

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 627

H. P. 498

House of Representatives, February 23, 1977

On motion of Mr. Kelleher of Bangor, referred to the Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Mills of Eastport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Incorporate the Eastport Utilities District.

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

Whereas, the present water system is inadequate and in need of immediate improvement and repair to protect the quality of the water service and the health and well-being of the inhabitants of Eastport; and

Whereas, an adequate supply of pure water is essential to the health and well-being of the inhabitants of the City of Eastport; and

Whereas, there is not at present a sewage treatment facility serving the city and the present sewage treatment is inadequate and must be improved to protect the health and well-being of the inhabitants of Eastport; and

Whereas, it is desirable that a public district be formed in Eastport to be able to take over the Eastport Water Company forthwith in order to supply water service to the people of the city and to inhabitants of the Town of Perry and to the Pleasant Point Passamaquoddy Indian Reservation and also to provide for sewerage treatment for the City of Eastport; and

Whereas, it is vital that this be done at once for the benefit of the people of the area; 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. Territorial limits, incorporation, purposes. The inhabitants and territory within the City of Eastport, in the County of Washington, are created a body politic and corporate under the name of "Eastport Utilities District." The purposes of the district shall be generally to construct, maintain, operate and provide a water system for domestic, commercial, sanitary and municipal purposes including the extinguishment of fire and a system of sewerage, sewage and storm water disposal and sewage treatment; to provide for removal and treatment of sewage, when, as and if the treatment becomes necessary; and generally to construct, maintain, operate and provide a water system and a system of sewers, sewage and storm water disposal and sewage treatment for public purposes and for the health, comfort and convenience of the inhabitants of the district and to provide water services only, as aforesaid, to such other persons, corporations or governmental bodies as may lie outside the district but within the corporate limits of the Town of Perry and in the Pleasant Point Passamaquoddy Indian Reservation.

Sec. 2. Authority to construct and maintain. Within the territory and wherever its plant, properties, franchises, rights and privileges may be located or in effect with regard to water service only within the territory of the Town of Perry, the Eastport Utilities District is authorized to lay pipes, drains, sewer mains and conduits and to take up, replace, repair and maintain the same and to contract for the same to be done, in, along and through any public or private ways, public grounds or lands of any person or corporation as hereinafter provided; to construct and maintain dams, reservoirs, aqueducts, stand pipes, pumping stations, sewage treatment works, catch basins, flush tanks and all other appliances for collecting, holding, purifying, distributing and disposing of water, sewage and of surface and waste water; to install hydrants, drains, manholes, pumps and all other appurtenances necessary and convenient for the operation of water and sewerage systems and generally to do any and all things necessary or incidental to accomplish the purpose of this Act.

Sec. 3. Authority to acquire and hold property, eminent domain. Title to all public sewers in the City of Eastport, wherever the same may be located, may be vested in the district, provided that the legal voters of the district specifically vote that the district shall own and operate public sewers in that city, it being the intent hereof that sewers may be owned and operated by the city until such time, if ever, that the people vote to authorize this district to own and operate them.

The district is authorized and empowered to acquire and hold real estate and personal estate necessary and convenient for the aforesaid purposes, and is expressly granted the right of eminent domain. This district is authorized to take, use and hold by purchase, lease or the exercise of eminent domain, as hereinafter provided, or otherwise any land or interest therein, and any pond, stream, surface or ground waters and sewer 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 sewerage, for forming basins, reservoirs and outlets in a sewerage system, for erection of buildings for pumping works for use therein, for laying pipes and sewers and maintaining same, and for laying and maintaining conduits for carrying, collecting, discharging and disposing of sewerage 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 the sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures, plants, works, facilities and lands.

Nothing herein contained shall be construed as authorizing the district to take by right of eminent domain any of the properties or facilities of any other public service corporation or district used or acquired for future use by the owner thereof, in the performance of a public duty, unless expressly authorized herein or by subsequent Act of the Legislature.

Sec. 4. Procedure as to the exercise of right of eminent domain. In exercising any rights of eminent domain that are herein conferred upon the district, the district shall file for record in the registry of deeds in the County of Washington plans of the location of lands or interest therein to be taken, with an appropriate description, and the names of the owners thereof, if known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective or uncertain, it may at any time correct and perfect the location and file a new description thereof, and in the case the district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any act which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys until the expiration of 10 days from the filing; whereon possession may be had of all the lands or interest therein so taken, but title thereto shall not vest in the district until payment therefor.

Sec. 5. Liability for damages. If any person, sustaining damages by any taking as aforesaid, shall not agree with the district upon the sum to be paid therefor, either party upon petition to the county commissioners of Washington County may have the damages assessed by them, the procedure and all subsequent proceedings and rights of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by laying out of highways.

