

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1654**

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S. P. 587

In Senate, May 31, 1979

Reported by Senator Devoe of Penobscot from the Committee on Public Utilities. Printed under Joint Rules No. 2.

MAY M. ROSS, Secretary of the Senate

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Revise the Charter of the Richmond Utilities District.**

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

Whereas, good and sufficient public water at reasonable rates is necessary to the health and welfare of the citizens of Richmond; and

Whereas, it is essential as soon as reasonably possible to improve the water system of the Town of Richmond, which has been taken over by Richmond Utilities District and that it is essential that the district improve its water system and its sewer system; and

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

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

**Sec. 1. P&SL 1961, c. 154, Sec. 1, 2nd sentence is amended to read:**

The purposes of said district shall be to ~~take over~~ control and operate the water system ~~of the Richmond Water Works~~ and the sewer system now ~~owned by~~ **serving the inhabitants** of the Town of Richmond; to extend, enlarge and improve said systems; and generally to construct, maintain, operate and provide a water system for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires, and a system of sewerage, sewage disposal and sewage treatment; to extend the present system or systems so as to furnish sewerage facilities to parts of the district not now served with such facilities; to provide for removal and treatment of sewage when, as and if such treatment becomes necessary; and generally to construct, maintain, operate and provide a water system and a system of sewerage, sewage disposal and sewage treatment for public purposes and for the health, comfort and convenience of the inhabitants of the district and to serve inhabitants of the Town of Bowdoinham for a distance of 1/2 mile along route 24 from the Richmond-Bowdoinham town line.

**Sec. 2. P&SL 1961, c. 154, §§ 14 and 15 are repealed.**

**Sec. 3. P&SL 1961, c. 154, §§ 14-A and 15-A are enacted to read:**

**Sec. 14-A. 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 hereby authorized to borrow money temporarily and to issue therefor its negotiable notes; and for the purpose of renewing and refunding the indebtedness so created, of 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 such systems and to cover interest payments during any period of construction, said Richmond Utilities District, by votes of its board of trustees, without district vote except as hereinafter provided, is also hereby authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in such amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine; provided that the total indebtedness of the district shall not exceed the sum of \$1,500,000 at any one time outstanding and provided, further, that in the case of a vote by the trustees to authorize bonds or notes to pay for the acquisition of property, except for the original acquisition of property of Richmond Water Works, for the cost of a water system or sewerage system or part thereof, for renewals 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 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 Town or Richmond. No debt may be incurred under such vote of the trustees until the**

expiration of 7 full days following the date on which such notice was first published. Prior to the expiration of that 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 such a special district 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 made to run for such periods as the trustees may determine, but no issue thereof shall run for a longer period than 40 years from the date of original issue thereof. 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 a premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "Richmond 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 obligations of the district which is hereby declared to be a quasi-municipal corporation within the meaning of the Revised Statutes, Title 30, section 5053. 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 hereby authorized and empowered to enter into agreements with the State or Federal Government, or any agency or 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 such government agency, corporation, commission or board as may be necessary or desirable to enforce the provisions of this Act. All notes and bonds with the maturity of more than one year shall be first approved by the Public Utilities Commission pursuant to the Revised Statutes Title 35, section 171.

Sec. 15-A. Sinking fund provided for. In case any 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 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 cancelled 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 hereby granted to the trustees.

Sec. 4. P&SL 1961, c. 154, § 16 as last amended by PL 1975, c. 461, § 23 is repealed.

Sec. 5. P&SL 1961, c. 154, § 16-A is enacted to read:

**Sec. 16-A. Contracts authorized.** The district is authorized to contract with persons, corporations, districts and other municipalities, including the Town of Richmond, 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 Richmond Utilities District or through the appropriate system of any such person, corporation, district or other municipality; The Town of Richmond is authorized to contract with the latternamed district for the supplying of water and for the disposal of sewage, industrial waste, surface water and other waste matter, and for these purposes, the town may raise money as for other municipal charges.

Sec. 6. P&SL 1961, c. 154, §§ 17, 18 and 19 are repealed.

Sec. 7. P&SL 1961, c. 154, §§ 17-A, 18-A and 19-A are enacted to read:

**Sec. 17-A. Property tax exempt.** The real and personal property, rights and franchises of the district shall be forever exempt from taxation.

**Sec. 18-A. 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 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. The 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 10 of this Act 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 the higher rates, tolls, rents and entrance charges shall be uniform throughout the sections where they apply.

The water rates, tolls, rents and entrance charges shall be subject to the approval of the Public Utilities Commission and both the water and sewer rates, tolls, rents and entrance charges shall be so established as to provide revenue for the following purposes:

1. To pay the current expenses for operating and maintaining the water and sewerage systems;
2. To provide for the payment of interest on the indebtedness created by the district;
3. 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 that 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 securities as savings banks in this State are allowed to hold; and
4. 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.

