

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1797

S.P. 632

In Senate, March 9, 1999

An Act to Amend the Charter of the Waterville Sewerage District.

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CAREY of Kennebec.

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

2
4 **Sec. 1. P&SL 1949, c. 211, §3, sub-§1, ¶B, sub-¶(2),** as enacted by PL 1985, c. 99, §2, is amended to read:

6 (2) By certified mail, return receipt requested, to
8 his the last known address.

10 **Sec. 2. P&SL 1949, c. 211, §3, sub-§3,** as enacted by PL 1985, c. 99, §2, is amended by amending the first paragraph to read:

12 **3. Hearing.** The commissioners shall hold a public hearing
14 on the advisability of the proposed exercise of the right of
16 eminent domain. Notice of the hearing shall must be made by
18 publication in the ~~Central-Maine-Morning-Sentinel~~ local newspaper
and shall must be given once a week for 2 consecutive weeks, the
last publication to be at least 2 weeks prior to the time
appointed in the hearing. The hearing notice shall must include:

20 **Sec. 3. P&SL 1949, c. 211, §5-D, first ¶,** as repealed and replaced
22 by P&SL 1987, c. 22, §2, is amended to read:

24 **Sec. 5-D. Assessment against lot benefited.** When the
26 district has constructed and completed a public drain or common
28 sewer, the commissioners shall determine what lots or parcels of
30 land are benefited by such drain or sewer, and shall estimate and
32 assess upon such lots and parcels of land, and against the owner
34 thereof of the lots or parcels of land, or person in possession,
36 whether the person to whom the assessment is so made shall-~~be~~ is
38 the owner, tenant, lessee or agent or against the heirs or
40 devisees of a deceased owner without designating any of them by
42 name, and whether the same is occupied or not, such sum not
44 exceeding the benefit as they may ~~deem~~ determine just and
46 equitable towards defraying the expenses of constructing and
48 completing the drain or sewer, together with sewage disposal
units and appurtenances as may be necessary, the whole of the
assessments not to exceed 2/3 of the cost of the drain or sewer
and sewage disposal units. The commissioners shall file with the
clerk of the district a plan showing the location of the drain or
sewer and sewage disposal units, and their assessment roll
containing a statement of the amount assessed upon each lot or
parcel of land so assessed, a description of each lot or parcel,
and the name of the person against whom the assessment is made,
and the clerk of the district shall record the same in a book
kept for that purpose, and each person so assessed shall must be
notified of the assessment by having an authentic copy of the
assessment roll, with an order of notice signed by the clerk of
the district, stating the time and place for a hearing upon the
subject matter of the assessments, given to each person so

2 assessed or left at ~~his~~ the person's usual place of abode at
least 10 days before the hearing, or by mailing the same to each
4 person so assessed by ~~registered~~ certified mail addressed to ~~his~~
the person's last known address and by publishing the same once
6 in any newspaper published in the district, the mailing and
publication to be at least 10 days before the hearing; a return
8 made upon a copy of such notice by a sheriff or ~~his~~ a deputy or
the production of the paper containing the notice or the
10 certificate of the clerk of mailing and publication ~~shall-be~~ is
conclusive evidence that the notice has been given and upon that
12 hearing, the commissioners ~~shall~~ have power to revise, increase
or diminish any of the assessments, and any revision, increase or
14 diminution ~~shall~~ must be in writing and recorded by the clerk.

16 **Sec. 4. P&SL 1949, c. 211, §§5-F and 5-G, as repealed and
replaced by P&SL 1987, c. 22, §4, are amended to read:**