Sec. 6. Procedure if public utility must be crossed. In case of any crossing of any public utility, unless consent is given by the company owning or operating the public utility as to place, manner and conditions of the crossing within 30 days after the consent is requested by the district, the Public Utilities Commission shall determine the place, manner and conditions of the crossing and all work on the property of the public utility shall be done under the supervision and to the satisfaction of the public utility, but at the expense of the district.

Sec. 7. Excavation or repair work, closing of ways. Whenever the district shall enter, dig up or excavate any public way or other land for the

purpose of laying its water mains, sewers, drains or pipes, constructing man-holes or catch basins or their appurtenances, or maintaining the same, or for any other purpose, the work shall be expeditiously done with the least possible interruption and on completion of the work the district shall restore the way or land to the condition it was in prior to the work, or to the condition equally as good.

Whenever the character of the work is such as to endanger travel on any public way, the municipal officers of the City of Eastport or the Town of Perry may order a temporary closing of the way and of any intersecting way, upon request of the district, and the way shall remain closed to public travel until the municipal officers deem it is restored to a condition safe for traffic.

Sec. 8. Authority to purchase; right of eminent domain to take property of Eastport Water Company. The said district, through its Trustees, is authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain, which right is expressly delegated to said district for said purpose, the entire plant, property, franchises, rights, and privileges of the Eastport Water Company located in or serving the district territory, except its cash assets and accounts receivable, including all lands, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in said district, provided that if an agreement on acquisition is reached between the parties, the district is not restricted from purchasing the accounts receivable of the Eastport Water Company. Said company is authorized to sell, transfer and convey its franchises and property to said district.

Sec. 9. Procedures for purchase or exercise of right of eminent domain. Before exercising any right of eminent domain conferred under this Act with respect to the property of the Eastport Water Company, the district shall make a reasonable effort to acquire said property by purchase. The district shall cause said property to be appraised for the purpose of determining the amount that would constitute just compensation for the taking of said property. The district, its agents, employees or designees, may, upon 30 days' written notice to the Eastport Water Company, enter upon the real property of the Eastport Water Company, make surveys, examinations, photographs, tests and samplings of the real or personal property of the Eastport Water Company for the purpose of appraising said real or personal property. Such entry as aforesaid shall take place during daylight hours. The entry and activities authorized by this section shall not constitute a trespass, but the district shall be liable for physical injury to, and for substantial interference with possessing or use of, property of the Eastport Water Company caused by its entry and activities upon the property, which damages may be recovered by complaint in a civil action. The district shall establish the amount which it believes to be just compensation for said property and shall submit to the Eastport Water Company a proposed offer to purchase said property for the amount so established. The amount of said offer shall not be less than the district's approved appraisal of the fair market value of said property. Compliance by the district with the foregoing shall be determined to be, and shall constitute, a reasonable effort by the district to acquire said property by purchase.

If, within 60 days of the date the proposed offer to purchase is submitted to the Eastport Water Company, the district and the Eastport Water Company are unable to reach agreement as to the amount of just compensation, the district through its trustees is authorized and empowered to take said plant, property and franchises as for public use and to record in the Washington County Registry of Deeds a notice of condemnation and taking which shall be in substantially the following form :

NOTICE OF CONDEMNATION AND TAKING

The Eastport Utilities District does hereby give notice to all whom it may concern :

That the Eastport Utilities District, in accordance with the authority delegated to it by the provisions of this Act, has determined to and does hereby exercise its right of eminent domain to acquire as for public use the entire plant, property, franchises, rights and privileges of the Eastport Water Company located in or serving the district territory, except its cash assets and accounts receivable, including all lands, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants, tools and apparatus and appliances used or usable in supplying water to said district, whether the record title thereto is or is not in said Eastport Water Company.

This Notice of Condemnation and Taking shall be recorded in the Registry of Deeds of Washington County, and a copy shall be sent to the Eastport Water Company by registered or certified mail or by personal service as required for service of a summons on a complaint in the Superior Court. A copy shall be sent to any mortgagees, holders of any tax liens or any other encumbrances of record by certified or registered mail.

Dated:

EASTPORT UTILITIES DISTRICT

By
Its
Duly Authorized

STATE OF MAINE

COUNTY OF WASHINGTON, SS:

Date:

Personally appeared the above named
..... of the Eastport Utilities District, and acknowledged the above instrument to be his free act and deed in his said capacity and the free act and deed of the said Eastport Utilities District.

Before me,

.....
Justice of the Peace
Notary Public

Upon the recording of the Notice of Condemnation and Taking as aforesaid, a check in the amount determined by the district to be just compensation

and a copy of the Notice of Condemnation and Taking shall be served upon the Eastport Water Company. Service of the Notice of Condemnation and Taking, together with the check, shall be made by registered or certified mail or by personal service as required for service of a summons on a complaint in the Superior Court. Acceptance and cashing of the check shall not constitute a waiver of the right of the Eastport Water Company to appeal the district's determination of just compensation. In the event there is a mortgage, tax lien or other encumbrance of record covering any of said property, a copy of the Notice of Condemnation and Taking shall be sent by the district by registered or certified mail to the holder of record of said mortgage, tax lien or other encumbrance addressed to the office or place of abode of the holder, if known; otherwise to the office or place of abode of the holder as set forth in said record.

