

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1816

6
7 H.P. 1300

House of Representatives, January 13, 1986

8 Approved for introduction by a majority of the Legislative Council
9 pursuant to Joint Rule 26.

Reference to the Committee on Utilities suggested and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Joseph of Waterville.

11 Cosponsored by Senator Kany of Kennebec, Representative Jacques of
Waterville and Representative Lacroix of Oakland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT to Amend the Waterville Sewerage
18 District Charter.
19

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

22 Sec. 1. P&SL 1949, c. 211, §2 is repealed and
23 the following enacted in its place:

24 Sec. 2. Authority to acquire and hold property;
25 right of eminent domain conferred. Upon acceptance
26 of this Act as provided in this section, title to all
27 public drains and sewers in the City of Waterville
28 shall pass to and vest in the district and the dis-
29 trict shall maintain and operate drains and sewers.
30 For the purpose of providing a system of sewers and
31 drainage for the comfort, convenience and health of
32 the inhabitants of the district, the district may ac-
33 quire and hold real estate and personal estate neces-
34 sary and convenient for these purposes subject to all
35 duties and obligations of the City of Waterville with
36 respect thereto, which duties and obligations are to
37 be assumed by the district.

1 The authority and procedures for the exercise of
2 eminent domain by the district shall conform to the
3 Maine Revised Statutes, Title 38, sections 1152,
4 1152-A, 1153 and 1154.

5 The district is granted the right of eminent do-
6 main and, for such purposes, may take and hold, ei-
7 ther by exercising its right of eminent domain or by
8 purchase, lease or otherwise, as for public uses, any
9 land, real estate, easements or interest therein; any
10 sewers, drains or conduits; and any sewer or drainage
11 rights necessary for constructing, establishing,
12 maintaining and operating sewers, drains, reservoirs,
13 flush tanks, manholes, catch basins, treatment works,
14 pumping stations and other appliances and property
15 used or useful for collecting, holding, purifying,
16 distributing and disposing of sewage matter, commer-
17 cial and industrial waste and surface and waste wa-
18 ters.

19 Nothing contained in this section may be con-
20 strued as authorizing the sewer district to take by
21 right of eminent domain any of the property or facil-
22 ities of any other public service corporation or dis-
23 trict used or acquired for future use by the owner of
24 the property or facilities in the performance of a
25 public duty, unless expressly authorized by a special
26 Act of the Legislature.

27 Sec. 2. P&SL 1949, c. 211, §3, as amended by
28 P&SL 1953, c. 92, §1, is repealed and the following
29 enacted in its place:

30 Sec. 3. Notice procedures in exercise of right
31 of eminent domain. The commissioners of the district
32 may exercise the right of eminent domain vested in
33 the district for the purposes of this Act only after
34 complying with the following procedures:

35 1. Notice to owner. The district shall provide
36 notice to the owner as follows.

37 A. The owner or owners of record shall be noti-
38 fied as follows:

39 (1) The determination of the trustees that
40 they will exercise the right of eminent do-
41 main;

1 (2) A description and scale map of the land
2 or easement to be taken;

3 (3) The final amount offered for the land
4 or easement to be taken, based on the fair
5 value as estimated by the district; and

6 (4) Notice of the time and place of the
7 hearing provided in subsection 3.

8 B. Notice may be made:

9 (1) By personal service in hand by an offi-
10 cer duly qualified to serve civil process in
11 this State; or

12 (2) By certified mail, return receipt re-
13 quested, to his last known address.

14 C. If the owner or owners are not known or if
15 they cannot be notified by personal service or
16 certified mail, notice may be given by publica-
17 tion in the same manner as provided in subsection
18 3.

19 2. Notice to tenant. Notice shall be made to any
20 tenants in the same manner as for the owner.

