

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

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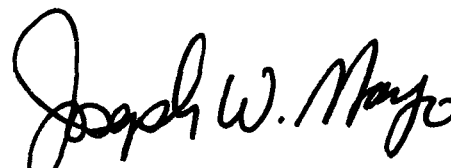
H.P. 1332

House of Representatives, March 16, 1999

**An Act to Amend Assessment Provisions Within the Charter of the
Kennebunk Sewer District.**

(EMERGENCY)

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


JOSEPH W. MAYO, Clerk

Presented by Representative MURPHY of Kennebunk.
Cosponsored by Senator LaFOUNTAIN of York.

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

4
6 **Whereas,** this legislation requires referendum approval
before it can take effect; and

8 **Whereas,** this referendum is connected with the Kennebunk
town meeting to be held on June 8, 1999; and

10
12 **Whereas,** unless this Act is enacted before that date, the
referendum will require a special election, which would be a
considerable financial burden on the Town of Kennebunk; and

14 **Whereas,** this Act must take effect as soon as possible; and

16
18 **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,

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

24 **Sec. 1. P&SL 1955, c. 69, §17-A is enacted to read:**

26 **Sec. 17-A. Assessments.** When the district has constructed and
28 completed a common sewer, the trustees may determine what lots or
parcels of land are benefited by that sewer and assess upon each
30 such lot and parcel of land and against the owner or, if the
owner cannot be identified, the person in possession or against
32 whom the taxes are assessed, a sum the trustees determine just
and equitable towards defraying the expenses of constructing and
34 completing the sewer, together with such sewage facilities and
appurtenances as may be necessary, as long as the assessments do
36 not exceed the total cost of the sewer, sewage facilities and
appurtenances. The trustees shall determine the method to be
38 applied when making the assessment, but that method must be
uniformly applied to each lot or parcel of land subject to the
40 particular assessment. The trustees shall commit the assessment
to the treasurer of the district by delivering to the treasurer a
42 plan showing the location of the sewer, sewage facilities and
appurtenances and a statement of the amount assessed upon each
44 lot or parcel of land along with a description of each lot or
parcel of land and the name of the owner of the lot or parcel of
46 land or person against whom the assessment is made, all of which
the treasurer of the district shall record in a book kept for
48 that purpose. Within 30 days after commitment of the assessment,
the clerk of the district shall mail, return receipt requested,
50 notice of the assessment to each person so assessed. Notice of
the assessment must be mailed to the last known address of the
52 person assessed. If a signed return receipt is not received

2 by the clerk of the district within 30 days after mailing, the
3 clerk may give the person assessed notice of the assessment by
4 posting the notice in some conspicuous place in the vicinity of
5 the lot or parcel of land and publishing the notice of the
6 assessment for 3 weeks successively in any newspaper of general
7 circulation in the Town of Kennebunk. The notice of assessment
8 must inform the person of the assessment, state the amount
9 assessed against the person's lot or parcel of land and specify
10 the date by which the assessment must be paid. The trustees,
11 upon written application stating the grounds for the application,
12 filed by the person assessed within 6 months of the date of the
13 assessment, may make such reasonable abatement as the trustees
14 think proper to correct any illegality, error or irregularity in
15 the assessment. Any person aggrieved by the decision of the
16 trustees as it relates to an abatement of the person's assessment
17 has the right to appeal to the Superior Court using the procedure
18 prescribed in the Maine Rules of Civil Procedure, Rule 80B.

19 The district may not construct any sewer extension unless it
20 first complies with the Maine Revised Statutes, Title 38, section
21 1252, subsections 7 and 9.

22 **Sec. 2. P&SL 1955, c. 69, §18,** as amended by P&SL 1961, c. 33,
23 §2, is further amended to read:

24 **Sec. 18. Lien for payment of rates.** ~~There shall be a~~ A lien is
25 claimed to secure the payment of rates established under section
26 17 and assessments established under section 17-A of this act and
27 legally assessed on real estate within the district, which shall
28 take takes precedence of all other claims on such real estate,
29 excepting only claims for taxes.

