

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 734

H.P. 538

House of Representatives, March 7, 1995

**An Act to Revise the Ogunquit Sewer District Charter.**

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Reference to the Committee on Utilities and Energy suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CARLETON of Wells.  
Cosponsored by Senator: LAWRENCE of York.

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

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**Sec. 1. Ogunquit Sewer District; territorial limits.** The Ogunquit Sewer District, referred to in this Act as the "district," is created for the purpose of providing and maintaining a sewer system for the collection, treatment and disposal of sewerage. The territory of the district is the geographical limits of the Town of Ogunquit and those portions of adjoining municipalities not presently being served by a public sewer. The district has all the rights, privileges and immunities of similar corporations, as established and necessary for the accomplishment of its purposes.

**Sec. 2. Authority to construct and maintain.** Within its territory and the territory of an adjoining municipality, the district is authorized to lay pipes, drains, sewers and conduits, and to take up, repair and maintain the same or to contract for the same to be done in, along and through any public or private ways and public grounds and in, along and through the lands of any person or corporation as provided in this Act, to and into tidal water, rivers, watercourses or treatment works or to or into any drain or sewer built that empties into tidal water, rivers, watercourses or treatment works, the discharge from a drain or sewer to be at points consistent with the requirements of public health as are convenient and reasonable for the district and the flow of existing watercourses; to construct and maintain treatment works, pumping stations, basins, reservoirs, flush tanks and other appliances for collecting, holding, purifying, distributing and disposing of sewage and industrial waste and, subject to section 12, of surface waters and wastewater, as are necessary or proper; and in general, do any other things necessary or incidental to accomplish the purposes of this Act.

**Sec. 3. Savings clause.** The creation by this Act of a revised charter for the Ogunquit Sewer District does not prejudice any claims of creditors toward the sewer district existing prior to this Act or relieve the district of any liability already created or assumed or affect any existing causes of action in favor of or against the district or the existing rights or obligations of other persons; but, for all purposes, the district is regarded as the same district that existed prior to this Act.

**Sec. 4. Authority to acquire and hold property; right of eminent domain conferred.** The district is authorized and empowered to acquire and hold real and personal property necessary or convenient for the purposes of this Act and is expressly granted the right of eminent domain and for the purposes of this Act is authorized to take and hold, either by exercising its right of eminent domain, or by purchase, lease or otherwise, as for public uses, any land,

2 real estate, easements or interests in land, real estate or  
easements, and any sewers, drains or conduits and any sewer or  
4 drainage rights necessary for constructing, establishing,  
maintaining and operating sewers, drains, reservoirs, flush  
6 tanks, manholes, catch basins, treatment works, pumping stations  
and other appliances and property used or useful for collecting,  
8 holding, purifying, distributing and disposing of sewage matter  
and industrial waste and surface water and wastewater.

10 **Sec. 5. Eminent domain; authority and procedures.** The authority  
and procedures for the exercise of eminent domain by the district  
12 are provided by the Maine Revised Statutes, Title 38, sections  
1152, 1152-A, 1153 and 1154. In addition, the district may not  
14 take by right of eminent domain any of the property or facilities  
of any other public utility used or acquired for future use by  
16 the owner, in the performance of a public duty, unless expressly  
authorized by a special Act of the Legislature, as provided by  
18 Title 38, section 1252, subsection 2.

20 **Sec. 6. Limitations on crossing a public utility.** If any sewer line  
of the district crosses the property or line of any other public  
22 utility, unless consent is given by the other public utility as  
to place, manner and conditions of the crossing within 30 days  
24 after consent is requested by the district, the Public Utilities  
Commission shall determine the place, manner and conditions of  
26 the crossing; and all work on the property of the other public  
utility must be done under the supervision and to the  
28 satisfaction of the other public utility, but at the expense of  
the district. If any sewer line of the district crosses the  
30 property or line of any railroad corporation, the procedure is  
the same as the procedure for crossing the property or line of  
32 another public utility, except that the Department of  
Transportation is substituted for the Public Utilities Commission.

34 **Sec. 7. Rights of abutters or others to enter.** Any person may enter  
36 a private sewer into any sewer of the district after showing that  
the entry will be made in a safe and proper manner, paying a  
38 connection fee, obtaining a written permit from the district and  
paying the permit fee, if any, and submitting to final  
40 inspection. In addition, if an assessment is levied against the  
property as provided in section 21, then the assessment must also  
42 be paid prior to the time of the entry. All costs incident to  
the installation and connection of the private sewer are borne by  
44 the owner. The owner is responsible for maintenance of the line  
from the building to the point of connection with the district  
46 line and must install at the owner's expense a backwater valve,  
in accordance with the specifications of the state plumbing code.

48 **Sec. 8. Sewer lines installed in public ways.** In the event any  
50 person installs a private sewer line within any public roadway  
within the territory of the district to connect to an existing  
52 sewer line of the district, then the newly installed

2 sewer line must be installed in accordance with specifications of  
3 the district. Any person who seeks to install a sewer line  
4 within a public way shall first obtain a written permit from the  
5 district, paying any fee required, and shall additionally obtain  
6 such written permits as may be required from the municipality  
7 within which the public roadway is located. The person who  
8 intends to make the installation shall provide the district with  
9 5 days advanced notice of the intended installation date so that  
10 the district may make periodic inspections during installation to  
11 ensure that the sewer line is being installed in accordance with  
12 district specifications. Upon completion of the installation and  
13 connection to a district sewer line, the newly installed line  
14 automatically becomes the property of the district.

