

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 550

H.P. 416 House of Representatives, February 25, 1987
Reference to the Committee on Utilities suggested and
ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative JOSEPH of Waterville.

Cosponsored by Representatives JACQUES of Waterville,
LACROIX of Oakland and Senator KANY of Kennebec.

STATE OF MAINE

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

1 AN ACT to Amend the Charter of the Waterville
2 Sewerage District.
3

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

6 Sec. 1. P&SL 1949, c. 211, §5-C, as amended by
7 P&SL 1957, c. 127, §1 and as enacted by P&SL 1985,
8 c.99, §4, is repealed and the following enacted in
9 its place:

10 Sec. 5-C. District boundaries. Amendments to
11 expand the boundaries of the district must be ap-
12 proved by the voters of the district prior to consid-
13 eration by the Legislature.

14 Sec. 2. P&SL 1949, c. 211, §5-D, as enacted by
15 P&SL 1953, c. 92, §3, is repealed and the following
16 enacted in its place:

1 Sec. 5-D. Assessment against lot benefited.
2 When the district has constructed and completed a
3 public drain or common sewer, the commissioners shall
4 determine what lots or parcels of land are benefited
5 by such drain or sewer, and shall estimate and assess
6 upon such lots and parcels of land, and against the
7 owner thereof, or person in possession, whether the
8 person to whom the assessment is so made shall be the
9 owner, tenant, lessee or agent or against the heirs
10 or devisees of a deceased owner without designating
11 any of them by name, and whether the same is occupied
12 or not, such sum not exceeding the benefit as they
13 may deem just and equitable towards defraying the ex-
14 penses of constructing and completing the drain or
15 sewer, together with sewage disposal units and appur-
16 tenances as may be necessary, the whole of the as-
17 essments not to exceed 2/3 of the cost of the drain
18 or sewer and sewage disposal units. The commission-
19 ers shall file with the clerk of the district a plan
20 showing the location of the drain or sewer and sewage
21 disposal units, and their assessment roll containing
22 a statement of the amount assessed upon each lot or
23 parcel of land so assessed, a description of each lot
24 or parcel, and the name of the person against whom
25 the assessment is made, and the clerk of the district
26 shall record the same in a book kept for that pur-
27 pose, and each person so assessed shall be notified
28 of the assessment by having an authentic copy of the
29 assessment roll, with an order of notice signed by
30 the clerk of the district, stating the time and place
31 for a hearing upon the subject matter of the assess-
32 ments, given to each person so assessed or left at
33 his usual place of abode at least 10 days before the
34 hearing, or by mailing the same to each person so as-
35 essed by registered mail addressed to his last known
36 address and by publishing the same once in any news-
37 paper published in the district, the mailing and pub-
38 lication to be at least 10 days before the hearing; a
39 return made upon a copy of such notice by a sheriff
40 or his deputy or the production of the paper contain-
41 ing the notice or the certificate of the clerk of
42 mailing and publication shall be conclusive evidence
43 that the notice has been given and upon that hearing,
44 the commissioners shall have power to revise, in-
45 crease or diminish any of the assessments, and any
46 revision, increase or diminution shall be in writing
47 and recorded by the clerk.

1 Supplemental assessments may be made within 5
2 years from the date of any assessment roll whenever
3 it appears any lot or parcel of land benefited has
4 been omitted from the assessment or any part of the
5 assessment, is invalid or void for any reason. The
6 commissioners for the time being may make the supple-
7 mental assessment according to the procedure and the
8 principles of the original assessment, and the sup-
9 plemental assessment shall be valid even though it
10 may, when added to the original, exceed 2/3 of the
11 cost of the drain or sewer and sewage disposal units.

12 Sec. 3. P&SL 1949, c. 211, §5-E, as amended by
13 P&SL 1957, c. 127, §1, is repealed and the following
14 enacted in its place:

15 Sec. 5-E. Right of appeal. Any person, ag-
16 grieved by the decision of the commissioners as it
17 relates to the assessment for sewer construction,
18 shall have the same rights of appeal as are provided
19 in the case of laying out of town ways.