18 **Sec. 5-F. Assessments; liens; sheriff's sale.** All
assessments and supplemental assessments made under the
20 provisions of section 5-D ~~shall~~ create a lien upon each and every
lot or parcel of land so assessed and the buildings upon the
22 same, which lien ~~shall-take~~ takes effect when the commissioners
file with the clerk the assessment roll and ~~shall--continue~~
24 continues one year thereafter or for one year after the
termination of any appeal; and, within 10 days after the date of
26 hearing on the assessment, the clerk shall make out a list of all
the assessments, the amount of each, and the name of the person
28 against whom the same is assessed, and he shall certify the list
and deliver it to the treasurer of the district; if the
30 assessments are not paid within 3 months from the date ~~thereof~~ of
the assessment, the treasurer may bring an action of debt for the
32 collection of the assessment in the name of the district against
the person against whom the assessment is made or the owner of
34 the real estate. The action ~~shall-be-begun~~ must begin by writ of
attachment commanding the officer serving it to specially attach
36 the real estate upon which the lien is claimed, which ~~shall~~ must
be served as other writs of attachment to enforce liens on real
38 estate. The declaration in the action ~~shall~~ must contain a
statement of the assessment, a description of the real estate
40 against which the assessment is made, and an allegation that a
lien is claimed on the real estate to secure the payment of the
42 assessment. If ~~no~~ service is not made upon the defendant or if
it ~~shall-appear~~ appears that any other persons are interested in
44 the real estate, the court shall order such further notice of the
action as appears proper, and shall allow the other persons to
46 become parties ~~thereto~~ to the action. If it ~~shall-appear~~ appears
upon trial of the action that the assessment was legally made
48 against the real estate, and is unpaid, and that there is an
existing lien on the real estate for the payment of the
50 assessment, judgment ~~shall~~ must be rendered for the assessment,

2 interest and costs of suit against the defendants and against the
3 real estate upon which the assessment was made, and execution
4 issued ~~thereon~~ to be enforced by sale of the real estate in the
5 manner provided for a sale or execution of real estate attached
6 on original writs. ~~Provided that in~~ In making the sale, the
7 officer shall follow the procedure in selling and conveying and
8 there shall must be the same rights of redemption as are provided
9 in the Maine Revised Statutes ~~of 1944, chapter 81, section 94,~~
10 Title 36, section 943.

11 **Sec. 5-G. Additional method of collection of assessments.**

12 If assessments under the provisions of section 5-D are not paid,
13 and the district does not proceed to collect the assessments by a
14 sheriff's sale of the real estate upon which the assessments are
15 made under section 5-F, or does not collect or is in any manner
16 delayed or defeated in collecting the assessments by a sheriff's
17 sale of the real estate under section 5-F, then the district, in
18 the name of the district, may maintain an action against the
19 party so assessed for the amount of the assessment, or the owner
20 of the real estate as for money paid, laid out and expended, in
21 any court competent to try the same, and in the suit may recover
22 the amount of the assessment with 10% interest on the same from
23 the date of the assessments and costs.

24 **Sec. 5. P&SL 1949, c. 211, §5-I, 2nd, 3rd, 4th, 5th and 8th ¶¶,** as
25 enacted by P&SL 1987, c. 22, §6, are amended to read:

26 The treasurer may, after the expiration of 8 3 months and
27 within one year after the date of the assessment roll or
28 termination of any appeal, give to the person against whom the
29 assessment is made, or leave at his the person's last and usual
30 place of abode, or send by registered certified mail to his the
31 person's last known address, a notice in writing signed by the
32 treasurer stating the amount of the assessment, describing the
33 real estate on which the assessment is made, alleging that a lien
34 is claimed on the real estate to secure the payment of the
35 assessment and demanding the payment of the assessment within 10
36 days after service or mailing of the notice. In the case of
37 supplemental assessments, the treasurer may give the notice after
38 the expiration of 8 3 months and within one year after the date
39 of the supplemental assessment roll or termination of any appeal
40 ~~therefrom~~ from the supplemental assessment roll. If an owner or
41 occupant of real estate against whom any assessment is made shall
42 die dies before the demand is made ~~on him~~, the demand may be made
43 upon the executor or administrator of his the person's estate or
44 upon any of his the person's heirs or devisees.

45 After the expiration of the 10 days and within 10 days
46 thereafter, the treasurer shall record in the registry of deeds
47 of the county where the real estate is situated, a tax lien
48
49
50

2 certificate signed by the treasurer setting forth the amount of
the assessment, a description of the real estate on which the
4 assessment is made and allegation that a lien is claimed on the
real estate to secure the payment of the assessment, that a
6 demand for payment of the assessment has been made in accordance
with the provisions of this section, and that the assessment
8 remains unpaid. When the real estate of a deceased person has
been assessed to ~~his~~ the person's heirs or devisees without
10 designating any of them by name it ~~will--be~~ is sufficient to
record in the registry a lien certificate in the name of the
12 heirs or the devisees of the decedent without designating them by
name.