21 3. Hearing. The trustees shall hold a public
22 hearing on the advisability of the proposed exercise
23 of the right of the eminent domain. Notice of the
24 hearing shall be made by publication in the Central
25 Maine Morning Sentinel and shall be given once a week
26 for 2 successive weeks, the last publication to be at
27 least 2 weeks prior to the time appointed in the
28 hearing. The hearing notice shall include:

29 A. The time and place of the hearing;

30 B. A description of the land or easement taken;
31 and

32 C. The owners, if known.

33 The clerk of the district shall keep a record of
34 the commissioners' proceedings and their determina-
35 tion and decision, which shall set forth a descrip-

1 tion of the land or easement taken, the owners, if
2 known; and the amount of damages awarded.

3 Sec. 3. P&SL 1949, c. 211, §§3-A and 3-B are en-
4 acted to read:

5 Sec. 3-A. Condemnation proceedings. The dis-
6 trict in exercising from time to time the right of
7 eminent domain conferred upon it, shall file in the
8 office of the county commissioners of Kennebec County
9 and cause to be recorded in the registry of deeds in
10 the county plans of the location of all lands, real
11 estate, easements or interest therein, and sewers,
12 drains or conduits and any sewer or drainage rights
13 to be taken, with an appropriate description and the
14 names of the owners thereof, if known. When, for any
15 reason, the district fails to acquire property which
16 it may take and which is described in that location,
17 or if the location so recorded is defective and un-
18 certain, it may, at any time, correct and perfect
19 that location and file a new description of the prop-
20 erty; and in such case any such district is liable in
21 damages only for property for which the owner had not
22 previously been paid, to be assessed as of the time
23 of the original taking, and any such district shall
24 not be liable for any acts which would have been jus-
25 tified if the original taking had been lawful. No
26 entry may be made on any private lands, except to
27 make surveys, until the expiration of 10 days from
28 the filing, whereupon possession may be had of all
29 the lands, real estate, easements or interests there-
30 in and other property and rights as set out in this
31 section to be taken, but title thereto shall not vest
32 in the district until payment therefor.

33 Sec. 3-B. Appeal. If any person sustaining dam-
34 ages by any taking by the district shall not agree
35 with the district upon the sum to be paid for the
36 taking, either party, upon petition to the county
37 commissioners of Kennebec County, may have the dam-
38 ages assessed by them. The procedure and all subse-
39 quent proceedings and right of appeal shall be had
40 under the same restrictions, conditions and limita-
41 tions as are or may be by law prescribed in the case
42 of damages by the laying out of highways by the coun-
43 ty commissioners, except only:

1 1. Title to the lands, real estate, easements or
2 interests therein and other property and rights to be
3 taken shall not vest in the district until payment to
4 the owner of the amount awarded therefor or, if such
5 payment is refused upon tender, until tender thereof
6 to the treasurer of the county in which lands and in-
7 terests are located, for escrow at interest for the
8 benefit of the owner pending final determination of
9 the amount to which the owner is entitled; and

10 2. In the event of an appeal of the amount
11 awarded as damages for that taking:

12 A. The petition for assessment of damages shall
13 be filed with the clerk of the county commission-
14 ers, by either party, within 30 days following
15 the filing and recording of plans of the location
16 of all the property, facilities and rights taken;
17 and

18 B. If the return of the county commissioners has
19 not been made within 120 days following the fil-
20 ing of the petition for assessment, the county
21 commissioners shall be conclusively presumed to
22 have confirmed the awarded of damages by the dis-
23 trict and either party may, within 30 days fol-
24 lowing that 120-day period, appeal the amount of
25 the damages awarded by the district to the Super-
26 ior Court.

27 Sec. 4. P&SL 1949, c. 211, §5-B, as amended by
28 PL 1975, c. 461, §13, is repealed and the following
29 enacted in its place:

30 Sec. 5-B. Extensions and expansions of existing
31 boundaries. The district shall have the right to de-
32 termine whether extensions to its system shall be
33 made, subject to the authority of local and state
34 health officials and the sanitary water board.