16 **Sec. 9. Mandatory connection.** Except as provided in section  
17 10, every building in the district intended for human habitation  
18 or occupancy or with facilities for discharge or disposal of  
19 sewage or commercial or industrial waste that is accessible to a  
20 sewer or drain of the district must have a sanitary sewer or  
21 drainage system that must be connected with that sewer or drain  
22 of the district by the owner or person against whom taxes on the  
23 premises are assessed, in the most direct manner possible, within  
24 90 days after receiving a request to connect to the system from  
25 the district, or within such further time as the trustees of the  
26 district may grant and, if feasible, with a separate connection  
27 for each such building.

28 **Sec. 10. Connection not always required.** Existing buildings  
29 that are already served by a private sewer system are not  
30 required to connect with any sewer of the district as long as the  
31 private sewer system functions in a satisfactory and sanitary  
32 manner and does not violate any applicable law or ordinance or  
33 any applicable requirements of the state plumbing code, as  
34 determined by the municipal or state plumbing inspector or the  
35 inspector's alternate or, in the event that both are trustees or  
36 employees of the district, the Bureau of Health, Division of  
37 Health Engineering. In the event that the property within which  
38 a private sewer system is located is situated more than 150 feet  
39 from a sewer line of the district or, due to reasons of unusual  
40 topography, soils types or the like, is such that connection to a  
41 district line would be impracticable, in the discretion of the  
42 district, and in the event of failure of the existing private  
43 system in the property, then the property owner need not connect  
44 to the district sewer line as long as the property owner can  
45 relocate a private sewer system within the property, meeting the  
46 requirements of the state plumbing code.

48 **Sec. 11. Excavation within public way, closing of ways.** Whenever  
49 the district enters, digs up or excavates any public way or  
50 adjoining lands for any purposes described in this Act and the  
51 character of the work is such as to endanger travel on any public  
52

2 way, the town officials of the Town of Ogunquit, or the municipal  
3 officers of any adjoining municipalities, whenever the instance  
4 may apply, may order a temporary closing of the way and of any  
5 intersecting way upon request of the district, and the way  
6 remains closed to public travel until the town officials or  
7 municipal officers, as the case may be, determine it is restored  
8 to a condition safe for traffic.

10 **Sec. 12. Surface water facilities.** Notwithstanding any other  
11 provision of this Act, the district is under no duty or  
12 obligation to construct, maintain, repair, improve, extend or  
13 provide drains, pipes, catch basins or any other facilities for  
14 storm or surface water drainage, and all drains, pipes, catch  
15 basins or other facilities owned by the Town of Ogunquit or  
16 adjoining municipalities where the district has sewer lines used  
17 exclusively for storm or surface water drainage remain the  
18 property of the Town or adjoining municipalities where the  
19 district has sewer lines, and no such drain, pipe, catch basin or  
20 other facility is transferred to the district.

22 A person may not discharge or cause to be discharged any  
23 nonsewage effluent such as storm water, surface water,  
24 groundwater, roof runoff, subsurface drainage, such as sump  
25 pumps, uncontaminated cooling water or unpolluted industrial  
26 process waters to any sanitary sewer. Storm water and all other  
27 nonsewage effluent must be discharged to drains that are  
28 specifically designed for that purpose, such as storm drains, or  
29 to a natural outlet, as long as the discharge does not violate  
30 any local, state or federal ordinance, rule, regulation or  
31 statute.

32 **Sec. 13. Free access to premises.** The officers or agents of the  
33 district have free access to all premises, land and buildings  
34 served by its sewers, at all reasonable hours, for inspection of  
35 plumbing and sewage fixtures to ascertain the type, quality and  
36 quantity of sewage discharged and the manner of discharge and to  
37 enforce the provisions of this Act and the rules and regulations  
38 prescribed by the trustees.

40 **Sec. 14. Sanitary provisions, penalties for violations and other  
41 remedies.** Any person who places, discharges or leaves any  
42 offensive or injurious matter or material on or in the conduits,  
43 catch basins or receptacles of the district contrary to this Act  
44 or its rules or regulations, or willfully injures any conduit,  
45 pipe, reservoir, flush tank, catch basin, manhole, outlet,  
46 engine, pump or other property held, owned or used by the  
47 district for the purposes of this Act must be assessed twice the  
48 amount of the damages suffered by the district, together with  
49 reasonable attorney's fees and costs, to be recovered in an  
50 action brought in a court of competent jurisdiction and,  
additionally, on an adjudication in favor of the district for any

2 act described in this section, or adjudication against any person  
4 who violates section 7, 8 or 13 of this Act shall pay a penalty  
6 of not more than \$1,000, for the use of the district, or must be  
8 sentenced to a term of imprisonment for not more than one year,  
10 or both. In addition to other remedies described in this  
12 section, the district may disconnect any private sewer line  
connected to its sewer lines when the private sewer line has been  
connected or its use is in violation of a provision of this Act  
or any rule or regulation adopted by the district. The district  
shall provide appropriate advance written notice to the owner or  
apparent custodian of the private line of the district's intent  
to disconnect.

14 Grease, oil and sand interceptors are required when, in the  
16 opinion of the trustees of the district or their appointed  
18 agents, the same are necessary for the proper handling of liquid  
20 wastes containing floatable grease in excessive amounts or any  
22 flammable wastes, sand or other harmful ingredients; except that  
interceptors are not required on services functioning solely for  
human habitation, occupancy and use. All interceptors must be of  
a type and capacity as set forth in the state plumbing code and  
be located so as to be readily and easily accessible for  
inspection.

