

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

ONE HUNDRED AND FIFTH LEGISLATURE

---

---

**Legislative Document**

**No. 1626**

---

---

H. P. 1176

House of Representatives, March 17, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Porter of Lincoln.

---

---

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

---

---

**AN ACT to Clarify the Sewer Powers of Lincoln Water District and  
Change its Name to Lincoln Water and Sewer District.**

---

---

**Emergency preamble.** Whereas, acts of the Legislature do not become effective until 90 days after adjournment of the Legislature unless enacted as emergencies; and

Whereas, disposal and treatment of sewage is essential to the health and well-being of the inhabitants of the Town of Lincoln; and

Whereas, it is imperative that action be taken at the earliest possible time to eliminate any danger to such health and well-being; and

Whereas, the 94th Legislature created the Lincoln Water District with certain powers over sewers; and

Whereas, it has been determined that its borrowing capacity is inadequate in order to eliminate the pollution which exists within the confines of the district; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. P. & S. L., 1949, c. 116, § 1, amended.** Section 1 of chapter 116 of the private and special laws of 1949 is amended to read as follows:

**Sec. 1. Territorial limits; corporate name; purposes.** That part of the town of Lincoln in the county of Penobscot and the people and territory

within the same known as Township 2 and Township 3 shall be, and hereby are, constituted a public municipal corporation under the name of the "Lincoln Water & Sewer District" for the purpose of supplying the inhabitants of said town or any part of said town with pure water for domestic, sanitary and municipal purposes and with suitable and adequate sewerage facilities for the carrying off and treatment of domestic, commercial and industrial wastes.

Provided, however, that it shall not construct any system of pipe lines or development, without first having submitted its plans to the public utilities commission, and obtained its advice therefor in writing, under power vested in said commission by section 13 of chapter ~~40~~ 35 of the Revised Statutes of ~~1944~~ 1964.

Sec. 2. P. & S. L., 1949, c. 116, § 2, amended. Section 2 of chapter 116 of the private and special laws of 1949 is amended to read as follows:

Sec. 2. Powers of said Lincoln Water & Sewer District. The said district, for the purposes of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from any lake, pond, river, surface or underground brook, spring or vein of water in said town of Lincoln, and to do any and all things necessary to provide a system of sewerage and drainage and treatment of sewerage for public purposes and for the health, comfort and convenience of the inhabitants of said district.

Sec. 3. P. & S. L., 1949, c. 116, § 3, amended. The first paragraph of section 3 of chapter 116 of the private and special laws of 1949 is amended as follows:

The said district, for the purposes of its incorporation, is hereby authorized to take and hold as for public uses, real estate and personal estate, and any interest therein necessary for such purposes, by purchase, lease or otherwise, and is hereby authorized to exercise the right of eminent domain, as hereinafter provided, to acquire for such purposes any land or interest therein or water rights necessary for erecting and maintaining dams, plants and works, for flowage, for power, for pumping, for supplying water through its mains and sewerage system, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining mains, aqueducts and other structures for taking, distributing, discharging and disposing of water and sewage, for forming basins, reservoirs and outlets in a sewage system, for erection of buildings for pumping and treatment works for use therein, for laying pipes and sewers and maintaining same, and for laying and maintaining conduits for carrying, collecting, treating, discharging and disposing of sewage matters and waters, for filtering, rectifying, treating and disposal plants, works and facilities, for such other objects necessary, convenient and proper for the purposes of its incorporation, and for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures, plants, works, facilities and lands.

Sec. 4. P. & S. L., 1949, c. 116, § 11, amended. Section 11 of chapter 116 of the private and special laws of 1949 is amended to read as follows:

Sec. 11. Trustees granted certain powers of selectmen. After the meeting of the voters of the district for acceptance of this charter, and after the

organization of the board under the provisions of section 9, the trustees shall have the same powers and perform the same duties as otherwise are exercised and performed by the selectmen of towns or other persons authorized by the Legislature from time to time in correcting and preparing lists of the persons qualified to vote in said district, and for that purpose they shall be in session at the place designated for holding the meeting between the hours of 10 o'clock in the forenoon and 12 o'clock noon on the secular day next before the date of every meeting, and also 2 hours before the opening of the meeting, and notice thereof shall be given in the call of the meeting. All meetings of the district shall be presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings.