35 Prior to authorizing any sewer extension, except
36 by specific state or federal mandate, the commission-
37 ers shall notify the legislative bodies and the plan-
38 ning boards of the City of Waterville in order to as-
39 sure conformity with their comprehensive plans and
40 other public policies relating to their growth and
41 development. The commissioners shall publish notice

1 of the proposed action in the Central Maine Morning
2 Sentinel no less than 7 days prior to the meeting at
3 which they will take final action on the authoriza-
4 tion of the extension.

5 Amendments to expand the boundaries of the dis-
6 trict must be approved by the voters of the district
7 prior to consideration by the Legislature.

8 Sec. 5. P&SL 1949, c. 211, §6-B, as enacted by
9 P&SL 1953, c. 92, §5, is repealed and the following
10 enacted in its place:

11 Sec. 6-B. Buildings to connect with sewer if
12 available. Every building in the district intended
13 for human habitation or occupancy on premises abut-
14 ting on a street in which there is a public sewer or
15 any such building within 100 feet of a public sewer
16 shall have a house drainage system which shall be
17 caused to be connected with the sewer by the owner or
18 agent of the premises in the most direct manner pos-
19 sible and, if feasible, with a separate connection
20 for each house or building, except that buildings ex-
21 isting on January 1, 1983, which at that time were
22 served by a private sewer system, are not required to
23 connect with any sewer or drain of the district as
24 long as the private sewer or drainage system func-
25 tions in a satisfactory and sanitary manner and does
26 not violate any law or applicable ordinance or any
27 applicable requirement of the State of Maine Plumbing
28 Code, as determined by the municipal plumbing inspec-
29 tor; his alternate; or, in the event that both are
30 trustees or employees of the district, the Division
31 of Health Engineering.

32 Sec. 6. P&SL 1949, c. 211, §7, 11th sentence, as
33 amended by P&SL 1953, c. 92, §6, is repealed and the
34 following enacted in its place:

35 The commissioners shall meet monthly and specially as
36 may be necessary.

37 Sec. 7. P&SL 1949, c. 211, §7, as amended by
38 P&SL 1967, c. 41, is further amended by adding at the
39 end 2 new paragraphs to read:

1 The commissioners shall receive compensation as
2 recommended by them and approved by a majority vote
3 of the municipal officers in the City of Waterville,
4 including compensation for any duties they perform as
5 officers as well as for their duties as commissioners.
6 Certification thereof shall be recorded with
7 the Secretary of State and recorded in the bylaws.
8 Their compensation for duties as commissioners shall
9 be on the basis of such specified amount as may be
10 specified in the bylaws for each meeting actually at-
11 tended and reimbursement for travel and expenses,
12 with the total not to exceed such specific amount as
13 may be specified in the bylaws. The compensation
14 schedule in effect on January 1, 1982, \$15 for each
15 regular or special meeting attended, with total annual
16 compensation not to exceed \$300, shall continue in
17 effect until changed.

18 Commissioners who have not been members of the
19 Maine State Retirement System prior to January 1,
20 1982, as a result of their selection as commissioners
21 and who are not full-time employees shall not be eli-
22 gible to join the Maine State Retirement System as a
23 result of their selection as commissioners.

24 Sec. 8. P&SL 1949, c. 211, §10, first paragraph,
25 as amended by PL 1975, c. 461, §14, is repealed and
26 the following enacted in its place:

27 Sec. 10. Rates; applications of revenue; sinking
28 fund. All individuals, firms and corporations,
29 whether private, public or municipal, shall pay to
30 the treasurer of the district the rates and assess-
31 ments established by the commissioners to pay for the
32 cost of the works and for the service used by them.
33 The rates shall not be discriminatory within the ter-
34 ritory supplied by the district. Prior to adoption
35 of a new rate schedule, the commissioners shall hold
36 a public hearing regarding the proposed rate sched-
37 ule. The commissioners shall publish the proposed
38 rates and notice of the hearing not less than once in
39 the Central Maine Morning Sentinel not less than 7
40 days prior to the hearing. The district shall mail
41 to each ratepayer a notice of the public hearing and
42 the proposed new rate at least 14 days prior to the
43 hearing.