The date of the recording of the Notice of Condemnation and Taking shall be the date of taking and the recording of the Notice of Condemnation and Taking shall vest title to the property therein described in the district.

Within 30 days of the date of the recording of the Notice of Condemnation and Taking, the Eastport Water Company shall file in the clerk's office of the Superior Court of the County of Washington and serve a copy upon the district, so far as they relate to the water service provided in the district territory, the following: First, schedule showing the names, residences and water service of all of its customers with the rate charged therefor; 2nd, copies of all contracts in force; 3rd, an itemized statement of the gross income earned during its last complete fiscal year and up to the first day of the month preceding the recording of the Notice of Condemnation and Taking and all operating expenses and fixed charges, paid or incurred during such period and properly chargeable thereto; 4th, a memorandum of all real estate, water rights, or interest therein, owned or controlled by the company, with such brief description thereof as will reasonably identify **the same**; **5th, brief** descriptions, specifications and plans of all reservoirs, mains, pipes, service pipes, hydrants, gates, gate boxes, shut-off boxes, fixtures and machinery and all the physical elements in such water system, giving in detail quantities, sizes and lengths, and specifying the streets, roads or ways where situated; and 6th, an itemized list of all tools, apparatus, appliances and supplies used or usable in supplying water.

If the company fails or refuses to file the required information, as aforesaid, within said 30-day period, a Justice of the Superior Court, on complaint by the district, shall order the company to file such information and shall make such decree as he deems reasonable and appropriate to enforce said order.

In the event that the Eastport Water Company deems itself aggrieved by the district's determination of just compensation and tender thereof, as aforesaid, it may appeal to the Superior Court for Washington County within 30 days after the date of the receipt of the Notice of Condemnation and Taking and the tendered compensation. Such appeal shall be taken by filing a complaint setting forth substantially the facts upon which the appeal is based. The Eastport Water Company shall serve notice of such appeal upon the

district by sending, by registered or certified mail within the time above limited, a true copy of said complaint to the district.

The court shall determine the amount of just compensation by a verdict of its jury, or, if the parties agree, by the court without a jury, or by a referee or referees, and shall render judgment for just compensation with interest at the legal rate where such is due, and for costs in favor of the party entitled thereto.

If the Eastport Water Company has cashed the check tendered to it by the district and the final judgment is less than the amount of the tendered check, then the court shall order the Eastport Water Company to pay to the district the excess of the compensation tendered by the district, including interest on the excess at the legal rate from the date of tender, and to pay costs from the time of appeal. Execution shall issue on such judgment.

If the final judgment, exclusive of interest, is not less than the compensation tendered by the district, exclusive of any interest allowed, then the court shall order the district to pay to the Eastport Water Company the amount by which the final judgment is in excess of the compensation tendered by the district, and for interest on such excess from the date of taking, at the legal rate, and to pay costs from the time of appeal. No interest shall be allowed to the Eastport Water Company on any amount paid or tendered to it by the district. Execution shall issue on such judgment.

If said district fails to file and record its Notice of Condemnation and Taking before June 1, 1978, then the authority granted by this section shall cease.

Sec. 10. Sanitary provisions and penalty for violation. Any person who shall place for discharge any offensive or injurious matter or material on or into the reservoirs, aqueducts, water mains or water supply, or into the conduits, catch basins or receptacles of the district contrary to its regulations, or shall willfully injure any aqueduct, water main, hydrant, conduit, pipe, reservoir, flush tank, catch basin, inlet, manhole, outlet, engine, pump or other property held, owned or used by the district for the purpose of this charter shall be liable to pay twice the amount of the damages to the district, to be recovered in any proper action and the person, on conviction of either of the acts of willful injury aforesaid, and any person who violates the provisions of section 11 or 12 shall be punished by a fine of not more than \$200, or by imprisonment for not more than one year, or by both.

Sec. 11. Free access to premises. The officers or agents of the district shall have free access to all premises served by its sewers at all reasonable hours to permit the inspection of plumbing and sewerage fixtures, to ascertain the amount of sewerage discharged and the manner of discharge and to enforce the provisions of this charter and the rules and regulations which may be prescribed hereunder.

Sec. 12. Buildings to connect with sewer if available. Every building in the district intended for industrial, business or recreational use or for human habitation or occupancy which is located within 100 feet of a public sewer on property abutting on a street or way in which there is a public sewer, or any

building within 100 feet of a public sewer, shall have a house drainage system which shall be caused to be connected with the sewer by the owner or person against whom taxes on the premises are assessed in the most direct manner possible, within 90 days after receiving request therefor from the district, or within such further time as the trustees of the district may grant, and, if feasible, with a separate connection for each house or building. Existing buildings which are already served by a satisfactory private sewer system which meets and continues to meet, in the judgment of the trustees, the applicable requirements of the State Plumbing Code and all applicable laws and ordinances shall not be required to connect with the public sewer.