24 The owners and persons maintaining the interceptors are  
26 responsible for the proper removal and disposal, by legal and  
28 environmentally safe methods, of the captured material, and shall  
30 maintain records of the date, name of hauler, quantity hauled and  
32 means of disposal. Signed copies of these records must be  
submitted every 6 months to the district. Any removal and  
hauling of the collected materials not performed by the owner or  
the owner's personnel must be performed by state-licensed waste  
disposal firms.

34 **Sec. 15. Contracts authorized.** The district is authorized to  
36 contract with persons, corporations, districts, the Town of  
38 Ogunquit and other municipalities, both inside and outside the  
boundaries of the district, and with the State and Federal  
Government or any agency of either, to provide for disposal of  
40 sewage and commercial and industrial wastewater through the  
42 district's system and through the system of any person,  
corporation, district or other municipality. A district or  
44 municipality of the State may contract with the district for the  
collection, distribution, treatment and disposal of sewage and  
46 commercial and industrial wastewater and for those purposes any  
municipality may raise money as for other municipal charges.

48 **Sec. 16. Trustees and officers; tenure of office; annual meeting;**  
50 **election to office; organization; vacancies; compensation.** All of the  
52 affairs of the district are managed by a board of 3 trustees.  
The trustees of the district holding office on the effective date  
of this Act continue to hold office until their terms expire.

2 Trustees are elected by ballot at the Town of Ogunquit's  
annual election in April to serve until the annual meeting of the  
4 town occurring 3 years after the initial appointment and until  
their successors are elected and qualified. When any trustee  
6 ceases to be a resident of the district, that trustee vacates the  
office of trustee. All trustees, if residents of the district,  
are eligible for reelection or reappointment.

8  
10 The annual meeting of the district is held on the last  
Monday of June at an hour and place designated by the board of  
trustees.

12  
14 The nomination of all candidates for trustee must be by  
nomination papers signed in the aggregate for each candidate by  
16 no less than 25 qualified voters resident in the district. Each  
voter signing a nomination paper shall sign in person, and each  
18 voter may subscribe to as many nominations as there are trustees  
to be elected in the district. The nomination papers, before  
20 being filed, must be submitted to the office of the district  
which shall certify the signatures are names of qualified voters  
resident in the district. The nomination papers must be filed  
22 with the office of the district no less than 14 days, exclusive  
of Sundays, previous to the day of the election. All nomination  
24 papers that are filed and conform to the provisions of this Act  
are considered valid. If the nomination papers do not conform,  
26 they may be amended under oath. If a candidate who has been duly  
nominated under the provisions of this section dies before the  
28 day of election, withdraws in writing or moves out of the  
district, the vacancy may be filled in the manner provided for  
30 such nominations, except that the time limit for filing the  
nomination papers does not apply. The name supplied to fill the  
32 vacancy must, if the ballots have not been printed, be placed on  
the ballots instead of the original nomination; or if the ballots  
34 have been printed, new ballots containing the new nomination  
must, if practical, be furnished, or slips containing the new  
36 nomination must be printed under the direction of the district  
office, which must be pasted upon the ballots and over the name  
38 of the candidate whose nomination has been vacated, and become  
part of the ballots as if originally printed on the ballot. The  
40 ballot must contain the names of all candidates nominated in the  
district alphabetically arranged and printed in one column under  
42 the heading "For Trustee of the Ogunquit Sewer District." Above  
the heading must be printed "Vote for .....(the number to be  
44 elected). Make a cross or a check mark to the right of the  
name(s) voted for." As many blank spaces must be left after the  
46 names of the candidates as there are trustees to be elected in  
which the voter may, by writing, insert the name of any person or  
48 persons for whom the voter desires to vote. In preparing the  
ballot, the voter shall make a cross or a check mark against and  
50 to the right of such names on the ballot as the voter desires to  
vote for, not to exceed the number of trustees to be elected in



2 the district. The result of the election must be declared by the  
trustees of the district and due certificate of the vote filed  
with the clerk of the Town of Ogunquit.

4  
6 At the next regular trustees meeting after each annual  
election, the trustees shall elect a chair, treasurer and clerk  
to serve for the ensuing year and until their successors are  
8 elected and qualified. The trustees from time to time may choose  
and employ, and fix the compensation of, any other necessary  
10 officers and agents who serve at the trustees' pleasure. The  
treasurer shall furnish bond in a sum and with sureties as the  
12 trustees approve, the cost of the bond to be paid by the district.

14 Members of the board of trustees are eligible for any office  
under the board. Compensation for trustees must be determined by  
16 majority vote of the board of trustees. Compensation is an  
annual fee plus special meeting compensation with a maximum of 13  
18 special meetings. The treasurer may be allowed further  
compensation as the trustees determine.

20  
22 The trustees are sworn to the faithful performance of their  
duties, which include the duties of any member who serves as  
clerk or clerk pro tem. They may choose to make and publish an  
24 annual report, including a report of the treasurer, and the  
report may be included in, and published as part of, the Town of  
26 Ogunquit's annual report.

28 Vacancies in the office of trustee from whatever cause are  
filled by appointment by the remaining trustees until the next  
30 annual election. If at any annual election there exists a  
vacancy in an unexpired term, a trustee must be elected to fill  
32 the vacancy for the unexpired term, and the voters of the  
district shall cast their ballots as set out in this section,  
34 voting for as many candidates as there are offices to be filled.

