

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 924

H. P. 683

House of Representatives, February 17, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Smith of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

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 R. S., T. 38, § 1062, repealed and replaced. Section 1062 of Title 38 of the Revised Statutes, as enacted by chapter 310 of the public laws of 1965, and as last amended by section 9 of chapter 431 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 1062. Declaration of policy

It is declared to be the policy of the State to encourage the development of sanitary districts consisting of:

1. Municipality. A municipality;
2. Municipalities. Two or more municipalities;
3. —sections. A section or sections of sufficient size of a municipality or 2 or more municipalities;
4. Unorganized territory. A sufficient number of persons residing in unorganized territory; or
5. Combination. Any combination of the foregoing, 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 may only be formed where the 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 an 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.

Sec. 2. R. S., T. 38, § 1101, repealed and replaced. Section 1101 of Title 38 of the Revised Statutes, as enacted by chapter 310 of the public laws of 1965, and as amended, is repealed and the following enacted in place thereof:

§ 1101. Formation

The formation of a sanitary district shall be accomplished as follows:

1. Application. The municipal officers of the municipality or municipalities, or portions thereof, or the residents of unorganized territory, that desire to form a sanitary district shall file an application with the 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 portions thereof, or, in the case of residents of unorganized territory, the names of such residents, that propose to be included in 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 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 made solely 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 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 made solely 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 this chapter and designating the name of the proposed district. The commission shall give notice to the municipal officers within the municipality or municipalities involved, and where unorganized territory is involved, 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 of the municipality or municipalities involved, and, where unorganized territory is involved, 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, and, where unorganized territory is involved, 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, or other or fewer sections thereof are involved, or that a different area of unorganized territory is involved, or, in the case of an application made solely by residents 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 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 persons to whom the notice described in subsection 3 is directed 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 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, and, where the proposed district includes or is composed solely of unorganized territory, at least $\frac{2}{3}$ 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 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, subject to the limitations provided, this decision shall be reduced to writing by the secretary and must be approved by a $\frac{2}{3}$ 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 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 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 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 residing within such portion of the municipality, 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, and, where the proposed sanitary district includes or is composed solely of unorganized territory, to the commissioners of the county wherein such unorganized territory is located, directing them to forthwith call town meetings, 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. To see if the town (or city) of (name of town or city) will vote to incorporate as a sanitary district to be called (name) Sanitary District.
- B. To see if the residents of the following described section of the town (or city) of (name of town or city) will vote to incorporate as a sanitary

district to be called (name) Sanitary District: (legal description of the bounds of section to be included).

C. To see if the residents of the (following described section of) (name of town or city) (unorganized territory) will vote to join with the residents of the (following described section of) (name of town or city) (unorganized territory) to incorporate as a sanitary district to be called (name) Sanitary District: (legal description of the bounds of the proposed sanitary district, except where district is to be composed of entire municipalities).

D. 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 called (name) Sanitary District: (legal description of the bounds of the proposed sanitary district).

E. To see if the residents of (the above described section of) (name of town or city) will vote to approve the total number of trustees and the allocation of representation among the municipalities (and included section of unorganized territory) on the board of trustees as determined by the municipal officers (and the persons representing the included area of unorganized territory) and listed as follows:

Total number of trustees shall be _____ and the residents of (the above described section of) (town or city) shall be entitled to _____ trustees (and the residents of the above described section of unorganized territory shall be entitled to _____ trustees), etc.

F. To choose (number) trustees to represent the residents of (the above described section) or (town or city) (unorganized territory) on the board of trustees of the (name) Sanitary District.

At any such town meeting, 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, repealed and replaced. Section 1102 of Title 38 of the Revised Statutes, as last amended by section 9 of chapter 431 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 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, and, where the proposed district includes unorganized territory, the county clerk, shall make a return to the 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, and, where the proposed district includes unorganized territory, that 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 Environmental Improvement Commission shall make a finding to that effect and record the same upon its records. The 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 Environmental Improvement Commission shall be filed and recorded in the Office of the Secretary of State. The issuance of such certificate by the 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 Environmental Improvement Commission under section 1106.

STATEMENT OF FACT

The purpose of this bill is to enable the Environmental Improvement Commission to form a sanitary district consisting of a municipality, 2 or more municipalities, a section or sections of sufficient size of a municipality or 2 or more municipalities, a sufficient number of persons residing in an unorganized territory or any combination of the foregoing.

Frequently the area to be served by the sanitary district is smaller than the established boundaries of a municipality. In addition due to geographic location it may be desirable for a section of a municipality or unorganized territory to join with one district and another section to join with another district.