

MAINE STATE LEGISLATURE

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After Deadline
SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2081

S. P. 673

In Senate, January 16, 1978

The Committee on Public Utilities suggested. Approved for introduction by Legislative Council pursuant to Joint Rule 25.

MAY M. ROSS, Secretary

Presented by Senator Lovell of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Revise the Sanford Sewerage District Charter.

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

Sec. 1. P & SL 1947, c. 169, § 1, 1st ¶, as amended by P & SL 1957, c. 153, § 1, is repealed and the following enacted in its place:

The inhabitants and territory within the Town of Sanford in the County of York shall be, and hereby are, created a body politic under the corporate name of the "Sanford Sewerage District," hereinafter called the district, for the purposes of providing and maintaining within the district the existing sewers and such additions thereto as are necessary for the adequate operation of that system, and the district is hereby authorized to provide, construct, maintain and operate those systems of sewage and sewage disposal, and to lay, make and maintain such common sewers as the board of trustees may, from time to time, deem necessary for the disposing of its sewage for the health, welfare, comfort and convenience of the inhabitants of the Town of Sanford.

Sec. 2. P & SL 1947, c. 169, § 1, as last amended by P & SL 1971, c. 161, is further amended by adding at the end the following new paragraph:

The district is hereby invested with all powers, rights, privileges and immunities incident to similar corporations or necessary for the accomplishment of these purposes.

Sec. 3. P & SL 1947, c. 169, § 2, 1st ¶, 2nd sentence is amended to read:

It also is empowered through its trustees to make contracts with persons or corporations, including municipal corporations, for the collection, discharge and disposal of sewage and other waste matter.

Sec. 4. P & SL 1947, c. 169, § 2-A is enacted to read:

Sec. 2-A. Inspection of sewers. The officers or agents of the district shall have free access to all premises served by its sewers, at all reasonable hours, for inspection of plumbing and sewage fixtures, to ascertain the quality and quantity of sewage discharged and the manner of discharge, and to enforce the provisions of this charter, the rules and regulations prescribed by the trustees of the district and any and all applicable federal, state and local laws.

Sec. 5. P & SL 1947, c. 169, § 5 is repealed and the following enacted in its place:

Sec. 5. Offenses and penalties. Any person who shall place or leave any offensive or injurious matter or material on or in the conduits, catch-basins or receptacles of the district contrary to the regulations, or shall willfully injure any conduit, pipe, reservoir, flush tank, catch-basin, manhole, outlet, engine, pump or other property held, owned or used by the district for the purposes of this Act, shall pay twice the amount of the damages to the district to be recovered in any proper action, and that person shall be guilty of a Class E crime.

Sec. 6. P & SL 1947, c. 169, § 6, 2nd ¶, 4th sentence is amended to read:

Any qualified voter of the Sanford Sewerage District may become a candidate for the office of trustee and have his name appear on the Sanford municipal election ballot by signing and presenting a petition to the town clerk, signed by 25 such number of qualified voters of the district as provided by the Maine election statute.

Sec. 7. P & SL 1947, c. 169, § 6, 2nd ¶, 5th sentence, as repealed and replaced by P & SL 1971, c. 161 is amended to read:

If a vacancy occurs more than 3 months before the next annual election, said vacancy or vacancies shall be filled by the appointment of a qualified voter of the ~~Town of~~ Sanford Sewerage District by the selectmen of the Town of Sanford for the remaining period until the next annual election.

Sec. 8. P & SL 1947, C. 169, § 6, 4th ¶, first sentence is amended to read:

A trustee or any inhabitant of said district may serve as treasurer and shall

furnish bond in such sum and with such sureties as they may approve, with the cost of said bond to be paid for by the district.

Sec. 9. P & SL 1947, c. 169, § 6, last ¶, first sentence, as repealed and replaced by P & SL 1957, c. 153, § 2-A, is amended to read:

The trustees may establish reasonable rules, regulations and by-laws for the construction, use, repair and maintenance of sewers and fix and collect the fees to be paid for entering the same and also the quarterly rentals for the use thereof.

Sec. 10. P 7 SL 1947, c. 169, § 7, first ¶, last sentence is repealed and the following enacted in its place:

The property, both real and personal, rights and franchises of the district shall be forever exempt from taxation.