36 Persons who have not been trustees prior to January 1, 1987  
and who are not full-time employees are not eligible to become  
38 members of the Maine State Retirement System as a result of their  
selection as trustees.

40 **Sec. 17. Special meeting; qualifications of voters of district.**

42 Special meetings of the district may be called by the board of  
trustees at any time, and notice of special meetings, stating the  
44 place and time of the special meeting and the business to be  
transacted, must be signed by the chair or the clerk of the board  
46 of trustees and provided to the public in accordance with the  
Maine Revised Statutes, Title 1, section 406, unless the meeting  
48 is for emergency purposes, in which case the notice must be  
posted as soon as possible. Any special meeting may be adjourned  
50 from time to time by vote of the qualified voters present, though  
less than a quorum, and without notice of the time

2 and place of the adjourned session, other than announcement at  
the meeting. Eleven persons qualified to vote in special  
4 meetings constitute a quorum. All meetings of the district must  
be presided over by a moderator chosen in the same manner and  
with the same authority as moderators of town meetings. All  
6 persons resident in the district and qualified to vote for  
Governor under the laws of this State are entitled to vote in any  
8 meeting of the district, including the meeting for acceptance of  
this Act. The trustees of the district determine who are legal  
10 voters at any meeting, and shall prepare a list of those voters  
at least 24 hours before every meeting. The list may be amended  
12 or corrected at any time before the meeting or during its  
progress. The vote upon any proposition at any meeting must be  
14 taken and checked by this list upon the demand of 10 legal voters.

16 **Sec. 18. Property tax exempt.** The property, both real and  
personal, rights and franchises of the district are forever  
18 exempt from taxation.

20 **Sec. 19. Authorized to borrow money, to issue bonds and notes.** The  
district may borrow money as follows.

22 **1. Temporary borrowing.** The district, by vote of its board  
24 of trustees, without district vote except as provided in this  
Act, is hereby authorized to borrow money temporarily and to  
26 issue for the money its negotiable notes for accomplishing the  
purposes of this Act, and for the purpose of renewing and  
28 refunding the indebtedness so created and of paying any necessary  
expenses and liabilities incurred under this Act, including  
30 organizational and other necessary expenses and liabilities  
incurred by the district.

32 **2. Long-term borrowing.** The district, by vote of its board  
34 of trustees, without district vote except as provided in this  
Act, is also authorized to issue, from time to time, bonds, notes  
36 or other evidences of indebtedness of the district in such amount  
or amounts, bearing interest at such rate or rates and having  
38 such terms and provisions as the trustees determine. The total  
indebtedness of the district at any one time outstanding may not  
40 exceed \$7,000,000. The bonds, notes and evidences of  
indebtedness may be issued to mature serially in annual  
42 installments of not less than 2% of the face amount of the issue  
and beginning no later than 3 years from the date of issuance, or  
44 made to run for such periods as the trustees determine, but no  
bond, note or evidences of indebtedness may run for a longer  
46 period than 40 years from the date of original issuance. If the  
trustees vote to authorize bonds or notes to pay for the  
48 acquisition of property, for the cost of new sewage plant  
construction or system or any part of a sewage plant or system,  
50 for renewals or additions or for other improvements in the nature

2 of capital costs in excess of \$150,000, notice of the proposed  
debt and of the general purpose or purposes for which it was  
4 authorized must be given by the clerk or secretary by publication  
at least once in a newspaper having general circulation in the  
6 Town of Ogunquit. No debt may be incurred under vote of the  
trustees until the expiration of 7 full days following the date  
8 on which notice was first published. Prior to the expiration of  
the period, the trustees may call a special district meeting for  
10 the purpose of permitting the voters of the district to express  
approval or disapproval of the amount of debt authorized. If,  
12 within 7 days following the publication of the notice, a petition  
signed by a number of voters equal to at least 5% of the total  
14 qualified voters, but in no case less than 50 voters, is filed  
with the clerk or the secretary of the district requesting that a  
16 special district meeting be called, then the trustees shall call  
such a special district meeting. If, at the district meeting, a  
18 majority of voters present, but in no case less than 10 voters,  
express disapproval of the debt authorized by the trustees, the  
20 debt may not be incurred and the vote of the trustees authorizing  
the debt is void.

22 **3. Bonds; notes; form redemption.** Bonds, notes or  
evidences of indebtedness may be issued with or without provision  
24 for calling them prior to maturity, at such a price or prices and  
under such terms and conditions as may be fixed by the board of  
26 trustees prior to the issuance of the bonds, and if callable may  
be made callable at par or at such premium as the trustees may  
28 determine. All bonds, notes or other evidences of indebtedness  
must have inscribed upon their face the words "Ogunquit Sewer  
30 District," must be signed by the treasurer and countersigned by  
the chair of the board of trustees of the district and, if coupon  
32 bonds are issued, the interest coupons attached must bear the  
facsimile of the signature of the treasurer. All such bonds,  
34 notes and evidences of indebtedness issued by the district are  
legal obligations of the district. The district may, from time  
36 to time, issue in one series or in separate series its bonds,  
notes and other evidences of indebtedness, for the purpose of  
38 paying, redeeming or refunding outstanding bonds, notes or  
evidences of indebtedness, and each authorized issue constitutes  
40 a separate loan.

