

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2514

H.P. 1837 House of Representatives, March 14, 1988
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Utilities suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative PRIEST of Brunswick.
Cosponsored by Senator CLARK of Cumberland,
Representatives RYDELL of Brunswick and CLARK of Brunswick.

STATE OF MAINE

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

1 AN ACT to Revise the Charter of the
2 Brunswick Sewer District.
3

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

7 Whereas, the Brunswick Sewer District is a party
8 to a consent decree, the other parties being this
9 State and the Board of Environmental Protection, and
10 the consent decree requires the Brunswick Sewer

1 District to construct a secondary waste water
2 treatment facility in compliance with the United
3 States Clean Water Act; and

4 Whereas, the engineers' estimates of the Brunswick
5 Sewer District's cost of a secondary waste water
6 treatment plant exceeds its present authorized
7 indebtedness; and

8 Whereas, the Brunswick Sewer District may not be
9 able to complete its arrangements for financing the
10 secondary waste water treatment unless its authorized
11 indebtedness is increased; and

12 Whereas, the Brunswick Sewer District charter
13 presently does not allow for the automatic creation of
14 liens against real estate served or benefitted by the
15 district to secure the payment of rates established
16 and due under its charter; and

17 Whereas, automatic lien authority is granted by
18 law to any sewer district formed under the Maine
19 Revised Statutes, Title 38, chapter 11; and

20 Whereas, it is necessary for the benefit of the
21 Brunswick Sewer District and its ratepayers that
22 automatic lien authority be granted the Brunswick
23 Sewer District; and

24 Whereas, the Brunswick Sewer District charter is
25 unclear as to whether district revenues may be applied
26 to defray the cost of capital projects and it is in
27 the best interest of the district and its ratepayers
28 to allow payment of certain capital costs with
29 district revenues; and

30 Whereas, Private and Special Law 1981, chapter
31 103, repealed and replaced Private and Special Law
32 1947, chapter 77, as amended, incorporating the
33 Brunswick Sewer District; and

34 Whereas, Private and Special Law 1981, chapter
35 103, contains an incorrect reference to chapter 77,
36 and that reference has the potential of creating
37 confusion; and

1 Whereas, these amendments have been proposed by
2 the Brunswick Sewer District trustees to the town
3 council following public hearing, and the town council
4 has approved these amendments, all in accordance with
5 section 51 of the charter; and

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

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

14 Sec. 1. P&SL 1947, c. 77, first 4 lines, as
15 enacted by P&SL 1981, c. 103, are repealed and the
16 following enacted in their place:

17 BRUNSWICK SEWER DISTRICT

18 PART 1

19 GENERAL PROVISIONS

20 Sec. 2. P&SL 1947, c. 77, §31, sub-§1, last
21 sentence, as enacted by P&SL 1981, c. 103, is amended
22 to read:

23 The total indebtedness at any time shall not exceed
24 ~~\$57,000,000~~ \$20,000,000.

25 Sec. 3. P&SL 1947, c. 77, §33, sub-§4, as
26 enacted by P&SL 1981, c. 103, is repealed and the
27 following enacted in its place:

28 4. Construction, repairs, replacements, renewals
29 and extensions. To pay for such repairs,
30 replacements, renewals and extensions as may be
31 necessary to maintain the system in good, safe,
32 efficient working condition, to pay the district share
33 in the cost of extensions authorized under section 34,
34 or to pay for the cost of capital projects.

1 constituting additions or improvements to the system,
2 including the costs of acquisition, design,
3 construction, building, alteration, enlargement,
4 reconstruction, renovation, improvement and equipping
5 those projects and the cost of all lands, structures,
6 real or personal property, rights, easements, site
7 development and improvement, plans and specifications,
8 surveys, engineering, feasibility studies and other
9 legal, accounting and professional services associated
10 with those projects.

11 Sec. 4. P&SL 1947, c. 77, §35, sub-§3, as
12 enacted by P&SL 1981, c. 103, is repealed and the
13 following enacted in its place:

14 3. Rates. There shall be a lien on real estate
15 served or benefitted by the sewers of the Brunswick
16 Sewer District, to secure the payment of rates
17 established and due under this charter, which shall
18 take precedence over all other claims on the real
19 estate, excepting only claims for taxes.