20 Sec. 4. P&SL 1949, c. 211, §§5-F and 5-G, as en-
21 acted by P&SL 1953, c. 92, §3, are repealed and the
22 following enacted in their place:

23 Sec. 5-F. Assessments; liens; sheriff's sale.
24 All assessments and supplemental assessments made under
25 the provisions of section 5-D shall create a lien
26 upon each and every lot or parcel of land so assessed
27 and the buildings upon the same, which lien shall
28 take effect when the commissioners file with the
29 clerk the assessment roll and shall continue one year
30 thereafter or for one year after the termination of
31 any appeal; and, within 10 days after the date of
32 hearing on the assessment, the clerk shall make out a
33 list of all the assessments, the amount of each, and
34 the name of the person against whom the same is as-
35 essed, and he shall certify the list and deliver it
36 to the treasurer of the district; if the assessments
37 are not paid within 3 months from the date thereof,
38 the treasurer may bring an action of debt for the
39 collection of the assessment in the name of the dis-
40 trict against the person against whom the assessment
41 is made. The action shall be begun by writ of at-
42 achment commanding the officer serving it to spe-
43 cially attach the real estate upon which the lien is

1 claimed, which shall be served as other writs of at-
2 tachment to enforce liens on real estate. The decla-
3 ration in the action shall contain a statement of the
4 assessment, a description of the real estate against
5 which the assessment is made, and an allegation that
6 a lien is claimed on the real estate to secure the
7 payment of the assessment. If no service is made
8 upon the defendant or if it shall appear that any
9 other persons are interested in the real estate, the
10 court shall order such further notice of the action
11 as appears proper, and shall allow the other persons
12 to become parties thereto. If it shall appear upon
13 trial of the action that the assessment was legally
14 made against the real estate, and is unpaid, and that
15 there is an existing lien on the real estate for the
16 payment of the assessment, judgment shall be rendered
17 for the assessment, interest and costs of suit
18 against the defendants and against the real estate
19 upon which the assessment was made, and execution is-
20 sued thereon to be enforced by sale of the real es-
21 tate in the manner provided for a sale or execution
22 of real estate attached on original writs. Provided
23 that in making the sale the officer shall follow the
24 procedure in selling and conveying and there shall be
25 the same rights of redemption as are provided in the
26 Maine Revised Statutes of 1944, chapter 81, section
27 94.

28 Sec. 5-G. Additional method of collection of as-
29 sessments. If assessments under the provisions of
30 section 5-D are not paid, and the district does not
31 proceed to collect paid assessments by a sheriff's
32 sale of the real estate upon which the assessments
33 are made under section 5-F, or does not collect or is
34 in any manner delayed or defeated in collecting the
35 assessments by a sheriff's sale of the real estate
36 under section 5-F, then the district, in the name of
37 the district, may maintain an action against the par-
38 ty so assessed for the amount of the assessment, as
39 for money paid, laid out and expended, in any court
40 competent to try the same, and in the suit may recov-
41 er the amount of the assessment with 10% interest on
42 the same from the date of the assessments and costs.

43 Sec. 5. P&SL 1949, c. 211, §5-H, as enacted by
44 P&SL 1957, c. 127, §3, is repealed and the following
45 enacted in its place:

1 Sec. 5-H. Assessments paid by other than owner,
2 how recovered. When any assessment under the provi-
3 sions of section 5-D shall be paid by any person
4 against whom the assessment has been made, who is not
5 the owner of the lot or parcel of land, then the per-
6 son so paying the same shall have a lien upon the lot
7 or parcel of land with the buildings thereon for the
8 amount of the assessment so paid by the person, and
9 incidental charges, which lien shall continue for one
10 year and which lien may be enforced in an action of
11 assumpsit as for money paid, laid out and expended,
12 and by attachment in the way and manner provided for
13 the enforcement of liens upon buildings and lots un-
14 der the provisions of the Maine Revised Statutes of
15 1944, chapter 164.

16 Sec. 6. P&SL 1949, c. 211, §5-I, is enacted to
17 read:

18 Sec. 5-I. Lien certificate; procedure. Liens on
19 lots or parcels of land created by section 5-F, in
20 addition to other methods established by law, may be
21 enforced in the following manner.