42 **4. Legal investment; tax exemption.** All bonds, notes and  
other evidences of indebtedness issued by the district are legal  
44 investment for savings banks and other entities in the State as  
specified in the Maine Revised Statutes, Title 38, section 1201,  
46 and are tax exempt.

48 **5. Agreement with State and Federal Government.** The  
district is authorized and empowered to enter into agreements  
50 with the State or Federal Government to grant or loan money to or  
otherwise assist in the financing of projects such as the  
52 district is authorized to carry out, and to accept grants and

2 borrow money from any such government agency, corporation,  
commission or board as may be necessary or desirable to carry out  
4 the provisions of this Act.

6 **6. Sinking fund provided for.** If the bonds or notes are  
made to run for a period of years, a sinking fund must be  
8 established by the trustees of the district for the purpose of  
redeeming each issue of the bonds or notes when they become due  
10 and, beginning not later than the 3rd year following the date of  
each issue, a sum equal to no less than 2% of the original face  
12 amount of the bonds or notes issued on account of or in behalf of  
the district must be turned into the sinking fund each year to  
14 provide for the final extinguishment of the district funded debt.

16 The money set aside for a sinking fund and any increment on the  
sinking fund must be devoted to the retirement of the issue of  
18 notes and bonds and may be used for no other purpose, and must be  
invested in such securities as savings banks are allowed to hold,  
20 except that any surplus in a sinking fund not required for the  
retirement of a particular issue of notes or bonds may be  
22 transferred to a sinking fund established for any other issue of  
notes or bonds of the district at the time outstanding or, if  
24 there are no such outstanding notes or bonds, for any lawful  
purpose.

26 Whenever any bonds or notes of the district for which a sinking  
fund has been established become due, or can be purchased by the  
28 trustees on favorable terms, the trustees shall, if sufficient  
funds have accumulated in the sinking fund for the issue, redeem  
30 or purchase the bonds or notes, and cancel them. Bonds or notes  
canceled or redeemed may not be reissued.

32 If the amount in the sinking fund is not sufficient to pay the  
34 total amount of the bonds or notes falling due at any one time,  
authority to issue new bonds sufficient to redeem as many of the  
36 bonds or notes as cannot be redeemed from the sinking fund is  
granted to the trustees.

38 The district is further authorized, from time to time, to create  
40 sinking funds for the retirement of its obligations and to create  
and maintain reserves as may be required by resolution  
42 authorizing the issuance of bonds or notes.

44 **Sec. 20. Rates and tolls; application of revenues.** All persons,  
46 firms and corporations, whether public, private or municipal,  
shall pay to the treasurer of the district the rates, tolls,  
48 rents, entrance charges and other lawful charges established or  
revised by the trustees for the sewer service used or available  
with respect to their real estate. The rates must be fair and  
50 reasonable charges for connection with and for the use of the  
sewer service and may

2 include a charge for the district's readiness to serve, to be  
4 charged against owners of real estate abutting or accessible to  
6 the sewers of the district but not actually connected to the  
8 sewers of the district, whether or not that real estate is  
10 improved. In establishing or revising rates, tolls, rents or  
12 charges, the trustees may classify the property connected or to  
14 be connected with the district's sewerage system and may consider  
16 any factors relating to kind, quality or extent of use of any  
18 such property or classification of property including:

1. The volume of water discharge into the sewerage system;
2. The type and size of buildings connected with the system;
3. The number of plumbing fixtures connected with the system;
4. The number of persons customarily using the property served by the system;
5. In the case of commercial or industrial property, the average number of employees, customers and guests using the property; and
6. The quality and character of the material discharged into the sewerage system.

28 The trustees may establish minimum charges in connection  
30 with and for the use of its sewerage system. In this section,  
32 the words "other lawful charges" or "other charges" include but  
34 are not limited to interest on delinquent accounts at a rate not  
to exceed the highest lawful rate set by the Treasurer of State  
for municipal taxes.

36 Prior to the adoption of a new rate schedule, the trustees  
38 shall hold a public hearing regarding the proposed rate  
40 schedule. The trustees shall publish a notice of the hearing and  
42 the proposed rates at least one time in a newspaper having a  
general circulation in the district not less than 7 days prior to  
the hearing. The district shall mail to each ratepayer a notice  
of the public hearing and the proposed new rates at least 14 days  
prior to the hearing.

44 Rates, tolls, rents and entrance charges must be uniform  
46 whenever the cost to the district of service and of installation  
48 and maintenance of sewers and drains and their respective  
50 appurtenances is substantially uniform. Nothing in this Act  
52 precludes the district from establishing a rate, toll, rent or  
entrance charge higher than the regular one in sections where the  
cost to the district of construction and maintenance or of  
service exceeds the average cost. Higher rates, tolls, rents and  
entrance charges must be uniform throughout any section where  
they apply.

2 The sewer rates, tolls, rents and entrance charges are  
established to provide revenue for the following purposes:

4 1. To pay the current expenses for operating and  
maintaining the sewerage system;

6 2. To provide for the payment of principal and interest on  
8 the indebtedness created by the district;

10 3. To provide each year any sum required by the district to  
12 pay serial bonds or notes when due or to be placed in a sinking  
14 fund for repayment of any indebtedness. If any surplus remains  
at the end of the year, it may be placed in a sinking fund or  
held as a reserve to pay maturing serial debt or, if no funded  
debt of the district is outstanding, for any lawful purpose;

16 4. To provide funds for the costs of all repairs,  
18 replacements and renewals of the sewerage, drainage and treatment  
systems of the district; and

20 5. To pay any obligations that the district has incurred by  
22 law or contract, including any agreement or contract with the  
holders of its bonds and notes.