Sec. 13. Rights and obligations of abutters or others to enter. Any person may enter his private drain into any sewer of the district while the same is under construction and before completion of the sewer at the point of entry and before an entrance charge is established, on obtaining a permit in writing from the trustees, but after the sewer is completed to the point of entry and an entrance charge established on that location, no person shall enter his private drain into the sewer until he has paid the entrance charge and obtained a permit in writing from the trustees as aforesaid. All permits shall be recorded by the clerk of the district in its records before the same are issued.

Sec. 14. Trustees and officers; tenure of office; election to office; organization; vacancies; compensation. All of the affairs of the district shall be managed by a board of 5 trustees, residents therein, who shall be chosen as hereinafter provided.

As soon as may be after acceptance of this Act, the city council of the City of Eastport shall appoint 5 trustees to the district to hold office as follows: 2 to serve until the first annual election of municipal officers of the city following acceptance of this Act; 2 to serve until the 2nd election of municipal officers of the city following acceptance; and 2 to serve until the 3rd annual election of municipal officers of the city following acceptance. At each annual election of municipal officers of the city thereafter, beginning with the first annual election of municipal officers after acceptance of this Act, the same number of trustees as there are trustees whose terms have expired shall be elected by ballot, as hereinafter provided to serve until the annual election of municipal officers of the city occurring 3 years thereafter and until their successors are elected and qualified. When any trustee ceases to be a resident of the district, he or she vacates the office as trustee. All trustees shall be eligible for reelection or reappointment as hereinafter provided.

The nomination of all candidates for trustee to be elected as provided by this Act shall be by nomination papers signed in the aggregate for each candidate by not less than 25 nor more than 50 qualified voters resident in the district. Each voter signing a nomination paper shall make his signature in person, and each voter may subscribe to as many nominations as there are trustees to be elected in the district and no more. The nomination papers, before being filed, shall be submitted to the city clerk of the City of Eastport, who shall forthwith certify thereon that number of the signatures which are names of qualified voters resident in the district; one of the signers to each

separate paper shall swear to the truth thereon, and the certificate of the oath shall be annexed to or made upon the nomination papers. The nomination papers shall be filed with the city clerk of the City of Eastport not less than 14 days, exclusive of Sundays, previous to the day of the election. With the nomination papers shall also be filed the consent in writing of the person or persons nominated. All nomination papers, being filed and being in apparent conformity with the foregoing provisions, shall be deemed to be valid and if not in apparent conformity they may be reasonably amended under oath. In case any candidate who has been duly nominated under the provisions hereof shall die before the day of election, or shall withdraw in writing, or shall remove his place of residence from the district, the vacancy may be supplied in the manner herein provided for the nominations, except that the time limit for filing the nomination papers shall not apply. The name so supplied for the vacancy shall, if the ballots have not been printed, be placed on the ballots instead of the original nomination; or if the ballots have been printed, new ballots containing the new nomination shall, if practical, be furnished, or slips containing the new nomination shall be printed under the direction of the city clerk which shall be pasted upon the ballots and over the name of the candidate whose nomination has been vacated as aforesaid, and thereafter shall become part of the ballots as if originally printed thereon. The ballot in the district shall contain the names of all candidates so nominated in the district alphabetically arranged, printed in one column under the heading "For Trustee of the Eastport Utilities District." Above the heading shall be printed "Vote for (the number to be elected to be inserted therein). Make a cross or a check mark to the right of the name(s) voted for." As many blank spaces shall be left after the names of the candidates as there are trustees to be elected in which the voter may, by writing, insert the name of any person or persons for whom he desires to vote. In preparing his ballot the voter shall make a cross (X) or a check mark (✓) against and to the right of the names on the ballot he desires to vote for, not to exceed the number of trustees so to be elected in the district. At each annual election for municipal officers of the City of Eastport, balloting for trustee of the district shall take place concurrently with balloting for the municipal officers of the city, but separate ballots shall be provided for the balloting for trustee of the district as hereinbefore provided. The result of the election shall be declared by the Eastport City Council and due certificate thereof filed with the city clerk and the clerk of the district. The district shall reimburse the city for the expense of any district election.

As soon as convenient after their appointment, the first board of trustees shall hold a meeting at some convenient place in the district, to be called by any member thereof in writing, designating the time and place and delivered in hand to the other 4 members not less than 2 full days before the meeting; provided, however, that they may meet by agreement without notice. At this original meeting, the trustees shall organize by electing from their own members a chairman, a treasurer and a clerk and adopting a corporate seal. The trustees may adopt and establish 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.