14 At the time of the recording of the lien certificate in the
registry of deeds as provided in this section, in all cases the
16 treasurer shall file in the office of the district a true copy of
the lien certificate and shall send by ~~registered~~ certified mail
18 to each record holder of a mortgage on the real estate, to ~~his~~
the person's last known address, a true copy of the lien
20 certificate.

22 The costs to be paid by the person assessed shall ~~be--\$3~~ is
\$25 plus the recording fees and ~~registered~~ certified mail fees
24 paid for sending the true copies of the lien certificate.

26 In the event that the assessment, interest and costs shall
be are paid within 12 months after the filing of the lien
28 certificate in the registry of deeds, the treasurer shall prepare
and record a discharge of the mortgage in the same manner as is
30 now provided for the discharge of real estate mortgages. All
costs for preparation and recording of the discharge must be paid
32 by the person assessed or the owner of the real estate.

34 **Sec. 6. P&SL 1949, c. 211, §6,** as amended by P&SL 1953, c. 92,
§4, is further amended to read:

36 **Sec. 6. Sanitary provisions and penalty for violation.** Any
38 A person who violates the provisions of this section or sections
6-A and 6-B, or who shall ~~--place~~ places or ~~discharge--any~~
40 discharges offensive or injurious matter or material on or into
the conduits, catch-basins or receptacles of ~~said~~ the district
42 contrary to its regulations, or shall wilfully ~~injure--any~~ injures
a conduit, pipe, reservoir, flush tank, catch-basin, inlet,
44 manhole, outlet, engine, pump or other property held, owned or
used by ~~said~~ the district for the purposes of this act, shall ~~be~~
46 is liable to pay twice the amount of the damages to ~~said~~ the
district, to be recovered in any a proper action; and ~~such~~ the
48 person, on conviction of either of ~~said~~ the acts of willful
injury ~~aforesaid,~~ shall must be punished by a fine not exceeding

2 \$200 ~~\$1,000~~ or by imprisonment not exceeding 6 months or by both
such ~~fine and imprisonment~~.

4 **Sec. 7. P&SL 1949, c. 211, §6-B,** as repealed and replaced by PL
1985, c. 99, §5, is amended to read:

6 **Sec. 6-B. Buildings to connect with sewer if available.**

8 Every building in the district intended for human habitation or
occupancy on premises abutting on a street in which there is a
10 public sewer or any such building within 200 ~~200~~ 300 feet of a public
sewer shall must have a house drainage system ~~which shall be~~
12 ~~caused to be~~ that is connected with the sewer by the owner or
agent of the premises in the most direct manner possible and, if
14 feasible, with a separate connection for each house or building,
except that existing buildings served by a private sewer system
16 when the public sewer becomes available, are not required to
connect with any sewer or drain of the district as long as the
18 private sewer or drainage system functions in a satisfactory and
sanitary manner and does not violate any law or applicable
20 ordinance or any applicable requirement of the State of Maine
Plumbing Code, as determined by the municipal plumbing inspector;
22 ~~his the plumbing inspector's~~ alternate; or, in the event that
both are trustees or employees of the district, the Division of
24 Health Engineering.

26 **Sec. 8. P&SL 1949, c. 211, §7, first ¶,** as amended by P&SL 1967, c.
41 and P&SL 1985, c. 99, §6, is repealed and the following
28 enacted in its place:

30 **Sec. 7. Management.** All affairs of the district are
32 managed by a board of 5 commissioners, resident of the district,
who are appointed by the mayor of the City of Waterville, with
the approval of a majority of the city council. In the first
34 appointment of commissioners under this section, one must be
selected for a term of one year, one for 2 years, one for 3
36 years, one for 4 years and one for 5 years. Two of the
commissioners must be appointed from the minority political
38 party. All subsequent appointments must be made as to continue 2
commissioners from the minority party. At the expiration of the
40 term of each member, a new member, or the existing member, of the
board must be appointed by the mayor, with the approval of a
42 majority of the city council, for a term of 5 years. In case of
a vacancy arising from death or other cause, the mayor may
44 appoint, with the approval of a majority of the city council, a
new member to fill out the unexpired term. The term of a
46 commissioner continues until a successor is appointed and
qualified. As soon as convenient after the first members of the
48 board have been appointed, they shall hold a meeting at the city
rooms in the City of Waterville and organize by the election from
50 the members of a chair, clerk and treasurer, who shall furnish