24 **Sec. 21. Assessment against lot benefited.** When the district has  
26 completed a common sewer, the trustees may determine, in order to  
defray a portion of the expense of a common sewer, the lots or  
28 parcels of land, whether or not buildings or other structures are  
located on those lots or parcels of land or whether or not they  
30 are otherwise improved, that are benefited by the sewer and shall  
estimate and assess upon those lots and parcels of land and  
32 against the owner of the lots and parcels of land or person in  
possession or against whom taxes are assessed, whether the person  
34 to whom the assessment is made is the owner, tenant, lessee or  
agent, or against the personal representative of the estate of a  
36 deceased owner or an heir of a deceased owner without designating  
any of them by name and whether that land is occupied or not, a  
38 sum not exceeding the benefit the trustees determine just and  
equitable toward defraying the expenses of constructing and  
40 completing the sewer, together with necessary sewage disposal  
units and appurtenances, the whole of those assessments not to  
42 exceed 1/2 of the cost of the sewer and sewage disposal units.  
The trustees shall file with the district a plan showing the  
44 location of the sewer and sewage disposal units, along with a  
statement of the amount assessed each lot or parcel of land, a  
46 description of each lot or parcel and the name of the person  
against whom the assessment is made. The district shall record  
48 the plan in a book kept for that purpose, and each person  
assessed must be notified of the assessment with a notice signed  
50 by the clerk of the district stating the time and place for a  
hearing on the assessments. A notice must be given to each

2 person assessed or left at the person's usual place of residence  
3 in the district at least 10 days before the hearing or mailed to  
4 each person assessed by certified mail, addressed to the person's  
5 last known address, and published once a week for 3 successive  
6 weeks in any newspaper of general circulation in the district.  
7 The mailing and the last publication must be made at least 30  
8 days before the hearing. A return receipt or production of the  
9 paper containing the notice or the certificate of the clerk of  
10 mailing or publication is conclusive evidence that notice has  
11 been given. At the time of the hearing, the trustees may revise,  
12 increase or decrease any assessments. Any revisions, increases  
13 or decreases must be in writing and recorded by the clerk of the  
14 district. Supplemental assessments may be made within 5 years  
15 from the date of any assessment whenever it appears that any lot  
16 or parcel of land benefited has been omitted from the assessment  
17 or that the assessment, or any part of the assessment, is invalid  
18 or void. The trustees may make the supplemental assessment  
19 according to the procedure and the principles of the original  
20 assessment and that supplemental assessment is valid even if,  
21 when added to the original, it exceeds 1/2 of the cost of the  
22 sewer and sewage disposal units.

23 **Sec. 22. Right of appeal.** Any person aggrieved by the decision  
24 of the trustees concerning an assessment for sewer construction  
25 has the same rights of appeal as provided for the laying out of  
26 town roads.

27 **Sec. 23. Assessments; lien; sheriff's sale.** All assessments and  
28 supplemental assessments made under section 21, together with  
29 interest and costs from the date of commitment to the treasurer  
30 of the district, create a lien upon each lot or parcel of land  
31 assessed and the buildings on that land. The lien takes effect  
32 when the trustees file the completed list of assessments with the  
33 district and continues for one year after filing or for one year  
34 after the termination of an appeal. Within 10 days after the  
35 date of hearing on the assessments, the clerk of the district  
36 shall make a list of all assessments, the amount of each and the  
37 name of the person assessed. The clerk shall certify the list  
38 and present it to the treasurer of the district for collection.  
39 If the assessments are not paid within 3 months from the date of  
40 the commitment, the treasurer may bring civil action for the  
41 collection of that assessment on behalf of the district against  
42 the person assessed and for enforcement of the lien. An action  
43 must begin by writ of attachment commanding the officer serving  
44 that writ to specially attach the real estate on which the lien  
45 is claimed and serve that writ as other writs of attachment to  
46 enforce liens on real estate. The declaration in the action must  
47 contain a statement of the assessment, a description of the real  
48 estate against which the assessment is made and an allegation  
49 that a lien is claimed on that real estate to secure the payment  
50 of the assessment. If service is not made upon

2 the defendant or if it appears that other persons are interested  
3 in the real estate, the court shall order further notice of the  
4 action and allow the other persons to become parties of the  
5 action. If it appears upon trial of the action that the  
6 assessment is legally made against the real estate, and is  
7 unpaid, and that there is an existing lien on that real estate  
8 for the payment of the assessment, judgment is rendered for the  
9 assessment, interest and costs of that action against the  
10 defendants and against the real estate upon which the assessment  
11 is made, and execution issued to be enforced by sale of that real  
12 estate in the manner provided for a sale on execution of real  
13 estate attached on original writs. In making the sale of that  
14 real estate, the officer shall follow the procedure in selling  
15 and conveying and the same rights of redemption provided in Title  
16 36, section 941 apply. Alternatively, the treasurer may use the  
17 lien certificate procedures of section 26.

18 **Sec. 24. Civil action for unpaid assessments.** If assessments  
19 under section 21 are not paid and the district does not collect  
20 or is delayed in collecting the unpaid assessments by the  
21 procedures under section 26, then the treasurer, on behalf of the  
22 district, may maintain a civil action in any court of competent  
23 jurisdiction against the party so assessed for the amount of the  
24 assessment with interest charges at the rate established annually  
25 for unpaid municipal taxes set by the State and costs, including  
26 reasonable attorney's fees.