Within one week after each annual election, the trustees shall meet for the purpose of electing a chairman, treasurer and clerk to serve for the ensuing year and until their successors are elected and qualified. The trustees from time to time may choose and employ, and fix the compensation of, any other necessary officers and agents who shall serve at their pleasure. The treasurer shall furnish bond in the sum and with the sureties as the trustees shall approve, the cost thereof to be paid by the district.

Members of the board of trustees shall be eligible to any office under the board. The trustees, as such, shall serve without compensation; but the treasurer may be allowed such compensation as the trustees shall determine.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member who shall serve as clerk or clerk pro tem. They shall make and publish an annual report, including a report of the treasurer, and the report may be included in, and published as part of, the city report.

Vacancies in the office of trustee from whatever cause shall be filled by appointment by the remaining trustees until the next annual election. If at any annual election there shall exist a vacancy in an unexpired term, the voters of the district shall cast their ballots as hereinbefore prescribed, voting for as many candidates as there are offices to be filled.

Sec. 15. Special meetings; qualifications of voters of district. Special meetings of the district may be called by the board of trustees at any time, and notice of special meetings, stating the place and time thereof and the business to be transacted thereat, shall be signed by the chairman or clerk of the board of trustees and shall be conspicuously posted in at least 2 public places within the district, not less than 7 days inclusive of Sundays, before the meeting. Any meeting may be adjourned from time to time by vote of the qualified voters present thereat, though not less than a quorum, and without notice of the time and place of the adjourned session, other than announcement at the meeting. Twenty-five persons qualified to vote in the meetings shall constitute a quorum. 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. After the referendum for acceptance of this charter, the trustees shall have the same powers and perform the same duties as otherwise are exercised and performed by the selectmen of towns in correcting and preparing lists of the persons qualified to vote in the district, and for that purpose they shall be in session at the office of the water and sewer district between the hours of 10 o'clock in the forenoon and 12 o'clock noon of the secular day next before the date of every meeting and 2 hours next before the opening of the meeting; and notice thereof shall be given in the call for the meeting. All persons resident in the district and qualified to vote for Governor under the laws of this State shall be entitled to vote in any meeting of the district, including the meeting for acceptance of this charter.

Sec. 16. Authorized to borrow money, to issue bonds and notes. For accomplishing the purpose of this Act, the district, by vote of its board of trustees, without district vote except as hereinafter provided, is authorized

to borrow money temporarily and to issue therefor its negotiable notes; and for the purpose of renewing and refunding the indebtedness so created, or paying any necessary expenses and liabilities incurred under the provisions of this Act, and in acquiring properties, paying damages, laying pipes, mains, sewers, drains and conduits, purchasing, constructing, maintaining and operating a water system and a sewerage system and making renewals, additions, extensions and improvements to the system and to cover interest payments during any period of construction, the Eastport Utilities District, by votes of its board of trustees, without district vote except as hereinafter provided, is also authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in the amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine; provided, however, that in the case of a vote by the trustees to authorize bonds or notes to pay for the acquisition of property, for the cost of a water system or sewerage system or part thereof, for renewal or additions or for other improvements in the nature of capital costs, the estimated cost of which, singly or in the aggregate included in any one financing is \$30,000 or more, but not for the acquisition of the property of the Eastport Water Company hereinbefore provided or for renewing or refunding existing indebtedness or to pay for maintenance, repairs or for current expenses, notice of the proposed debt and of the general purpose or purposes for which it was authorized shall be given by the clerk by publication at least once in a newspaper having a general circulation in the City of Eastport. No debt may be incurred under the vote of the trustees until the expiration of 7 full days following the date on which the notice was first published. Prior to the expiration of the period, the trustees may call a special district meeting for the purpose of permitting the voters of the district to express approval or disapproval of the amount of debt so authorized, and the trustees shall call a special district meeting, if within 7 days following the publication of the notice, there shall have been filed with the clerk of the district a petition or petitions signed by not less than 50 qualified voters of the district requesting that a special meeting be called. If at the district meeting a majority of voters present and voting thereon expresses disapproval of the amount of debt authorized by the trustees, the debt shall not be incurred and the vote of the trustees authorizing the same shall be void and of no effect. The bonds, notes and evidences of indebtedness may be issued to mature serially in annual installments of not less than 1% of the face amount of the issue and beginning not later than 2 years from the date thereof, or may be issued with equal annual payments, applied first to interest and the balance to principal, or made to run for such periods as the trustees may determine, but no issue shall run for a longer period than 40 years from the date of original issue. 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 "Eastport Utilities 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 of the signature of the treasurer. All bonds, notes and evidences of indebtedness so issued by the district shall be legal obliga-

tions of the district, which is declared to be a quasi-municipal corporation within the meaning of the Revised Statutes of 1964, Title 30, section 5053, and as amended, and all provisions of this section shall be applicable thereto. The district may, from time to time, issue its bonds, notes and other evidences of indebtedness for the purpose of paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness, and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by the district shall be legal investments for savings banks in the State of Maine and shall be tax exempt. The district is authorized and empowered to enter into agreements with the State or Federal Government, or any agency of either, or any corporation, commission or board authorized by the State or Federal Government to grant or loan money to or otherwise assist in the financing of projects such as the district is authorized to carry out, and to accept grants and borrow money from any government agency, corporation, commission or board as may be necessary or desirable to enforce this Act. All notes and bonds with the maturity of more than one year, in connection with the water system only, shall first be approved by the Public Utilities Commission.