2 bond in such form as the commissioners may fix, and by the
3 election of such other officers and agents as they determine
4 necessary, which other officers and agents shall serve at the
5 pleasure of the commissioners. In prosecuting the work
6 contemplated by this Act, the commissioners may engage the
7 services of engineers and laborers and may purchase all necessary
8 material and supplies, and construct the drains and sewers under
9 their own supervision, or they may, if they determine it
10 advantageous, contract with some responsible person, firm or
11 corporation for the construction of the drains and sewers, but
12 the district may not be released from liability, by reason of
13 having contracted with any person, firm or corporation, as
14 provided in this section for the construction of any sewer, drain
15 or other structure. They shall also adopt a corporate seal and
16 all bylaws and regulations necessary. The commissioners shall
17 meet monthly and have special meetings as necessary. They shall
18 publish an annual report. A person, while a commissioner of the
19 district, may not be interested, either directly or indirectly,
20 in any contract or agreement for the construction of any sewer,
21 drain or other structure in the district entered into by the
22 district. This provision does not prevent the district from
23 entering upon or taking land or any easement on the land of any
24 officer of the district while an officer, and awarding damages
25 for the taking of land if, in the opinion of the commissioners,
26 the entering or taking is necessary for the purposes of the
27 district.

28 **Sec. 9. P&SL 1949, c. 211, §7, 2nd ¶**, as enacted by PL 1985, c.
29 99, §7, is amended to read:

30
31 The commissioners shall receive compensation as recommended
32 by them and approved by a majority vote of the municipal officers
33 in the City of Waterville, including compensation for any duties
34 they perform as officers as well as for their duties as
35 commissioners. Certification thereof shall must be recorded with
36 the Secretary of State and recorded in the bylaws. Their
37 compensation for duties as commissioners shall must be on the
38 basis of ~~such~~ the specified amount as may be specified in the
39 bylaws for each meeting actually attended and reimbursement for
40 travel and expenses, with the total not to exceed ~~such~~ the
41 specific amount as may be specified in the bylaws. The
42 compensation schedule in effect on January 1, 1982 ~~1999~~, \$15 ~~\$20~~
43 for each regular or special meeting attended, with total annual
44 compensation not to exceed \$300 ~~\$500~~, shall ~~continue~~ continues in
45 effect until changed.

46 **Sec. 10. P&SL 1949, c. 211, §8, 2nd ¶** is amended to read:

47
48 All bonds or notes issued by ~~said~~ the district shall must
49 bear the district seal, and shall must be signed by the treasurer
50

2 and countersigned by the chairman chair of the commissioners of
said the district, and if coupon bonds be are issued, each coupon
4 shall must bear the facsimile signature of the treasurer.

6 **Sec. 11. P&SL 1949, c. 211, §9, 2nd ¶** is amended to read:

8 The money set aside for the sinking fund shall must be
devoted to the retirement of said the notes and bonds, and shall
10 may not be used for no any other purposes, and shall must be
invested in such securities as savings banks are allowed to hold.

12 **Sec. 12. P&SL 1949, c. 211, §10, 2nd ¶**, as enacted by P&SL 1987,
c. 22, §7, is amended to read:

14 The rates may include a readiness-to-serve charge against
16 owners or persons in possession, or against whom taxes are
assessed, of all buildings or premises intended for human
18 habitation or occupancy which that are accessible to sewers or
drains of the district, but not actually connected to them,
20 whether or not the buildings or premises are occupied. A
building or premises shall--be--deemed--to--be are considered
22 accessible to a sewer or drain of the district for purposes of
this section if the building or premises, or any private sewer or
24 drain directly or indirectly connected to it them or carrying
waste water or commercial or industrial waste from it them, comes
26 at any point within 100 300 feet of a sewer or drain of the
district, provided that the owner of the building is not required
28 to acquire any real property or easement in real property for the
sole purpose of making the connection.

30 **Sec. 13. P&SL 1949, c. 211, §10-A, 2nd ¶**, as repealed and
32 replaced by P&SL 1953, c. 92, §10, is amended to read:

34 The treasurer of the district shall--have has the authority
and power to collect the rates, and he is empowered to exercise
36 the authority hereinafter--set--forth pursuant to this section in
enforcing the collection of any rates due and payable to the
38 district.