28 **Sec. 25. Assessments paid by other than owner; recovery.** When an  
29 assessment under section 21 is paid by a person against whom that  
30 assessment has been made who is not the owner of the lot or  
31 parcel of land, then the person paying the assessment has a lien  
32 on that lot or parcel of land and buildings located on the land  
33 for the amount of the assessment and incidental charges. The  
34 lien continues for one year and may be enforced in a civil action  
35 under Title 10, chapter 603.

36 **Sec. 26. Collection of unpaid assessments; lien certificate;  
38 procedure.** Liens on lots or parcels of land created by section  
39 23, together with interest and costs, in addition to other  
40 methods established by law may be enforced as set out in this  
41 section. For the purposes of this section, a "mobile home" is  
42 considered real estate.

44 After the expiration of 3 months and within one year after  
45 the date of the assessment, including supplemental assessments,  
46 or termination of an appeal, the treasurer may give to the person  
47 against whom the assessment is made, leave at the person's last  
48 and usual place of residence or send by certified mail to the  
49 person's last known address a notice in writing signed by the  
50 treasurer stating the amount of the assessment, describing the  
real estate on which the assessment is made, alleging that a lien



2 is claimed on the real estate to secure the payment of the  
assessment and demanding the payment of the assessment within 10  
4 days after service or mailing, together with the sum of \$1 for  
the treasurer for mailing the notice and the certified mailing  
6 return receipt requested fee. If an owner or occupant of real  
estate against whom an assessment is made dies before demand is  
8 made, the demand may be made upon the personal representative of  
that person's estate or upon any heirs or devisees.

10 After the expiration of the 10-day period and within 30  
12 days, the treasurer shall record in the York County Registry of  
Deeds, a lien certificate signed by the treasurer setting forth  
14 the amount of the assessment, a description of the real estate on  
which the assessment is made and an allegation that a lien is  
16 claimed on the real estate to secure the payment of the  
assessment, together with interest and costs; that a demand for  
18 payment of the assessment has been made in accordance with this  
section; and that the assessment remains unpaid. When the real  
20 estate of a deceased person has been assessed to the deceased's  
heirs or devisees without designating any of them by name, it is  
22 sufficient to record in the registry of deeds a lien certificate  
in the name of the heirs or the devisees of the decedent without  
24 designating them by name or in the name of the personal  
representative of the estate.

26 At the time of the recording of the lien certificate in the  
York County Registry of Deeds as provided in all cases, the  
28 treasurer shall file in the office of the district a true copy of  
the lien certificate and shall send by certified mail to each  
30 mortgagor at that mortgagor's last known address a true copy of  
the lien certificate.

32 The costs to be paid by the person assessed are the costs  
34 authorized by Title 33, section 751, subsection 1. The costs  
authorized in this section and interest accruals must be paid by  
36 the person assessed at the time of payment or redemption of the  
lien. Interest charged on delinquent assessments must be at the  
38 highest lawful rate set by the Treasurer of State for municipal  
taxes.

40 The filing of the lien certificate in the registry of deeds  
42 creates a mortgage on the real estate to the district and has  
priority over all other mortgages, liens, attachments and  
44 encumbrances, except claims for municipal taxes, and gives to the  
district all rights usually incident to a mortgagee, except that  
46 the district does not have right of possession of that real  
estate until the right of redemption has expired.

48 If the mortgage, together with interest and costs, is not  
50 paid within 18 months after the date of the filing of the lien  
certificate in the registry of deeds, the mortgage is deemed to  
52 be foreclosed and the right of redemption to have expired. The

2 filing of the lien certificate in the registry of deeds is  
3 sufficient notice of the existence of the mortgage created by  
4 this section. If the assessment, together with accrued interest  
5 and costs, is paid within the period of redemption, the treasurer  
6 shall discharge the mortgage in the same manner provided for the  
7 discharge of real estate mortgages. The fees for recording of  
8 the discharge borne by the ratepayer or person redeeming the  
9 mortgage.

10 The true copy of the lien certificate on file in the  
11 district or an attested copy of the registry record is prima  
12 facie evidence in all courts in all proceedings by and against  
13 the district, its successors and assigns, of the truth of the  
14 statements in the certificate and, after the period of redemption  
15 has expired, of the title to the real estate described in the  
16 certificate and of the regularity and validity of all proceedings  
17 with reference to the acquisition of title by the mortgagor and  
18 the foreclosure of the mortgage.

20 **Sec. 27. Collection of unpaid rates, lien certificates.** There is a  
21 lien on real estate served or benefited by the sewers of the  
22 district to secure the payment of rates established and due under  
23 section 20, which takes precedence over all other claims on the  
24 real estate, except claims for municipal real estate taxes.

26 The treasurer of the district has full and complete  
27 authority and power to collect the rates, tolls, rents and other  
28 charges established under section 20 and due and payable to the  
29 district and committed to the treasurer. The treasurer shall  
30 mail bills for rates, tolls, rents and other charges committed to  
31 the treasurer to the owner of the real estate or tenant in  
32 possession between January 1st and January 15th of each year, for  
33 the ensuing year and all rates, tolls, rents and other charges  
34 are due and payable on the 180th day after the mailing. Interest  
35 accrues on unpaid rates, tolls, rents and other charges  
36 commencing on the expiration of the 180-day period and the rate  
37 of interest is at the prevailing rate set annually by the  
38 Treasurer of State for municipal taxes. The trustees may  
39 determine annually to allow a discount for rates, tolls and rents  
40 if paid in advance of the due date.