Sec. 19-A. Assessment against lot benefited. When the district has constructed and completed a common water main or a common sewer, the trustees, if they determine, and in order to defray a portion of the expense thereof, may 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 main or 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 thereon 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 such benefit as they may deem just and equitable towards defraying the expenses of constructing and completing the main, together with such appurtenances as may be necessary, or the sewer, together with such sewage disposal units and appurtenances as may be necessary, the whole of the assessments not to exceed  $\frac{1}{2}$  the cost of the main and appurtenances or the sewer, sewage disposal units and appurtenances, respectively. The trustees shall file with the clerk of the district the location of the

main or 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 such filing, each person so assessed shall be notified of such 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 by posting the notice 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 it 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 Town of Richmond or the production of the paper containing the notice shall be conclusive evidence that the notice has been given and upon 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. 8. P&SL 1961, c. 154, § 20, as last amended by PL 1975, c. 461, § 24, is repealed.

Sec. 8-A. P&SL 1961, c. 154, § 20-A is enacted to read:

Sec. 20-A. Right of appeal. Any person aggrieved by the decision of the trustees as it relates to any assessment for water main or sewer construction shall have the same rights of appeal as are provided in the case of laying out of town ways.

Sec. 9. P&SL 1961, c. 154, §§ 21-29 are repealed.

Sec. 10. P&SL 1961, c. 154, § 21-A, § 22-A, § 23-A, § 24-A, § 25-A and § 26-A are enacted to read:

Sec. 21-A. Assessments; lien; sheriff's sale. All assessments made under the provisions of section 19-A of this Act shall create a lien upon each and every lot or parcel of land assessed and the buildings upon the land, 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 the assessment, the clerk of the district shall make out a list of all assessments, the amount of each, and the name of the person against whom the assessment 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 against whom the

assessment is made. Action shall begin 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 the 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 further notice of action as appears proper, and shall allow other persons to become parties thereto. If it shall appear upon trial of 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 rights of redemption as are provided in the Revised Statutes Title 36, section 941.

**Sec. 22-A. Additional method of collection of assessments.** If assessments under the provisions of section 19-A of this Act 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 21-A of this Act, or does not collect or is in any manner delayed or defeated in collecting assessments by a sheriff's sale of the real estate under section 21-A of this Act, then the treasurer, in the name of the district, may maintain an action against the party assessed for the amount of the assessment, as for money paid out and expended, in any court of competent jurisdiction, and in such suit may recover the amount of the assessment with 10% interest on the assessment from the date of the assessment and costs.

**Sec. 23-A. Assessments paid by other than owner, how recovered.** When any assessment under the provision of section 19-A of this Act, 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 paying the assessment shall have a lien upon the lot or parcel of land with the buildings thereon for the amount of the assessment paid by the person, and incidental charges, which lien shall continue for one year and which lien may be enforced 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 Title 10.

**Sec. 24-A. Lien for payment of rates.** There shall be a lien on real estate, as defined in the Revised Statutes, Title 36, section 551, served or benefited by the water and sewer systems of the district to secure the payment of rates established and due under section 18-A of this Act which shall take precedence over all other claims on such 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 18-A of this Act and shall be committed to him. The treasurer, after demand for payment, may sue in the name of the district for any rate, toll, rent or other charge 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 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 such 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 such notice payment as aforesaid.

In the case of a nonresident of the district, the 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 Sagadahoc 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 said 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 the provisions of this section and stating further that the rate, toll, rent or other charge remains unpaid. At the time of the recording of any 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 \$10 and the fee to be charged to the district by the register of deeds for filing and recording shall not exceed the amount established in the Revised Statutes Title 33, section 751, subsection 12.

The filing of the certificate in the registry of deeds 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 not 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.

In the event the user of the sewer system of the district fails within reasonable time to pay the statement of rates, fees or charges submitted by the district to the user, the district may disconnect the water service of the user, provided the action by the district is accomplished in accordance with the procedures set forth in applicable statutes and regulations for the disconnection of utility services.

**Sec. 25-A. Construction of this Act; by-laws 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 that 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. 26-A. Existing statutes not affected.** Nothing herein contained is intended to repeal or shall be construed as repealing the whole or any part of any existing statute.

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

#### STATEMENT OF FACT

The purpose of this amendment is to increase the debt limit of the Richmond Utilities District from \$700,000 to \$1,500,000, to remove obsolete provisions regarding acquisition of the Richmond Water Works, to strengthen collection procedures through the lien process and disconnecting water service.