

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1204

H. P. 1003

House of Representatives, March 23, 1977

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

EDWIN H. PERT, Clerk

Presented by Mrs. Boudreau of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Amend the Charter of the Portland Water District.

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

Sec. 1. P&SL 1907, c. 433, § 2, ¶ B, 4th ¶, as enacted by P&SL 1975, c. 84, is amended to read:

In addition to the operation of the waste water and sewage system, the district is also authorized to contract with persons, firms and corporations, including municipal corporations, upon such terms as may be agreed to manage, operate, construct and maintain waste water and sewage collection and treatment systems, and in addition to contract with municipal and quasi-municipal corporations to acquire, own and finance municipal collection and treatment systems.

Sec. 2. P&SL 1907, c. 433, § 9, 3rd ¶, as enacted by P&SL 1975, c. 84, is amended to read:

If the trustees vote to issue bonds or notes, the trustees may authorize the issuance, in the name of the district, of temporary notes for a period not to exceed 5 years in anticipation of the money to be received from the sale of such bonds or notes but in no event later than one year after completion of construction of items of capital outlay to be paid from the proceeds of such temporary notes. The time within which such temporary notes shall be payable need not be included in determining the period for which bonds or notes may be issued.

Sec. 3. P&SL 1907, c. 433, § 9, as last repealed and replaced by P&SL 1975, c. 84, is amended by inserting after the 3rd paragraph the following new paragraphs to read:

For the purpose of paying preliminary expenses with respect to the investigation and planning for a waste water and sewage system or the improvement of an existing system for the benefit of a participating municipality not served or to be served by an existing system of the district, including without limitation expenses related to or incurred in connection with engineering, design, acquisition of rights-of-way, legal fees or financing, the district through its trustees and without vote of its inhabitants is authorized to borrow by the issuance of temporary notes, including notes authorized under section 10, 2nd paragraph, for a period of not more than one year and to renew such notes. Notes authorized under the authority of this paragraph shall be paid from the proceeds of government grants, funded by bonds or notes issued to finance the particular system or improvement if and when the same have been authorized or paid from assessments made pursuant to section 13, paragraph B, on the municipality or municipalities for whose benefit the proposed system or improvement was intended. Any borrowing under this paragraph shall be paid or funded as herein provided not later than 5 years after the date of issuance of the original note or notes evidencing such borrowing.

If the system for which such expenses were paid by the district does not become operational prior to such amount being funded, the district shall assess the participating municipality for whose benefit such expenses were incurred for the repayment of such expenses together with any interest attributable thereto. Such assessment shall be payable over a 5-year period in substantially equal installments. The amounts assessed hereunder shall be in addition to any amount apportioned pursuant to section 13 hereof.

Sec. 4. P&SL 1907, c. 433, § 10, 2nd ¶, as enacted by P&SL 1975, c. 84, is amended to read:

In addition to the authority granted in section 9, the district may borrow by the issuance of temporary notes in anticipation of the receipt of the proceeds of any such grant, provided, however, that said notes shall not be issued for longer than one year but may be ~~reserved~~ renewed by the issuance of other notes until receipt of the grant in anticipation of which such notes are issued and provided further that payments on account of such grant when received shall be held in a separate account and used only to pay such notes to the extent then outstanding.

Sec. 5. P&SL 1907, c. 433, § 12, as last repealed and replaced by P&SL 1975, c. 84, is repealed and the following enacted in its place:

12. Determination of annual sewer costs. The fiscal year of the district for the waste water and sewage operations shall be the calendar year, and the trustees shall, prior to January 15th of each year, determine the total anticipated amount to be raised from the participating municipalities based on the trustees' best estimate to provide for the operation of the waste water and sewage system for that fiscal year and such amount shall be apportioned as provided in section 13. The amounts so apportioned for each municipality shall forthwith be certified by the trustees to the appropriate municipal officials of each participating municipality. In the event that the amount apportioned and certified as herein provided shall be reason of erroneous estimates

or otherwise be insufficient to provide for the operation of the waste water and sewage system for the remainder of a fiscal year, as shown by the budget or amended budget of the district, any additional amount required for such operation may be apportioned and certified as herein provided and the amounts thereafter paid to the district by the participating municipalities affected may, at the option of the respective municipalities assessed, be adjusted so as to result in the payment over the remainder of the year of the additional amount so certified. No such additional amount shall be certified after October 1st in any year. The assessors of the respective participating municipalities shall without further vote include the amount so certified in those amounts to be raised in the subject calendar year by municipal tax or assessment or in the case of a supplemental certification to the extent if any that the same is not paid from funds otherwise available, in the first levy of municipal tax or assessment thereafter made. The respective city or town treasurers shall pay the amount so certified to the treasurer of the district in substantially equal monthly installments with the first monthly installment to be payable in January after receipt of such certification.

A participating municipality may raise all or a portion of the amounts certified annually by the district through equitable and proportional charges against its inhabitants, corporations and other users of the waste water and sewage system of the district in each such municipality. The participating municipalities shall be subject to such rules and regulations imposed or required by law as a condition of receipt of governmental grants and loans, as described in section 10.

The amount anticipated to be raised in a fiscal year and apportioned as provided in this section shall be the total of regional costs, financing costs and operating and maintenance costs less, with respect to regional costs, any funds on hand or in the judgment of the trustees to be received during said year from other than the participating municipalities and available to pay regional costs, and with respect to financing costs and operating and maintenance costs, funds on hand or in the judgment of the trustees to be received during said year from other than participating municipalities and available to pay financing costs and operating and maintenance costs, as the case may be. As used in this Act, the following terms shall have the following meanings.

A. "Regional costs" shall mean:

- (1) All regional organizational and development costs; namely, costs incurred by the district to enable it to become authorized to provide waste water and sewage disposal services on a regional basis and all expenses incidental to such costs; and
- (2) Financing costs and operating and maintenance costs, including other costs of administration incurred by the district to provide waste water and sewage disposal services or facilities for the entire district, as distinguished from such services or facilities for one or more, but less than all, of the participating municipalities.

Regional costs shall not include financing costs or operating and maintenance costs for or related to facilities used by one or more, but less than all,

of the participating municipalities. Regional organizational and development costs shall be deemed fixed capital of the entire waste water and sewage disposal system and may not be incurred after the actual construction of operating facilities is initiated. The accounting for regional costs shall be in accordance with generally accepted accounting practices.

B. "Financing costs" shall include:

- (1) Payment of unfunded capital outlay; namely, capital outlay items the cost of which is not to be funded or paid from the proceeds of a government grant or other donation;
- (2) Payment of interest; namely, interest due and payable in such year on indebtedness created or assumed by the district in providing a waste water and sewage system, exclusive of interest on temporary notes in anticipation of assessments;
- (3) Payment of principal; namely, principal due and payable in such year on indebtedness created or assumed by the district in providing a waste water and sewage system and not to be refunded and for the payment of which indebtedness funds are not in the judgment of the trustees otherwise available; and
- (4) Sinking fund payments; namely, a sum equal to not less than 2% nor more than 5% of:
 - (a) That portion of the final installment of any issue of serial sewer bonds or notes created or assumed by the district in connection with its waste water and sewage system, which for any such issue exceeds the average annual payment of principal paid or payable thereon in each year except the last; and
 - (b) The amount of principal of any term bonds assumed or issued by the district for said waste water and sewage system, which shall be turned into a separate sinking fund and there kept together with any earnings on said sinking fund to provide for the extinguishment of that portion of said indebtedness.

The money set aside for the sinking fund shall be devoted to the retirement of the obligations of the district resulting from its waste water and sewage system, and meanwhile may be invested in such securities as savings banks in the State of Maine are now or hereafter allowed to hold.

