

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 572

S. P. 207

In Senate, February 3, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Teague of Somerset.

Cosponsor: Senator Pierce of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Make Changes in the Kennebec Water District Charter.

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

Sec. 1. P&SL 1899, c. 200, § 5, last sentence, as repealed and replaced by P&SL 1955, c. 146, is amended to read:

They shall receive as compensation for their services ~~a salary of \$300 per year~~ an amount to be determined by them and the treasurer may be allowed such compensation as the trustees shall determine. They may participate in the Maine State Retirement System with the cost to be paid by the district as part of the current operating expense.

Sec. 2. P&SL 1899, c. 200, § 11, sub-§ I, is amended to read:

I.—for current expenses. To pay the current running expenses for maintaining the water system and provide for such extensions and renewals as may become necessary and to provide for amortization of operating deficits incurred in the current or prior years.

Sec. 3. P&SL 1899, c. 200, § 11, sub-§ I-A, is enacted to read:

I-A. Overlay. To provide an overlay up to a 5% addition in yearly revenues over what is required to operate the district.

Sec. 4. P&SL 1899, c. 200, § 11, sub-§ III, first sentence, is amended to read:

To provide each year a sum ~~equal to not less than one, nor more than 3 per cent of the entire indebtedness of the district~~ necessary to amortize the current portion of the bonded indebtedness of the district which sum ~~shall~~ may be turned into a sinking fund to provide for final extinguishment of the funded debt or applied to the payment of bonds coming due in such year.

Sec. 5. P&SL 1899, c. 200, § 11-A is enacted to read:

11-A. Lien. A lien is created on real estate served or benefited by the water system of the district, to secure payment of the rates and charges established and due under section 11, which shall take precedence over all other claims on that real estate, except claims for taxes.

The treasurer of the district is authorized to collect the rates and charges established and due under section 11. After demand for payment, the treasurer may sue, in the name of the district, for any rate or other charge remaining unpaid by filing a civil action in any court of competent jurisdiction.

In addition to other methods established by law for the collection of rates and charges, and without waiver of the right to sue, the lien may be enforced in the following manner. The treasurer, when a rate or 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, give to the owner of the real estate served, or benefited, or leave at his last and usual place of abode, or send by certified mail, return receipt requested, to his last known address, a notice in writing stating the amount of that rate or 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 or charge and demanding the payment of the rate or charge within 30 days after service or mailing, with \$1 for the treasurer for mailing the notice together with the certified mail, return receipt requested, fee. For the purpose of this section, a mobile home is defined as real estate. After the expiration of the 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 the person is located a certificate signed by the treasurer setting forth the amount of the rate or 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 or 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 or charge remains unpaid. At the time of the recording of any such certificate in the registry of deeds, the treasurer shall file in the office of the district a true copy of the certificate and shall mail a true copy thereof by certified mail, return receipt requested, 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 filing of the aforesaid certificate in the registry of deeds as aforesaid 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 real estate until the right of redemption provided for in this section has expired. If the mortgage, together with interest and costs, has not been paid within 18 months after the date of filing of the certificate in the registry of deeds, the mortgage is considered 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. In the event that the rate or charge, with interest and costs as aforesaid, shall be paid within the period of redemption, the treasurer of the district shall discharge the mortgage in the same manner as provided for discharges of real estate mortgages.

Sec. 6. P&SL 1899, c. 200, § 14, is amended by adding at the end 2 new paragraphs to read:

The district is hereby authorized to fund and refund indebtedness by the issuance of bonds or notes to mature serially, at such times and in such amounts as the trustees shall determine, provided for each issue the annual installments shall not be less than 2 1/2% of the principal amount of the issue, and the first of such installments shall be payable not later than 3 years from the date of such bonds or notes and the last of which shall be payable not later than 40 years from that date.

If the trustees vote to issue bonds or notes, the trustees may authorize the issuance of temporary notes for a period of not more than 3 years in anticipation of the money to be received from the sale of such bonds or notes.

STATEMENT OF FACT

The Kennebec Water District was chartered by private and special law, 1899, chapter 200, and was the first water district in the State. In the 81 years intervening, several housekeeping amendments have been made to the charter, but it remains essentially unchanged in its basic provisions.

The bonding provisions in the charter set out a structure for long term fixed payment bonds, with sinking fund for eventual retirement. The bond market has changed to accept only newer forms of serial bonds of shorter maturity. These serial bonds of shorter maturity are not recognized in the charter.

The bond market has also changed in that investors look for an assurance of adequate income to pay interest and retire the bonds, and adequate legal remedies to collect the income allowed in the rate structure.

The Kennebec Water District has outstanding \$4,846,000 in bonds, and is paying off \$100,000 and putting \$27,000 in a sinking fund each year. The principal sum of \$265,000 will come due in 1984. A study of the bond market indicates the district will not be able to refund these bonds under current and foreseeable market conditions without a change in its charter.

The amendment presents a combination of one housekeeping change and new provisions designed to shore-up its bonding powers.

The housekeeping provision is the first section, amendment to private and special law, 1899, chapter 200, section 5, which would permit the trustees to receive a fair compensation for services to the district, and also recognize a long standing practice of the district to include its trustees in the district's participation in the Maine State Retirement System.

The remaining sections are in aid of the bonding powers as follows:

The amendments to private and special law, 1899, chapter 200, section 11 permit the district to set rates which will recover operating deficits, provide an overlay for contingencies and amortize the annual bond principal payment.

The amendment to private and special law, 1899, chapter 200, section 14 would allow serial bonds of such maturities as the trustees should find marketable.

The new private and special law, 1899, chapter 200, section 11-A would create a lien on real estate for the rates and permit enforcement by a lien procedure similar to the procedure used for real estate taxes for the past 40 years.