

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

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No. 1839

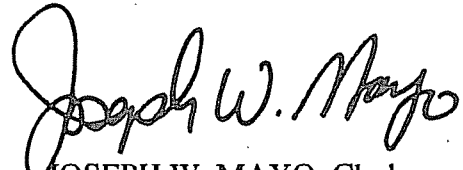
H.P. 1360

House of Representatives, February 7, 1994

An Act to Amend the Charter of the Berwick Sewer District.

(AFTER DEADLINE)

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.


JOSEPH W. MAYO, Clerk

Presented by Representative MURPHY of Berwick.
Cosponsored by Senator CARPENTER of York.

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

2
4 Sec. 1. P&SL 1963, c. 154, §5, as amended by P&SL 1989, c. 103,
is further amended to read:

6 Sec. 5. **Offenses and penalties.** Any person who shall
place, discharge or leave any offensive or injurious matter or
8 material on or in the conduits, catch basins ~~or~~, receptacles or
sewers of or served by said district contrary to its rules or
10 regulations, or shall willfully injure any conduit, pipe,
reservoir, flush tank, catch basin, manhole, outlet, engine, pump
12 or other property held, owned or used by said district for the
purposes of this act shall be liable to pay twice the amount of
14 the damages to said district, to be recovered in any proper
action; and any person on conviction of either of the acts of
16 willful injury aforesaid shall be punished by a fine not
exceeding \$1,000 per day for each day in violation of the
18 standards and requirements and by imprisonment not exceeding one
year, or by both.

20
22 Any Pursuant to the Maine Revised Statutes, Title 38,
section 1252, subsection 8 and federal law, any industrial user
who violates the pretreatment standards and requirements of the
24 district shall be subject to a fine of at least \$1,000 per day
for each day the industrial user is in violation of such
26 standards and requirements. The In addition or in the
alternative, the district may seek injunctive relief to ensure
28 compliance with the terms of its pretreatment standards and
requirements and may seek an award of reasonable attorney's fees
30 in actions brought under this section.

32 Notwithstanding other civil or criminal penalties provided
by federal or state law, the district may assess administrative
34 penalties of at least \$1,000 per day for each violation by an
industrial user to any pretreatment standard or requirement
36 adopted by the district and contained in the district's rules and
regulations. The district's assessment of administrative
38 penalties may be appealed to the board of trustees within 30 days
from the date of the assessment of administrative penalties, and
40 the board of trustees shall hear any appeals in accordance with
Title 30-A, section 2691. An aggrieved party may appeal the
42 decision of the board of trustees in accordance with the Maine
Rules of Civil Procedure, Rule 80B, as provided in Title 30-A,
44 section 2691, subsection 3, paragraph G. If the district
assesses administrative penalties under this section, the
46 district may not seek civil monetary penalties pursuant to Title
38, section 1252, subsection 8. Nothing in this paragraph
48 prohibits the district from seeking injunctive relief pursuant to
Title 38, section 1252, subsection 8 in addition to
50 administrative penalties assessed under this paragraph.

2 **Sec. 2. P&SL 1963, c. 154, §6-A is enacted to read:**

4 **Sec. 6-A. Inspections; rules and regulations; permits.** The
6 district shall prevent the discharge into the sewers of
8 substances that might damage the district's sewage treatment
10 facilities or interfere with their maintenance and operation,
12 pass through to the receiving waters or endanger the health and
14 safety of any district employee. The district's officers,
16 employees and agents have free access at reasonable times to all
18 premises served by the district's sewage treatment facilities in
20 order to inspect the sewers, drains, sewage pumping stations,
tanks or treatment works and to determine the amount and
character of sewage, drainage or other wastes flowing from the
sewers, drains, sewage pumping stations, tanks or treatment works
and whether sewage, drainage or other wastes damage or impair, or
are likely to damage or impair, the district's sewage treatment
facilities, interfere with their maintenance or operation, pass
through to the receiving waters or endanger the health and safety
of any district employee.

22 The district through its board of trustees may, for the
24 proper operation of its sewage treatment facilities, adopt rules
26 and regulations that are binding on the Town of Berwick and its
28 inhabitants, as to the amount and character of any sewage,
30 drainage or other wastes placed, discharged or left in the
32 conduits, catch basins, receptacles or sewers served by the
district. These rules and regulations must include, without
limitation, pretreatment standards and requirements for
industrial users that are developed in accordance with and are no
less stringent than those required by state and federal law and
regulations.

34 The district may, in accordance with its rules and
36 regulations, issue permits or other control mechanisms to
38 industrial users of its sewage treatment facilities for the
40 purpose of controlling the amount and character of the wastes
42 discharged into its sewage treatment facilities and for the
purpose of imposing upon industrial users other standards and
requirements as provided by the district's rules and regulations
and state and federal laws, rules and regulations.

44 **STATEMENT OF FACT**

46 Recent changes in federal regulations require publicly owned
48 treatment works, such as sewer districts, to adopt pretreatment
50 programs for industrial users of the sewage treatment facilities,
which programs must specify the sewer districts' enforcement
authority. Those regulations include a requirement that the

2 publicly owned treatment works have the authority to assess civil
or criminal penalties in the amount of at least \$1,000 per day
4 per violation upon industrial users who violate pretreatment
standards or requirements. Those regulations also include a
6 requirement that publicly owned treatment works such as sewer
districts adopt and amend pretreatment standards and requirements
8 that are no less stringent than the federal regulating standards
and requirements.

10 The bill amends Private and Special Law 1963, chapter 154 to
incorporate these 2 federal regulatory requirements. Consistent
12 with federal law, section 1 of this bill provides that the
district may recover civil monetary penalties in an amount of at
14 least \$1,000 per day per violation. Section 2 of this bill
specifies the district's authority to adopt rules and regulations
16 consistent with state and federal law, to issue permits under
those rules and regulations and to undertake enforcement action
18 to prevent injury to the public health, safety and welfare.

20 In addition, section 1 of this bill includes a provision by
which the district may bring an administrative enforcement action
22 under the district's federally required pretreatment regulations
and requirements seeking administrative penalties. The board of
24 trustees would hear appeals from the district's decision in the
manner provided for by the municipal board of appeals statute,
26 and decisions of the board of trustees may be appealed to the
Superior Court under the Maine Rules of Civil Procedure, Rule 80B.
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34 This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.