30 The treasurer of the district shall have has the authority
31 and power to sue for and collect the rates, tolls, rents, ~~impact~~
32 fees, assessments and charges, all of which shall--be are
33 committed to him the treasurer. In addition to other methods
34 previously established by law for the collection of the rates,
35 tolls, rents, ~~impact fees, assessments and charges,~~ the lien
36 herein created in this section may be enforced in the following
37 manner; ~~provided,--however,--that--in~~ as long as when making the
38 assessment ~~commitment~~ there shall-be is a description of the real
39 estate served by the several sewers of the district, sufficiently
40 accurate to identify the real estate against which any of the
41 several rates, tolls, ~~impact fees, assessments and charges~~ may be
42 levied; the treasurer, when a rate, toll, ~~impact fee, assessment~~
43 or charge has been committed to him the treasurer for collection,
44 may, after the expiration of 12 months and within 15 months after
45 date of commitment to him the treasurer, ~~in-the-case-of-a-person~~
46 resident-in-the-town-where-the-rate,-toll-or-charge-is-assessed,
47 give to the person against whom the same is assessed, or leave at
48 his ~~that person's~~ last and usual place of abode, or send by
49 certified mail to his ~~that person's~~ last known address, a notice
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51
52

2 in writing signed by the officer stating the amount of such rate,
toll, impact fee, assessment or charge and describing the real
4 estate on which it is assessed, alleging that a lien is claimed
on the real estate to secure the payment thereof of the rate,
6 toll, impact fee, assessment or charge and demanding its payment
within 10 days after the service of such notice. After the
8 expiration of the 10 days and within 10 days thereafter, ~~in the~~
~~case of a resident, and in all other cases within 1 year from the~~
~~date of commitment of the rate, toll or charge to said officer,~~
10 the officer shall record in the registry of deeds of York county
a certificate signed by him the officer setting forth the amount
12 of such rate, toll, impact fee, assessment or charge, a
description of the real estate on which the same is assessed and
14 an allegation that a lien is claimed on the real estate to secure
the payment of the rate, toll, impact fee, assessment or charge,
16 that a demand for payment of the same has been made in accordance
with the provisions of this act and that the rate, toll, impact
18 fee, assessment or charge remains unpaid. ~~In all cases, except~~
~~in the case of a resident, the certificate so filed need not~~
20 ~~contain the allegation that payment of the rate, toll or charge~~
~~has been demanded.~~ At the time of the recording of the
22 certificate in the registry of deeds as herein provided in this
section, the officer shall file in the office of the district a
24 true copy of the certificate and also mail by registered letter
to each record holder of a mortgage on said the real estate,
26 addressed to him the record holder at his the record holder's
last and usual place of abode, a true copy of the certificate.
28 The fee to be charged for such notice and filing shall ~~be \$1 is~~
\$13 plus all fees for certified mail, return receipt requested,
30 and the fee of the register of deeds for such filing shall ~~be \$1~~
are the fees established by the Maine Revised Statutes, Title 33,
32 section 751, which fees shall become an expense of the person
owing the rate, toll, impact fee, assessment or charge. The
34 filing of the aforesaid certificate in the registry of deeds as
~~aforesaid shall be~~ is deemed to create a mortgage on the real
36 estate to the district having priority over all other mortgages,
liens, attachments and encumbrances of any nature, except liens,
38 attachments and claims for taxes, and ~~shall give~~ gives to the
district all the rights usually incident to a mortgage, except
40 that the mortgagee shall does not have any right of possession of
the real estate until the right of redemption herein provided for
42 shall ~~have~~ in this section has expired.

44 If the mortgage, together with interest and costs, shall are
not have been paid within 18 months after the date of filing of
46 the certificate in the registry of deeds as herein provided in
this section, the mortgage shall ~~be~~ is deemed to have been be
48 foreclosed and the right of redemption ~~to have~~ expired.

50 The filing of the certificate in the registry of deeds shall
be is sufficient notice of the existence of the mortgage herein
52 provided for in this section.