C. "Operating and maintenance costs" shall include:

- (1) Operating expenses; namely, the current expenses of operating the waste water and sewage system, and including interest on notes issued in anticipation of assessments;
- (2) Deficit; namely, any deficit incurred in the operation of said waste water and sewage system outstanding at the end of the prior calendar year for the payment of which funds are not, or in the judgment of the trustees will not, be available in the calendar year; and

(3) Current expenses; namely, the current expenses of repairing and maintaining the waste water and sewage system, including renewals and replacements and all other expenses not otherwise specifically provided herein.

If a surplus exists at the end of a calendar year, it shall be transferred to a sewer surplus account which at no time shall exceed 3% of the net book value of the assets of the district attributable to the waste water and sewage system. The trustees may add to the sinking fund so much of any excess over said 3% as they determine advisable, and any remainder shall be credited against sums otherwise to be assessed upon the participating municipalities on an equitable basis.

Sec. 6. P & SL 1907, c. 433, §§ 23 and 24 are enacted to read:

Sec. 23. Notes deemed issued. Temporary notes of the district, the proceeds of which were used to pay preliminary expenses for the investigation and planning for waste water and sewage systems in participating municipalities not served or to be served by an existing waste water and sewer, shall be deemed to have been issued under and pursuant to section 9, 4th paragraph, and any renewals of such temporary notes shall be in accordance with the applicable provisions of said section as amended.

Sec. 24. Renewals of outstanding temporary notes issued for preliminary regional expenses. Temporary notes of the district, the proceeds of which were used to pay regional expenses and preliminary expenses as set forth in section 9, 4th paragraph, all incurred in connection with the establishment of the district's waste water and sewage system may, to the extent not paid from the proceeds of assessments upon the participating municipalities, be renewed as hereinafter in this section provided. In the case of a participating municipality for whose benefit a waste water and sewage treatment facility is being financed under section 9, such temporary renewal notes may be consolidated with and issued as a part of any issue of notes or bonds being issued under said section 9. Such temporary renewal notes shall be issued in accordance with the provisions of section 9 of the charter so far as apt, shall mature not later than one year from their date and in no event later than December 31, 1982, and there shall be a separately designated issue of renewal notes representing the sums allocated or allocable to each participating municipality.

STATEMENT OF FACT

The purpose of this bill is to amend the Portland Water District's charter to allow the district to provide collector service to its participating municipalities as well as to amend as respects of the financing of the district's sewer operations. These are needed as the result of unforeseen operational problems in the sewer operations resulting from the district's experience in the last 15 months.

Also, this bill :

1. Provides the district with authority to contract with municipalities to perform sewer collector responsibilities ;

2. Extends the term in which the district may issue temporary notes prior to the issue of bonds during the period of construction from 3 to 5 years. It also authorizes the district to borrow for the payment of preliminary planning and project costs for a period of up to 5 years pending the receipt of grant moneys for the actual bonding of the construction project. It further allows the district to assess these costs to a municipality in the event that the proposed construction project is not completed and provides for a 5-year repayment period once the assessment has been submitted to the municipality. This resolves a problem because of the impoundment of federal funds ;

3. Corrects an inconsistency in the district's charter ;

4. Provides a method by which the district may obtain more current payment for the sewer services which it provides to the municipalities. Presently, the district must wait one year to receive its payments and this necessitates additional borrowing, the costs of which borrowing must be eventually paid by the municipalities. This section will reduce the cost of sewer service to the inhabitants of the municipalities. It also defines regional costs to distinguish between the organizational costs and the continuing costs of a general nature, such as administration. It also refines the definition of current expenses to provide that the district may establish a fund for renewal and replacement of those facilities ;

5. Clarifies an ambiguity regarding the district's authority to issue certain outstanding obligations ; and

6. Provides that the existing debt of the district may be amortized over a 5-year period as opposed to requiring such an assessment to be made in one year.