22 The treasurer may, after the expiration of 8
23 months and within one year after the date of the as-
24 essment roll or termination of any appeal, give to
25 the person against whom the assessment is made, or
26 leave at his last and usual place of abode, or send
27 by registered mail to his last known address, a no-
28 tice in writing signed by the treasurer stating the
29 amount of the assessment, describing the real estate
30 on which the assessment is made, alleging that a lien
31 is claimed on the real estate to secure the payment
32 of the assessment and demanding the payment of the
33 assessment within 10 days after service or mailing of
34 the notice. In the case of supplemental assessments,
35 the treasurer may give the notice after the expira-
36 tion of 8 months and within one year after the date
37 of the supplemental assessment roll or termination of
38 any appeal therefrom. If an owner or occupant of
39 real estate against whom any assessment is made shall
40 die before the demand is made on him, the demand may
41 be made upon the executor or administrator of his es-
42 tate or upon any of his heirs or devisees.

1 After the expiration of the 10 days and within 10
2 days thereafter, the treasurer shall record in the
3 registry of deeds of the county where the real estate
4 is situated, a tax lien certificate signed by the
5 treasurer setting forth the amount of the assessment,
6 a description of the real estate on which the assess-
7 ment is made and an allegation that a lien is claimed
8 on the real estate to secure the payment of the as-
9 essment, that a demand for payment of the assessment
10 has been made in accordance with the provisions of
11 this section, and that the assessment remains unpaid.
12 When the real estate of a deceased person has been
13 assessed to his heirs or devisees without designating
14 any of them by name it will be sufficient to record
15 in the registry a lien certificate in the name of the
16 heirs or the devisees of the decedent without desig-
17 nating them by name.

18 At the time of the recording of the lien certifi-
19 cate in the registry of deeds as provided in this
20 section, in all cases the treasurer shall file in the
21 office of the district a true copy of the lien cer-
22 tificate and shall send by registered mail to each
23 record holder of a mortgage on the real estate, to
24 his last known address, a true copy of the lien cer-
25 tificate.

26 The costs to be paid by the person assessed shall
27 be one dollar plus the recording fees and registered
28 mail fees paid for sending the true copies of the
29 lien certificate.

30 The filing of the lien certificate in the regis-
31 try of deeds shall create a mortgage on the real es-
32 tate to the district having priority over all other
33 mortgages, liens, attachments and encumbrances of any
34 nature, except claims for municipal taxes, and shall
35 give to the district all the rights usually incident
36 to a mortgagee, except that the district shall not
37 have any right of possession of the real estate until
38 the right of redemption in this Act provided for
39 shall have expired.

40 The filing of the certificate in the registry of
41 deeds shall be sufficient notice of the existence of
42 the mortgage.

1 In the event that the assessment, interest and
2 costs shall be paid within 12 months after the filing
3 of the lien certificate in the registry of deeds, the
4 treasurer shall prepare and record a discharge of the
5 mortgage in the same manner as is now provided for
6 the discharge or real estate mortgages.

7 If the mortgage, together with interest and
8 costs, shall not be paid within 12 months after the
9 date of the filing of the lien certificate in the
10 registry of deeds, the mortgage shall be deemed to
11 have been foreclosed and the right of redemption to
12 have expired.

13 The lien certificate, or a certified copy of the
14 registry record thereof, shall be prima facie evi-
15 dence in all courts in all proceedings by and against
16 the district, its successors and assigns, of the
17 truth of the statements therein and after the period
18 of redemption has expired, of the title of the dis-
19 trict to the real estate therein described, and of
20 the regularity and validity of all proceedings with
21 reference to the acquisition of title by the mortgage
22 and the foreclosure thereof.

23 Sec. 7. P&SL 1949, c. 211, §10, as amended by
24 P&SL 1985, c. 99, §8, is further amended by adding
25 after the first paragraph a new paragraph to read:

26 The rates may include a readiness to serve charge
27 against owners or persons in possession or against
28 whom taxes are assessed, of all buildings or premises
29 intended for human habitation or occupancy, whether
30 the same are occupied or not, which abut on a street
31 through which the district has a sewerage main, or
32 which abut a location through which the district has
33 a sewerage main through which service of the building
34 or premises is feasible, provided in either instance
35 the property line of the premises is within 200 feet
36 of the sewerage main but whether or not the premises
37 are actually connected thereto. The rates shall be
38 so established as to provide revenue for the follow-
39 ing purposes:

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STATEMENT OF FACT

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This bill corrects technical errors in the
Waterville Sewerage District Charter.

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