

MAINE STATE LEGISLATURE

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MAJORITY
UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1592, L.D. 2221, Bill, "An Act to Dissolve the Ogunquit Sewer District and Establish a Sewerage Department"

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the Charter of the Ogunquit Sewer District'

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, local disputes involving the Ogunquit Sewer District require immediate resolution; and

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

COMMITTEE AMENDMENT

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

4 **Sec. 1. P&SL 1963, c. 87, §14-A** is enacted to read:

6 **Sec. 14-A. Recall.** Trustees of the district may be recalled
in accordance with the following provisions.

8
10 **1. Petition.** The qualified electors of the district may
petition for the recall of any trustee after the first year of
the term for which the trustee is elected by filing a petition
with the municipal clerk of the Town of Ogunquit, demanding the
recall of the trustee. A trustee may be subject to recall for
misfeasance, malfeasance or nonfeasance in office. The petition
must be signed by a number of electors of the district equal to
at least 25% of the vote cast for the office of Governor at the
last gubernatorial election within the Town of Ogunquit. The
recall petition must state the reason for which removal is sought.

20 **2. Calling a special election.** Within 3 days after the
petition is offered for filing, the municipal clerk of the Town
of Ogunquit shall determine by careful examination whether the
petition is sufficient and so state in a certificate attached to
the petition. If the petition is found to be insufficient, the
certificate must state the particulars creating the
insufficiency. The petition may be amended to correct any
insufficiency within 5 days following the affixing of the
original certificate. Within 2 days after the offering of the
amended petition for filing, the petition must again be carefully
examined to determine sufficiency and a certificate stating the
findings must be attached. Immediately upon finding an original
or amended petition sufficient, the municipal clerk of the Town
of Ogunquit shall file the petition and call a special election
within the district to be held in accordance with applicable
provisions of section 14 not less than 40 days nor more than 45
days from the filing date. The municipal clerk of the Town of
Ogunquit shall notify the trustee, against whom the recall
petition is filed, of the special election.

40 **3. Candidates.** The trustee against whom the recall
petition is filed is a candidate at the special election without
nomination, unless the trustee resigns within 10 days after the
original filing of the petition. A primary may not be held.
Candidates for the office may be nominated in accordance with
applicable procedures established under section 14 by filing
nomination papers with the clerk of the Town of Ogunquit, not
later than 5 p.m., 14 days preceding the election and have their
names placed on the ballot at the special election.

2 4. Election. The trustee against whom a recall petition
has been filed shall continue to perform the duties of the office
4 until the result of the special election is officially declared.
The ballot for the special election must contain the names of all
qualified candidates and include the following heading:

6 "Recall Election for Trustee of the Ogunquit Sewer District

8 Vote for one by placing a cross or check mark
10 beside the name of the person for whom you are voting"

12 The person receiving the highest number of votes at the special
14 election is elected for the remainder of the term. If the
incumbent receives the highest number of votes, the incumbent
continues in office. If another person receives the highest
16 number of votes, that person succeeds the incumbent, if
qualified, within 10 days after receiving notification.

18 5. Further recalls prohibited. After one recall petition
20 and special election, a further recall petition may not be filed
against the same trustee during the term for which that trustee
22 was elected.

24 Sec. 2. P&SL 1963, c. 87, §15 is repealed and the following
enacted in its place:

26 Sec. 15. Special meeting; qualifications of voters of district.
28 Special meetings of the district may be called by the board of
trustees at any time and notice of those special meetings stating
30 the place and time of the special meeting and the business to be
transacted must be signed by the chair or clerk of the board of
32 trustees and must be conspicuously posted in at least 2 public
places within the district, not less than 7 days inclusive of
34 Sundays, before the meeting. Any such meeting may be adjourned
from time to time by vote of the qualified voters present at the
36 meeting, though less than a quorum, and without notice of the
time and place of the adjourned session, other than announcement
38 at the meeting. Eleven persons qualified to vote in the meetings
constitute a quorum. All special meetings of the district are
40 presided over by a moderator chosen in the same manner and having
the same authority as moderators of town meetings. All persons
42 resident in the district and qualified to vote for Governor under
the laws of this State are entitled to vote in any special
44 meeting of the district. The registrar of voters of the Town of
Ogunquit shall furnish a current list of qualified voters to the
46 trustees by which the trustees shall determine the qualified
voters for purposes of the special meeting.

2 On the written petition of at least 50 qualified voters of
3 the Ogunquit Sewer District, the trustees shall call a special
4 meeting. If the trustees fail to call a special meeting, it may
5 be called by the municipal officers. The written petition must
6 state the purposes, time and place of the special meeting and, in
7 distinct articles, the business to be acted upon at the meeting.
8 Other business may not be acted upon at the special meeting. The
9 special meeting must be noticed as provided in this section. At
10 any special meeting, the qualified voters of the district are
11 entitled to vote. The results of the vote are nonbinding on the
12 trustees but the trustees shall consider the results of the vote
13 to be the will of voters of the district.

14 **Emergency clause.** In view of the emergency cited in the
15 preamble, this Act takes effect when approved.'

16
17 Further amend the bill by inserting at the end before the
18 summary the following:

20
21 **FISCAL NOTE**

22
23 This bill requires the Ogunquit Sewer District to hold a
24 special meeting upon written petition of 50 qualified voters.
25 The additional costs of this state mandate are minor. Pursuant
26 to the Mandate Preamble, the two-thirds vote of all members
27 elected to each House exempts the State from the constitutional
28 requirement to fund 90% of the additional local costs.'

30
31 **SUMMARY**

32
33 This amendment, which is the majority report of the Joint
34 Standing Committee on Utilities and Energy, replaces the bill.
35 This amendment provides a mechanism for the recall by special
36 election of trustees of the Ogunquit Sewer District for
37 misfeasance, malfeasance or nonfeasance in office. This
38 amendment also provides that the voters of the district may
39 petition to have the trustees hold a special meeting. The voters
40 of the district at the special meeting may hold a vote during the
41 special meeting, but the result of the vote is not binding on the
42 trustees of the district.

44 This amendment also adds a fiscal note to the bill.