Sec. 5. P. & S. L., 1949, c. 116, § 12, amended. Section 12 of chapter 116 of the private and special laws of 1949 is amended to read as follows:

Sec. 12. District and town authorized to make contracts. Said district through its trustees is authorized to contract with persons and corporations, including the town of Lincoln, and said town of Lincoln is authorized to contract with it, for the supply of water and sewerage facilities for municipal purposes and for the use of sewerage and drainage facilities.

Sec. 6. P. & S. L., 1949, c. 116, § 13, repealed and replaced. Section 13 of chapter 116 of the private and special laws of 1949, as amended by chapter 184 of the private and special laws of 1961, is repealed and the following enacted in place thereof:

Sec. 13. Authorized to negotiate temporary loans; and to issue notes and bonds; declared in quasi-municipal corporation; notes and bonds legal investment for savings banks; and to receive governmental aid. For accomplishing the purposes of this Act, and for such other expenses as may be necessary for the carrying out of said purposes, said district, through its trustees, without the necessity of a vote of the inhabitants of said district, is authorized to receive both state and federal aid grants, to borrow money from time to time, and to issue therefor the interest-bearing, negotiable notes of the district, maturing serially or otherwise, and to make subsequent renewals of the same in whole or in part, and for said purposes and for the purpose of refunding any notes, bonds or other lawful indebtedness to establish a fund therefor. For obtaining or providing money to pay or to meet any necessary expenses and liabilities under the provisions of this Act, including expenses in the creation of this district, in securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant and sewage disposal and treatment system and making extensions, additions and improvements to the same, the said district, through its trustees, without the necessity of a vote of the inhabitants of said district, may from time to time issue bonds of the district to an amount necessary in the judgment of the trustees therefor, in one series or in separate series, in such amount or amounts, bearing interest at such rate or rates, selling at par, at a discount or at premium and having such other terms and provisions as the trustees shall determine.

Said bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the trustees may determine. Bonds,

notes or 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 trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "Lincoln Water & Sewer District", shall be signed by the treasurer and countersigned by the chairman of the board of trustees of the district, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer.

Said notes and bonds shall be legal obligations of said district, which is hereby declared to be a quasi-municipal corporation within the meaning of the Revised Statutes of 1964, Title 30, section 5053, and all provisions of said section shall be applicable thereto. The said notes and bonds shall be legal investments for savings banks.

The district may refund and reissue, from time to time, in one or in separate series, its bonds, notes and other evidences of indebtedness, and each authorized issue shall constitute a separate loan.

Sec. 7. P. & S. L., 1949, c. 116, § 15-A, additional. Chapter 116 of the private and special laws of 1949 is amended by adding a new section 15-A to read as follows:

Sec. 15-A. Lien to secure payment of sewer rates; procedure. There shall be a lien on real estate served by the sewers of the district to secure the payment of rates established and due under the provisions of section 15, which shall take precedence of all claims on such real estate, excepting only claims for taxes. Real estate for the purposes of this Act shall bear the same definition as given in the Revised Statutes of 1964, Title 36, section 551.

The treasurer of the district shall have the authority and power to collect the rates, and he is empowered to exercise the authority hereinafter set forth in enforcing the collection of any rates due and payable to the district.