40 **Sec. 14. P&SL 1949, c. 211, §10-A, 3rd ¶**, as amended by P&SL
1965, c. 98, §4, is further amended to read:

42 In addition to other methods previously established by law
44 for the collection of the rates, the lien herein created by this
section may be enforced in the following manner. Whenever--any
46 When a rate has become becomes payable within 18 months preceding
the first day of January of any year and remains unpaid, the
48 treasurer may, during the month of January, give to the person
against whom the rate is assessed or real estate owner or leave
50 at his the last and usual place of abode, or send by registered

2 certified mail to his the last known address a notice in writing
signed by said the treasurer stating the amount of such the
4 rates, and the periods or charges for which payable, describing
the real estate upon which the lien is claimed, alleging that a
6 lien is claimed on the real estate to secure the payment of the
rates and demanding the payment of the rates within 10 days after
the service of such the notice or mailing of such the notice. If
8 the person from whom any rate is payable shall ~~die~~ dies before
such the demand is made ~~on him~~, such the demand may be made upon
10 the executor or administrator of his the estate or upon any of
his the heirs or devisees of the person. After the expiration of
12 the 10 days and on or before February 20 of such year, the
treasurer shall record in the registry of deeds of Kennebec
14 county County a certificate signed by said the treasurer setting
forth the amount of such the rates and the periods or charges for
16 which payable, a description of the real estate on which the lien
is claimed and an allegation that a lien is claimed on the real
18 estate to secure the payment of the rates, that a demand for
payment of the rates has been made in accordance with the
20 provisions of this section and that the rates remain unpaid. At
the time of the recording of the certificate in the registry of
22 deeds as herein provided in this section, in all cases such the
treasurer shall file in the office of the district a true copy of
24 the certificate and also at the time of recording as ~~aforsaid~~,
the officer shall mail by registered certified letter to each
26 record holder of a mortgage on said that real estate, addressed
to ~~him--at--his~~ the last known address, a true copy of the
28 certificate. The fee to be charged to the ratepayer for such the
notice and filing ~~shall be \$3~~ is \$25 plus the recording fees and
30 registered certified mail fees paid for sending the true copies
of the lien certificate.

32
34 **Sec. 15. P&SL 1949, c. 211, §10-A, last ¶**, as repealed and
replaced by P&SL 1953, c. 92, §10, is amended to read:

36 ~~In the event that~~ If the rate, interest and costs shall ~~be~~
are paid within the period of redemption ~~herein~~ provided for in
38 this section, the treasurer of the district shall discharge the
mortgage in the same manner as is ~~now~~ provided for discharge of
40 real estate mortgages, and all costs of discharging the mortgage
must be paid by the person assessed.

42
44 **Sec. 16. P&SL 1949, c. 211, §10-A**, as amended by P&SL 1965, c.
98, §4, is further amended by adding at the end a new paragraph
to read:

46
48 The owner and occupant of real estate serviced by the
district are jointly and severally liable to the district for all
charges, rates, tolls, rents, assessments and other lawful
50 charges for that service. The owner is liable for all

2 assessments, rates and charges by reason of the availability of
3 sewer facilities to the real estate. The owner and occupant may
4 contract or agree otherwise between themselves, but such contract
5 or agreement does not affect the rights of the district under
6 this section.

7 **Sec. 17. P&SL 1949, c. 211, §10-B,** as enacted by P&SL 1985, c.
8 99, §9, is amended to read:

10 **Sec. 10-B. Additional method of collecting rate payments.**
11 If rates under section 10 are not paid, and the district does not
12 proceed to secure payment by placing a lien on the real estate
13 served by the district, under section 10-A, or does not collect
14 or is in any manner delayed or defeated in collecting the rates
15 under section 10-A, then the district may, in the district's
16 name, maintain an action against the person against whom the rate
17 is assessed or the owner of real estate, as for money paid, laid
18 out and expended, in any court competent to try the same, and in
19 such the suit may recover the amount of the assessment, with
20 interest at an annual rate of 10% on the same from the date of
21 assessment and costs.

22

24

SUMMARY

26 This bill amends the charter of the Waterville Sewerage
27 District. The bill repeals and replaces the first paragraph of
28 section 7 of the charter to correct a conflict that was created
29 by Private and Special Law 1985, chapter 99, section 6 which
30 repealed the changes made by Private and Special Law 1953,
31 chapter 92, section 6 but did not repeal the changes that were
32 made by Private and Special Law 1967, chapter 41.