

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)

(EMERGENCY)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 515

H. P. 441

House of Representatives, February 4, 1975

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

EDWIN H. PERT, Clerk

Presented by Mrs. Clark of Freeport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Amend the Charter of the Freeport Sewer District.

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

Whereas, the sewerage system presently serving the Town of Freeport serves only a small portion of the town and is inadequate to meet the needs of the inhabitants of the Town of Freeport for sewerage, sewage and commercial and industrial waste disposal and sewage treatment and storm and surface water drainage; and

Whereas, said sewerage system is causing degradation of the waters receiving the effluent therefrom; and

Whereas, in the Town of Freeport there are areas with soils that present severe limitations for subsurface sewage disposal such that present subsurface sewage disposal in the town is contributing to the degradation of ground and surface waters and inland and coastal waters and watercourses of the town; and

Whereas, it is essential that an improved and expanded sewerage system be provided for a large number of residents of the Town of Freeport not presently served in order to preserve and protect the public health, safety and welfare and to improve and protect the quality of waters in the town; 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 & SL 1947, c. 60, § 3, first ¶, is amended to read:

The trustees of said district may exercise the right of eminent domain vested in said district for the purposes of this act after hearing, notice of the time and place of said hearing having been given by **personal service upon the owners of the property or property rights to be taken, if known, and if such owners cannot by due diligence be served personally, then by certified mail to their last known address, and in all cases by publication in 2 weekly papers newspapers** published in the county of Cumberland, **once a week, for 2 weeks** previous to the time appointed for said hearing, **a copy of which notice shall be filed in the registry of deeds for the county of Cumberland at least 2 weeks prior to said hearing,** and the clerk of said district shall keep a record of their proceedings, and their determination and decision, which shall set forth a description of the land or easement taken, and the owners, if known, and the amount of damages awarded therefor, and upon the signing of said record by said trustees, and the filing of the same in the registry of deeds for the county of Cumberland, **the title to said property or property rights shall vest in said district, and said trustees may enter upon such land and take possession of the same, or an easement therein, as the case may be, for the purposes of this act. At the hearing, it shall be in order for the owners of the property or property rights to be taken to be heard by the trustees, or a majority of them, on the subject of the necessity for the proposed location of the taking and such owners may present evidence as to the damages to be sustained by them. The trustees shall give notice of their determination and decision within 2 weeks of the filing of said record in the registry of deeds by personal service of a copy of said record upon the owners of the property or property rights taken, if known, and if such owners cannot by due diligence be served personally, then by certified mail to their last known address, and in all cases by publication in 2 newspapers published in the county of Cumberland once a week for 2 weeks. Any person aggrieved by the decision of said trustees, so far as it relates to the damages for land or easements therein so taken, shall have the same rights of appeal as are provided in the case of the laying out of town ways, provided that the time limited for such appeal shall run from the date notice of said decision is given to said owners as aforesaid.**

Sec. 2. P & SL 1947, c. 60, § 5, as amended by P & SL 1949, c. 50, § 2, is further amended to read:

Sec. 5. Power of trustees to determine necessity of sewer facilities. The trustees shall have the power to determine when and where in said district sewerage facilities, **including but not limited to pipes and conduits for carrying and collecting, discharging and disposing of sewerage matter and waters,** are most needed, and how said sewers shall be built; where, when, and what repairs, renewals, and extensions are necessary, and how the same shall be built, and their decision in such matters shall be final and not subject to review. It is provided, however, that the municipal officers of said town may make written recommendation to the trustees of said district regarding sewerage necessities in said district.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is to amend the procedure for the exercise of the power of eminent domain by the Freeport Sewer District, so as to provide for personal notice to the owner of the property to be taken, to clarify the vesting of title to such property, to clarify the issues in order at the hearing, to clarify the period for appeal by the owner and to clarify the limitation on the reviewability of the decisions of the trustees.