Sec. 17. Sinking fund provided for. In case any of the bonds or notes are made to run for a period of years, a sinking fund shall be established by the trustees of the district for the purpose of redeeming the bonds or notes when they become due and a sum equal to not less than 1% of the aggregate principal of the outstanding bonds or notes issued on account of or in behalf of the district, as aforesaid, shall be turned into the sinking fund each year to provide for the final extinguishment of the district funded debt.

The money set aside for the sinking fund shall be devoted to the retirement of the notes and bonds, and shall be used for no other purposes, and shall be invested in such securities as savings banks are allowed to hold.

Whenever any bonds of the district become due or can be purchased by the trustees on favorable terms, the trustees may, if sufficient funds have accumulated in the sinking fund, redeem or purchase the bonds and cancel them. In no case shall bonds so canceled or redeemed be reissued.

In case the amount in the sinking fund shall not be sufficient to pay the total amount of the bonds falling due at any one time, authority to issue new bonds sufficient to redeem so many of the bonds as cannot be redeemed from the sinking fund is granted to the trustees.

Sec. 18. Contracts authorized. The district is authorized to contract with persons, corporations, districts and other municipalities, including the City of Eastport, to provide for the supplying of water or for the disposal of sewage, industrial waste, surface water and other waste matter, or both, through the water and sewerage systems, respectively, of the Eastport Utilities District or through the appropriate system of any person, corporation, district or other municipality, the City of Eastport is authorized to contract with the latter-named district for the supplying of water and for the disposal of sewage, industrial waste, surface water and other waste matter, and for said purposes the city may raise money as for other municipal charges and may raise money for studies or costs in connection with purchasing or condemning the Eastport Water Company.

Sec. 19. Property tax exempt. The real and personal property, rights and franchises of the district shall be forever exempt from taxation.

Sec. 20. Water and sewer rates; application of revenue. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of the district the separate water and sewer rates established by the board of trustees for the service or services used by them, and shall so pay the tolls, rents, entrance charges and other lawful charges established by the trustees for the sewer and drainage service used or available to their real estate. Such sewer rates may include rates for the district's readiness to serve, charged against owners of real estate on which is or are located a building or buildings whose drainage system should be connected to the district sewer system pursuant to section 12, although the buildings are not in fact connected. Rates, tolls, rents and entrance charges shall be uniform whenever the cost to the district of installation and maintenance of water mains and of sewers and their respective appurtenances and the cost of service is substantially uniform; but nothing in this Act shall preclude the district from establishing a higher rate, toll, rent or entrance charge than the regular rates, tolls, rents and entrance charges in sections where for any reason the cost to the district of construction and maintenance, or the cost of service, exceeds the average, but such higher rates, tolls, rents and entrance charges shall be uniform throughout the sections where they apply.

The water and sewer rates, tolls, rents and entrance charges shall be so established as to provide revenue for the following purposes:

A. Expenses. To pay the current expenses for operating and maintaining the water and sewerage systems;

B. Interest. To provide for the payment of interest on the indebtedness created by the district;

C. Sinking fund. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by the district, which sum shall be used to pay serial bonds or notes when due or be turned into a sinking fund and there kept to provide for the extinguishment of the indebtedness. Money set aside for the sinking fund shall be devoted to the retirement of the obligations of the water and sewer district and invested in such securities as savings banks in this State are allowed to hold; and

D. Surplus. If any surplus remains at the end of the year, it may be turned into the sinking fund or used for such other purposes of the district as the trustees may determine.

The water rates, tolls, charges and rents shall be subject to the approval of the Public Utilities Commission.