20 The treasurer of the district shall have full and
21 complete authority and power to collect the rates,
22 tolls, rents and other charges established under this
23 chapter and the same shall be committed to him. The
24 treasurer may, after demand for payment, sue in the
25 name of the district in a civil action for any rate,
26 toll, rent or other charge remaining unpaid in any
27 court of competent jurisdiction. In addition to other
28 methods established by law for the collection of
29 rates, tolls, rents and other charges, and without
30 waiver of the right to sue for the collection of
31 rates, tolls, rents and other charges, the lien hereby
32 created may be enforced in the following manner. The
33 treasurer, when a rate, toll, rent or other charge has
34 been committed for collection, may, after the
35 expiration of 3 months and within one year after the
36 date when the same became due and payable, give to the
37 owner of the real estate served, or leave at the
38 owner's last and usual place of abode, or send by
39 certified mail, return receipt requested, to the
40 owner's last known address, a notice in writing signed
41 by the treasurer or bearing the treasurer's facsimile
42 signature, stating the amount of that rate, toll, rent

1 or other charge, describing the real estate upon which
2 the lien is claimed and stating that a lien is claimed
3 on the real estate to secure the payment of the rate,
4 toll, rent or other charge and demanding the payment
5 of the rate, toll, rent or other charge, together with
6 a fee of \$1 for mailing the notice and fee for the
7 certified mail, return receipt requested, all within
8 30 days after service or mailing. The notice shall
9 contain a statement that the district is willing to
10 arrange installment payments of the outstanding debt.
11 For the purpose of this section, a mobile home is
12 defined as real estate. After the expiration of the
13 30-day period and within one year thereafter, the
14 treasurer shall record in the registry of deeds of the
15 county in which that property is located a certificate
16 signed by the treasurer setting forth the amount of
17 such rate, toll, rent or other charge, describing the
18 real estate on which the lien is claimed, and stating
19 that a lien is claimed on the real estate to secure
20 payment of the rate, toll, rent or other charge and
21 that a notice and demand for payment of the rate,
22 toll, rent or other charge has been given or made in
23 accordance with this section and stating further that
24 that rate, toll, rent or other charge remains unpaid.
25 At the time of the recording of any such certificate
26 in the registry of deeds, the treasurer shall file in
27 the office of the district a true copy of the
28 certificate and shall mail a true copy thereof by
29 certified mail, return receipt requested, to each
30 record holder of any mortgage on the real estate
31 addressed to the record holder at the record holder's
32 last and usual place of abode. The fee to be charged
33 by the district to the ratepayer for that notice and
34 filing shall not exceed the amount authorized by the
35 Maine Revised Statutes, Title 33, section 751,
36 subsection 12, concerning district liens.

37 The filing of the certificate in the registry of deeds
38 shall be deemed to create, and shall create, a
39 mortgage on the real estate therein described to the
40 district which shall have priority over all other
41 mortgages, liens, attachments and encumbrances of any
42 nature, except liens, attachments. and claims for
43 taxes, and shall give to the district all the rights
44 usually possessed by the mortgagees, except that the

1 district as mortgagee shall not have any right to
2 possession of the real estate until the right of
3 redemption provided for shall have expired. If the
4 mortgage, together with interest and costs, has not
5 been paid within 18 months after the date of filing of
6 the certificate in the registry of deeds, the mortgage
7 shall be deemed to have been foreclosed and the right
8 of redemption to have expired. The filing of the
9 certificate in the registry of deeds shall be
10 sufficient notice of the existence of the mortgage.
11 In the event that the rate, toll, rent or other
12 charge, with interest and costs, is paid within the
13 period of redemption, the treasurer shall discharge
14 the mortgage in the same manner provided for discharge
15 of real estate mortgages. The fee for recording the
16 discharge shall be borne by the ratepayer.

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

20 STATEMENT OF FACT

21 The purpose of this bill is stated in the
22 emergency preamble.

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