Sec. 11. P & SL 1947, c. 169, § 8-A is enacted to read:

Sec. 8-A. Connection of private sewers. Every building within the district intended for human habitation or occupancy or with facilities for discharge or disposal of sewage or commercial or industrial waste, which is accessible to a sewer drain of that district, shall have a sanitary sewer or drainage system which shall be caused to be connected with that sewer or drain of the district 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 building. Existing buildings which are already served by a prior sewer or drainage system shall not be required to connect with any sewer or drain of the district so long as, in the judgment of the trustees, that private sewer or drainage system functions in a satisfactory and sanitary manner and does not violate any law or ordinance applicable thereto or any applicable requirement of the state plumbing code. A building shall be deemed to be accessible to a sewer or drain of the district for the purposes of this section if that building or any private sewer or drain directly or indirectly connected thereto, or carrying sewage or commercial or industrial waste therefrom, shall at any point be or come within 100 feet of a sewer or drain of the district; provided that nothing in this section shall require the owner of any building to acquire any real property or easement therein for the sole purpose of making that connection.

Sec. 12. P & SL 1947, c. 169, § 9, 1st ¶, as repealed and replaced by P & SL 1957, c. 153, § 3, is further amended to read:

The district is hereby authorized to charge as annual rental to the Town of Sanford for the use of said sewerage system as public drains for highways ~~the sum of \$20 per~~ such reasonable sums as the district may impose for each catch-basin

within said district and connected with the district's sanitary sewerage system, said sum to be used under the supervision and direction of the district's trustees for the following purposes: To clean, maintain, improve and repair said catch-basins; to maintain and repair storm-water lines leading from said catch-basins; when necessary for the efficient operation of the sanitary sewerage system to clear brooks and streams fed by or feeding into such catch-basins or storm-water lines connected with said sanitary sewerage system; and to develop and carry out a program of separating such catch-basins and storm-water lines, now connected with the sanitary sewerage system, from such system wherever such separation is feasible in the judgment of said district's trustees in order to minimize the amount of storm water using the sanitary sewerage system, including any sewerage disposal plant to be hereafter installed.

Sec. 13. P & SL 1947, c. 169, § 10, 1st ¶, 1st sentence, as amended by P & SL 1957, c. 153, § 3-A, is further amended to read:

To procure funds for the purposes of this Act and for such other expenses as may be necessary for the carrying out of said purposes, said district, without a district vote, but by action of its board of trustees, is authorized to issue its notes and bonds in one series, or in separate series from time to time, to an amount not exceeding the sum of ~~\$1,000,000~~ \$2,000,000.

Sec. 14. P & SL 1947, c. 169, § 10, 1st ¶, 5th sentence, as amended by P & SL 1957, c. 153, § 3-B, is further amended to read:

Each loan may be payable in approximately equal annual serial installments, or made to run for such term as said trustees shall determine, but no series shall run for a longer period than 40 years from its date; and bonds and notes may be issued as aforesaid for the purpose of paying or refunding bonds or notes theretofore issued, provided that the total amount of bonds and notes at any one time outstanding shall not exceed the aforesaid sum of ~~\$1,000,000~~ \$2,000,000.

Sec. 15. P & SL 1947, c. 169, § 11, 1st ¶ is amended to read:

In case any of said bonds are made to run for a period of years, a sinking fund shall be established by the trustees of said district for the purpose of redeeming said term bonds when they become due, and not less than 2% of the aggregate principal of the outstanding sinking fund bonds, issued on account of or in behalf of said ~~sewerage~~ district as aforesaid, shall be turned into said sinking fund each year, to provide for the final extinguishment of said district funded debt.

Sec. 16. P 7 SL 1947, c. 169, § 12, as amended by P & SL 1953, c. 86, § 2, is repealed and the following enacted in its place:

Sec. 12. Rates. All individuals, firms and corporations, whether public, private or municipal, shall pay to the treasurer of the district quarterly the rates, tolls, rents, entrance charges and other lawful charges established by the board of

trustees for the services used or available to them. The sewer rates may include rates for the district's readiness to serve charge against owners or persons in possession or against whom the taxes are assessed, of all buildings or premises intended for human habitation or occupancy, whether the same are occupied or not, which abut on a street or location through which the district has constructed a sewer line, or the property line of which is within 100 feet of a sewer line constructed by the district, although the premises are not actually connected thereto. The sewer rates, tolls, rents and entrance charges shall be so established as to provide revenue for the following purposes:

I. Current operating expenses. To pay the current expenses of operating and maintaining the drainage and treatment system of the district;

II. Payment of interest and principal. To provide for the payment of the interest and principal on the indebtedness created by the district;