Sec. 21. Assessment against lot benefited. When the district has constructed and completed a common sewer, the trustees may, if they so determine, in order to defray a portion of the expense thereof, determine what lots or parcels of land, whether or not buildings or other structures are located thereon or whether or not they are otherwise improved, are benefited by the sewer, and estimate and assess upon the lots and parcels of land and

against the owner thereof, or person in possession or against whom taxes are assessed, whether the person to whom the assessment is so made shall be the owner, tenant, lessee or agent, and whether the same is occupied or not, the sum not exceeding the benefit as they may deem just and equitable towards defraying the expenses of constructing and completing the sewer, together with the sewage disposal units and appurtenances as may be necessary, the whole of the assessments not to exceed $\frac{1}{2}$ the cost of the sewer, sewage disposal units and appurtenances, respectively. The trustees shall file with the clerk of the district the location of the sewer and sewage disposal unit, with a profile description of the same, and a statement of the amount assessed upon each lot or parcel of land so assessed, a description of each lot or parcel, and the name of the owner of the lots or parcels of land or person against whom the assessment shall be made, and the clerk of the district shall record the same in a book kept for that purpose, and within 10 days after the filing, each person so assessed shall be notified of the assessment by having an authentic copy of the assessment, with an order or notice signed by the clerk of the district, stating the time and place for a hearing upon the subject matter of the assessments, given to each person so assessed or left at his usual place of abode in the district. If he has no place of abode in the district, then the notice shall be given or left at the abode of his tenant or lessee, if he has one in the district. If he has no tenant or lessee in the district, then the notice shall be posted in some conspicuous place in the vicinity of the lot or parcel of land so assessed at least 30 days before the hearing, or the notice may be given by publishing the same once a week, for 3 successive weeks, in any newspaper of general circulation in the district, the first publication to be at least 30 days before the hearing. A return made upon a copy of the notice by any constable in the City of Eastport or the production of the paper containing the notice shall be conclusive evidence that the notice has been given. Upon the hearing, the trustees shall have power to revise, increase or diminish any of the assessments and all revisions, increases or diminutions shall be in writing and recorded by the clerk of the district.

Sec. 22. Right of appeal. Any person aggrieved by the decision of the trustees as it relates to any assessment for sewer construction shall have the same rights of appeal as are provided in the case of laying out of town ways.

Sec. 23. Assessments; lien; sheriff's sale. All assessments made under section 21 shall create a lien upon each and every lot or parcel of land so assessed and the buildings upon the same, which lien shall take effect when the trustees file with the clerk of the district the completed assessment and shall continue for one year thereafter. Within 10 days after the date of hearing on the assessment, the clerk of the district shall make out a list of all the assessments, the amount of each and the name of the person against whom the same is assessed, and he shall certify the list and deliver it to the treasurer of the district. If the assessments are not paid within 3 months from the date thereof, the treasurer may bring an action of debt for the collection of the assessment in the name of the district against the person whom the assessment is made. The action shall be begun by writ of attachment commanding the officer serving it to specially attach the real estate upon which

the lien is claimed, which shall be served as other writs of attachment to enforce liens on real estate. The declaration in such action shall contain a statement of the assessment, a description of the real estate against which the assessment is made and an allegation that a lien is claimed on the real estate to secure the payment of the assessment. If no service is made upon the defendant or it shall appear that any other persons are interested in the real estate, the court shall order such further notice of the action as appears proper and shall allow the other persons to become parties thereto. If it shall appear upon trial of the action that the assessment was legally made against the real estate and is unpaid and that there is an existing lien on the real estate for the payment of the assessment, judgment shall be rendered for the assessment, interest and costs of suit against the defendants and against the real estate upon which the assessment was made, and execution issued thereon to be enforced by sale of the real estate in the manner provided for a sale on execution of real estate attached on original writs; provided that in making the sale, the officer shall follow the procedure in selling and conveying and there shall be the same right of redemption as are provided in the Revised Statutes of 1964, Title 36, section 941, as amended.

Sec. 24. Additional method of collection of assessments. If assessments under section 21 are not paid, and the district does not proceed to collect unpaid assessments by a sheriff's sale of the real estate upon which the assessments are made under section 23, or does not collect or in any manner is delayed or defeated in collecting the assessments by a sheriff's sale of the real estate under section 23, then the treasurer, in the name of the district, may maintain an action against the party so assessed for the amount of the assessment, as for money paid, laid out and expended, in any court of competent jurisdiction, and in the suit may recover the amount of the assessment with 10% interest on the same from the date of the assessment and costs.

Sec. 25. Assessments paid by other than owner; how recovered. When any assessment under section 21 shall be paid by any person against whom the assessment has been made, who is not the owner of the lot or parcel of land, then the person so paying the same shall have a lien upon the lot or parcel of land with the buildings thereon for the amount of the assessment so paid by the person and incidental charges, which lien shall continue for one year and which lien may be enforced in an action of assumpsit as for money paid, laid out and expended, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots under the Revised Statutes of 1964, Title 10, section 3251, as amended.

Sec. 26. Lien for payment of rates. There shall be a lien on real estate served or benefited by the sewer systems of the district to secure the payment of rates established and due under section 20, which shall take precedence of all other claims on the real estate, excepting only claims for taxes. Real estate for the purposes of this charter shall have the same definition as given in the Revised Statutes of 1964, Title 36, section 551, as amended.