In addition to other methods previously established by law for the collection of the rates, the lien herein created may be enforced in the following manner. The treasurer, when a rate has become due and payable, may, after the expiration of 3 months and within one year after the date said rate becomes due and payable, in the case of a person resident in the town where the rate is assessed, give to the person against whom the rate is assessed or leave at his last and usual place of abode, a notice in writing signed by the officer stating the amount of such rate, describing the real estate upon which the lien is claimed, alleging that a lien is claimed on the real estate to secure the payment of the rate and demanding the payment of the rate within 10 days after the service of such notice. After the expiration of the 10 days and within 10 days thereafter, in case of a resident, and in all other cases within a year from the date, the treasurer shall record in the registry of deeds of Penobscot County a certificate signed by the officer setting forth the amount of such rate, a description of the real estate on which the lien is claimed and an allegation that a lien is claimed on the real estate to secure the payment of the rate, that a demand for payment of the rate has been made in accordance with the provisions of this section and that the rate remains unpaid. In

the case of a nonresident, the aforesaid notice of lien and demand for payment shall be given by certified or registered mail or by publication in a newspaper of general circulation in the Town of Lincoln once a week for 2 successive weeks, and after the expiration of 10 days from the date of mailing said notice or after the expiration of 10 days from the last publication of said notice and within 10 days after said expiration periods, the treasurer shall record said certificate. At the time of the recording of the certificate in the registry of deeds as herein provided, in all cases such treasurer shall file in the office of the district a true copy of the certificate and also at the time of recording as aforesaid, the officer shall mail by registered or certified letter to each record holder of a mortgage on said real estate, addressed to him at his last and usual place of abode, a true copy of the certificate. The fee to be charged to the ratepayer for such notice and filing shall not exceed \$6 and the fee to be charged by the register of deeds for such filing shall not exceed \$3.

The filing of the aforesaid certificate in the registry of deeds as aforesaid shall be deemed to create and shall create a mortgage on the real estate to the district, having priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and shall give to the district all the rights usually incident to a mortgagee, except that the mortgagee shall not have any right of possession of the real estate until the right of redemption herein provided for shall have expired.

If the mortgage, together with interest and costs, shall not have been paid within 12 months after the date of filing of the certificate in the registry of deeds as herein provided, the mortgage shall be deemed to have been foreclosed and the right of redemption to have expired.

The filing of the certificate in the registry of deeds shall be sufficient notice of the existence of the mortgage herein provided for.

In the event that the rate, interest and costs shall be paid within the period of redemption herein provided for, the treasurer of the district shall discharge the mortgage in the same manner as is provided for discharge of real estate mortgages.

Emergency clause; effective date; referendum; certificate to Secretary of State. In view of the emergency cited in the preamble, this Act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the Lincoln Water District at a special meeting or meetings called and held for the purpose. The dates of said meeting shall be determined by the trustees, but such meeting shall not be later than the first day of November, 1971. Such special meeting shall be called, advertised and conducted according to the provisions of the present charter of the district, provided, however, that the trustees of the district, or any person acting in their behalf, shall not be required to prepare or post a new list of voters and that for the purpose of this Act the trustees, or any person acting in their behalf, shall be in session on the first secular day preceding said special meeting. The trustees shall cause to be prepared the required ballots on which they shall reduce the subject matter of this Act to the following question: "Shall the

act entitled AN ACT to Clarify the Sewer Powers of Lincoln Water District and to Change its Name to Lincoln Water & Sewer District, passed by the 105th Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same.

The result of the vote in said district shall be declared by the trustees of the Lincoln Water District and due certificate thereof filed by the district clerk with the Secretary of State, and if said result so filed shows that a majority of the vote is for approval of this Act, it shall take complete effect; provided that the total number of votes cast for or against the acceptance of this Act equals or exceeds 20% of the total vote for all candidates for governor cast in the Town of Lincoln at the next preceding gubernatorial election; but if the total number of votes cast at such special meeting shall be less than said 20%, such fact shall not prohibit a subsequent meeting or meetings for the purpose of submission of this Act, which meeting or meetings shall be held before July 1, 1972.

#### STATEMENT OF FACT

The purpose of this bill is reflected in the title.