, amended. The 2nd paragraph of section 10 of chapter 193 of the private and special laws of 1917, as enacted by section 4 of chapter 73 of the private and special laws of 1965, is amended to read as follows:

Any person whose estate does not abut a street upon which an existing sewer line is laid and is not located in an area into which an extension of an existing sewer line is presently contemplated, may petition the trustees of the district nevertheless to extend an existing sewer line to some specified point at which he can enter it. Such petition shall further state the peti-

tioner's willingness to pay such portion of the cost of said construction in addition to his assessments ~~not to exceed 50% of the total cost thereof~~ as may be agreed upon between the petitioner and the district. Upon receipt of such a petition, the trustees of the district may, if they find that the cost of the construction requested would not otherwise be justified because of the community benefit conferred, which finding shall be noted in the permanent records of the district, authorize such construction upon such terms as may be agreed upon between the petitioner and the district. **Partial refunds to the petitioner of the amount expended by him in excess of 50% of the cost of such extension may be made by the district where additional connections to the extended portion of the sewer line occur within 10 years from the date of completion of the original construction. The amount of any such refund shall be derived by calculating the estimated additional revenue to be received by the district from the newly connected customer multiplied times an investment factor to be determined and revised from time to time, if necessary, by the trustees of the district. Where costs of construction have been advanced by more than one petitioner, refunds shall be apportioned among them according to the amount of their advances.**

Sec. 5. P. & S. L., 1917, c. 193, § 10, amended. The 4th paragraph of section 10 of chapter 193 of the private and special laws of 1917 is repealed.

Sec. 6. P. & S. L., 1917, c. 193, § 11, repealed and replaced. Section 11 of chapter 193 of the private and special laws of 1917 is repealed and the following enacted in place thereof:

Sec. 11. Connection of private sewers. Every building within the district intended for human habitation or occupancy or with facilities for discharge or disposal of commercial or industrial waste which is accessible to a sewer or drain of the district shall be connected with the district's sewerage system by the owner or person against whom taxes on the premises are assessed, in the most direct manner possible within 90 days of receiving a request to do so from the Auburn health officer with a separate connection, if feasible, for each such building. The 90-day time limit may be extended upon request for good cause shown. Existing buildings already served by a private sewer or drainage system shall not be required to connect with any such sewer or drain of the district if it functions in a satisfactory and sanitary manner and does not violate the State Plumbing Code or any other law or ordinance applicable thereto. A building shall be deemed to be accessible to a sewer or drain of the district for the purposes of this section if it or any private sewer or drain directly or indirectly connected thereto shall at any point come within 100 feet of a sewer or drain connected to the sewerage system of the district provided, however, that this section shall not be applied to require the owner of any such building to acquire any real property or easement therein for the sole purpose of making such connection.

In any event, no person, firm or corporation shall enter the district's sewerage system without first having obtained a permit from the district and payment of any entrance charge established on that location together with any assessment due or estimated to become due as a result of an extension

of the existing sewerage system past the property in question, and any charge for construction of a sewerage disposal tank levied in accordance with the provisions of section 10. Payment of any such previously unpaid assessment shall be a condition of connecting with the district's sewer system whether or not the applicant was the owner of the real estate in question at the time that the assessment was made.

The district may also decline to begin construction of any sewer project until 75% of the estimated cost of construction has been paid in by the abutting property owners.