42 After demand for payment, the treasurer may sue in any court  
43 of competent jurisdiction on behalf of the district in any civil  
44 action for any rate, toll, rent or other charge remaining  
45 unpaid. In addition to other methods established by law for the  
46 collection of rates, tolls, rents and other charges and without  
47 waiver of the right to sue, the lien created by this section may  
48 be enforced as set out in this section.

50 The treasurer, when a rate, toll, rent or other charge has  
been committed to the treasurer for collection, after the

2 expiration of 3 months and within one year after the date that  
3 the rate, toll, rent or other charge became due and payable, may  
4 give to the owner of the real estate served, or tenant in  
5 possession, or leave at the owner's last known address, or send  
6 by certified mail, return receipt requested, to the owner's last  
7 known address, a notice in writing signed by the treasurer or  
8 bearing the treasurer's facsimile signature, stating the amount  
9 of that rate, toll, rent or other charge, describing the real  
10 estate upon which the lien is claimed and stating that a lien is  
11 claimed on the real estate to secure the payment of the rate,  
12 toll, rent or other charge and demanding the payment of the rate,  
13 toll, rent or other charge within 30 days after service or  
14 mailing, with \$1 for the treasurer for mailing the notice,  
15 together with the certified mail, return receipt requested, fee.  
16 For the purposes of this section, a "mobile home" is defined as  
real estate.

18 After the expiration of 30 days and within one year after  
19 the 30 days, the treasurer shall record in the York County  
20 Registry of Deeds a certificate signed by the treasurer setting  
21 forth the amount of the rate, toll, rent or other charge,  
22 describing the real estate on which the lien is claimed and  
23 stating that a lien is claimed on the real estate to secure  
24 payment of the rate, toll, rent or other charge and that a notice  
25 and demand for payment has been given or made in accordance with  
26 this section and stating that the rate, toll, rent or other  
27 charge remains unpaid. At the time of the recording of that  
28 certificate in the registry of deeds, the treasurer shall file in  
29 the office of the district a true copy of the certificate and  
30 mail a true copy of the certificate by certified mail, return  
31 receipt requested, to each holder of record of any mortgage on  
32 the real estate, addressed to the holder of record or tenant in  
33 possession at the last known address.

34 The filing of the certificate in the registry of deeds is  
35 deemed to create a mortgage on the real estate described in the  
36 certificate to the district that has priority over all other  
37 mortgages, liens, attachments and encumbrances of any nature,  
38 except claims for municipal taxes, and gives the district all the  
39 rights usually possessed by mortgagees, except that the district  
40 as mortgagee does not have the right to possession of that real  
41 estate until the period for the right of redemption has expired.  
42 If the mortgage, together with interest and costs, has not been  
43 paid within 18 months after the date of filing of the certificate  
44 in the registry of deeds, the mortgage is deemed to be foreclosed  
45 and the right of redemption to have expired. The filing of the  
46 certificate in the registry of deeds is sufficient notice of the  
47 existence of the mortgage. If the rate, toll, rent or other  
48 charge, with interest and costs, is paid within the period of  
49 redemption, the treasurer of the district shall discharge the  
50 mortgage in the same manner as provided for discharge of real  
51 estate mortgages. The fees for recording of  
52

2 the discharge are borne by the ratepayer or person redeeming the  
mortgage.

4 The costs to be paid by the owner of the real estate served  
are the sum of the fees for receiving, recording and indexing the  
6 lien or its discharge, as established by Title 33, section 751,  
subsection 1, plus \$13 and all certified mail, return receipt  
8 requested, fees.

10 The district shall pay the treasurer \$1 for the notice, \$1  
for filing the lien certificate and the amount paid for certified  
12 mail, return receipt requested. The fees for recording the lien  
certificate are paid by the district to the register of deeds.  
14 The true copy of the lien certificate on file in the district or  
an attested copy of the registry record of the certificate is  
16 prima facie evidence in all courts in all proceedings by and  
against the district, its successors and assigns, of the truth of  
18 the statements on the certificate and, after the period of  
redemption has expired, of the title of the district to the real  
20 estate described, on the certificate and of the regularity and  
validity of all proceedings with reference to the acquisition of  
22 title by the mortgagor and the foreclosure of the mortgage.

24 **Sec. 28. Construction; bylaws and regulations authorized; incidental  
powers and rights; severability.** This Act is construed to authorize  
26 a charge by the district for the use of sewers, sewer systems and  
treatment works in addition to any other assessments imposed by  
28 law. The trustees may adopt rules and regulations necessary or  
convenient to carry out this Act. All incidental powers, rights  
30 and privileges necessary to the accomplishment of this Act are  
granted to the district, including the right of the trustees to  
32 determine when and where sewerage facilities are most needed and  
the type and timeliness of construction.

34 The provisions of this Act are severable and if any phrase,  
36 clause, sentence or provision of this Act, or the application of  
any provision to any person or circumstance is held invalid, the  
38 remainder of the Act and the application of the Act to other  
persons or circumstances are not affected.

40 **Sec. 29. P&SL 1963, c. 87, as amended by PL 1991, c. 22, §§1  
42 and 2, is repealed.**

#### 44 **STATEMENT OF FACT**

46 This bill repeals the older charter of the Ogunquit Sewer  
48 District and replaces that charter. The bill rearranges and  
combines sections of the original charter and corrects archaic  
50 language.