III. Sinking fund for retirement of obligations. 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 turned into a sinking fund, and there kept to provide for the extinguishment of that indebtedness. The money set aside for the sinking fund shall be devoted to the retirement of the obligations of the district and invested in such securities as savings banks in this State are allowed to hold; and

IV. Surplus. If any surplus remains at the end of the year, it may be turned into the sinking fund.

Sec. 17. P & SL 1947, c. 169, § 13, as repealed by P & SL 1953, c. 86, § 3, and as replaced by P & SL 1957, c. 153, § 4, is repealed and the following enacted in its place:

Sec. 13. Collection of unpaid rates. There shall be a lien on real estate served or benefited by the sewers of the district, to secure payment of the rates established and due under section 12, which shall take precedence over all other claims on that real estate, excepting only claims for taxes.

The treasurer of the district shall have full and complete authority and power to collect the rates, tolls, rents and other charges established under section 12 and the same shall be committed to him. The treasurer may, after demand for payment, sue in the name of the district in a civil action 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 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 the 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 that 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 that rate, toll, rent or other charge, describing the real estate upon which the lien is claimed, and stating that a lien is claimed on that real estate to secure the payment of that rate, toll, rent or other charge, and demanding within 30 days after the service of that notice payment as aforesaid. In the case of a nonresident of the district, the aforesaid notice shall be given by registered or certified 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 that period of 30 days and within one year thereafter, the treasurer shall record in the registry of deeds of the county in which the property of that person is located 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 that 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 that certificate, and shall mail a true copy thereof by registered or certified mail to each record holder of any mortgage on that real estate, addressed to that record holder at his last and usual place of abode. The fee to be charged by the district to the rate payer for that notice and filing shall not exceed \$2 and the fee to be charged to the district by the register of deeds for filing and recording shall not exceed \$2.

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 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 that real estate until the right of redemption hereinafter provided for shall have expired. If the mortgage, together with interests and costs, shall not have been paid within 18 months after the date of filing of that 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 provided for discharge of real estate mortgages.

Sec. 18. P & SL 1947, c. 169, §§ 13-F, 13-G and 13-H are enacted to read:

Sec. 13-F. Lien for unpaid assessments. All assessments made under section 13-A 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; and within 10 days after the date of hearing on that assessment, the clerk of the district shall make out a list of all those 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 that district; if those assessments are not paid within 3 months from the date thereof, the treasurer may bring a civil action for the collection of that assessment in the name of the district against the person against whom that assessment is made and for the enforcement of that lien. The complaint in that action shall contain a statement of that assessment, a description of the real estate against which the assessment is made and an allegation that a lien is claimed on that 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 that real estate, the court shall order such further notice of that action as appears proper, and shall allow those other persons to become parties thereto. If it shall appear upon trial of that action that the assessment was legally made against that real estate, and is unpaid, and that there is an existing lien on that real estate for the payment of that assessment, judgment shall be rendered for that assessment, interest and costs of suit against the defendants and against the real estate upon which the assessment was made, and execution shall issue thereon to be enforced by sale of that estate in the manner provided for a sale on execution of real estate attached on original process; provided that in making that sale the officer shall follow the procedure in selling and conveying, and there shall be the same rights or redemption, as provided in the Maine Revised Statutes, Title 36, section 941.

Sec. 13-G. Civil action for unpaid assessments. If assessments under section 13-A are not paid, and the district does not proceed to collect unpaid assessments by proceedings as prescribed in section 13-F, or does not collect or is in any manner delayed or defeated in collecting those assessments by proceedings under section 13-F, then the district in its name may maintain a civil action against the party so assessed for the amount of that assessment, as for money paid, laid out and expended, in any court of competent jurisdiction, and in that suit may recover the amount of that assessment with 10% interest on the same from the date of that assessment and costs.

Sec. 13-H. Assessment paid by persons other than owner. When any assessment

under section 13-A shall be paid by any person against whom that assessment has been made, who is not the owner of that lot or parcel of land, then the person so paying the same shall have a lien upon that lot or parcel of land with the buildings thereon for the amount of that assessment so paid by that person, and incidental charges, which lien shall continue for one year which lien may be enforced in a civil action 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 Maine Revised Statutes, Title 10.

STATEMENT OF FACT

At the annual Sanford town meeting, the town meeting representatives voted in favor of amending the Sanford Sewerage District's Charter. Pursuant to the requirements of the charter, any and all amendments shall thereafter be acted on by the Legislature of the State of Maine.