The treasurer of the district shall have full and complete authority and power to collect the sewer rates, tolls, rents and other charges established under section 20 and the same shall be committed to him. The treasurer

may, after demand for payment, sue in the name of the district in an action of assumpsit for any rate, toll, rent or other charges remaining unpaid in any court of competent jurisdiction. In addition to other methods established by law for the collection of rates, tolls, rents and other charges, and without waiver of the right to sue for the same as aforesaid, the lien hereby created may be enforced in the following manner. The treasurer, when a sewer rate, toll, rent, or other charge has been committed to him for collection, may, after the expiration of 3 months and within one year after date when the same became due and payable, in the case of a person resident in the district, give, or cause to be given to the person, or leave or cause to be left at his last and usual place of abode, a notice in writing signed by the treasurer stating the amount of the rate, toll, rent or other charge, describing the real estate upon which the lien is claimed, and stating that a lien is claimed on the real estate to secure the payment of the rate, toll, rent or other charge and demanding within 30 days after the service of the notice payment as aforesaid. In the case of a nonresident of the district, the aforesaid notice shall be given by registered mail addressed to his last known address or by publication in a newspaper of general circulation within the district once a week for 2 successive weeks, and shall demand payment within 30 days after the mailing thereof or the first publication of notice thereof as aforesaid. After the expiration of the period of 30 days and within one year thereafter, the treasurer may record in the registry of deeds of Washington County a certificate signed by the treasurer setting forth the amount of the rate, toll, rent or other charge, 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 the rate, toll, rent or other charge and that a notice and demand for payment of the same has been given or made in accordance with this section and stating further that the rate, toll, rent or other charge remains unpaid. At the time of the recording of any such certificate in the registry of deeds as heretofore provided, the treasurer shall file in the office of the district a true copy of the certificate and shall mail a true copy thereof by registered mail to each record holder of any mortgage on the real estate, addressed to the record holder at his last and usual place of abode. The fee to be charged by the district to the ratepayer for the notice and filing shall not exceed \$1.50 and the fee to be charged to the district by the register of deeds for filing and recording shall not exceed \$1.

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 therein described to the district which shall have 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 possessed by mortgagees, except that the district as mortgagee shall not have any right to possession of the estate until the right of redemption hereinafter provided for shall have expired. If the mortgage, together with interest and costs, shall have been paid within 18 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 hereby provided for. In the

event that the rate, toll, rent or other charge, with interest and costs as aforesaid, 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.

Sec. 27. Construction of this Act; bylaws and regulations authorized; incidental powers and rights. This Act shall be construed as authorizing a charge by the district for the use of its water system, sewers, sewer systems and treatment works in addition to any other assessments now lawfully imposed by general law. The trustees may adopt rules and regulations as may be necessary or convenient to carry out the provisions of this Act. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this Act as set forth herein are granted to the district; including the right of the trustees to determine when and where sewerage facilities and additional water facilities are most needed and when and how sewers and water mains shall be built.

Sec. 28. Existing statutes not affected; rights conferred subject to provisions of law. Nothing herein contained is intended to repeal or shall be construed as repealing the whole or any part of any existing statute, and all the rights and duties herein mentioned shall be exercised and performed in accordance with any applicable provisions of the Revised Statutes of 1964, Titles 35 and 38 and any Acts amendatory thereof or additional thereto.

Referendum; effective date. 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 district at a special election or elections to be called and held for the purpose. The elections shall be called by the municipal officers of the City of Eastport and shall be held at the regular voting places. The dates of the elections shall be determined by the municipal officers, but the first election in the district shall not be later than the first day of September, 1977. Such special elections shall be called, advertised and conducted according to the law relating to municipal elections; except that the board of registration shall not be required to prepare nor the city clerk to post a new list of voters and for this purpose the board of registration shall be in session on the 3 secular days next preceding the elections, the first and 2nd days to be devoted to registration of voters and the last day to enable the board to verify the corrections of the lists and to complete and close up their records of the session. The city clerk shall reduce the subject matter of this Act to the following question:

“Shall ‘An Act to Incorporate the Eastport Utilities District,’ passed by the First Regular Session of the 108th Legislature, be accepted?”

The voters shall indicate by a cross (X) or check mark (✓) placed against the word “Yes” or “No” their opinion of the same. This Act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters of the district voting at such elections, but only if the total number of votes cast for and against the acceptance of this Act in the special elections equals or exceeds 20% of the total vote for all candidates for Governor in the city at the next previous gubernatorial election; but failure of

approval by the necessary majority or percentage of voters shall not prevent subsequent elections.

The results of the elections shall be declared by the municipal officers of the city and due certificates thereof shall be filed by the city clerk with the Secretary of State.

STATEMENT OF FACT

This bill provides for the creation of the Eastport Utilities District to supply water and sewer service for the City of Eastport and water service to the Town of Perry. Creation of the utilities district is subject to approval by referendum election by the inhabitants of the City of Eastport.