

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 884

S.P. 252

In Senate, February 15, 2001

An Act to Revise the Charter of the Ogunquit Sewer 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 LEMONT of York.

Cosponsored by Representatives: ANDREWS of York, COLLINS of Wells.

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

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

Sec. 1. P&SL 1913, c. 203, §2, as amended by P&SL 1973, c. 63, is repealed.

Sec. 2. P&SL 1963, c. 87, §1 is amended to read:

Sec. 1. Territorial limits; incorporation. The inhabitants and territory of the within the Town of Ogunquit Village-Corporation, in the--Town--of--Wells--and--County--of York,--as--presently constituted,--and the inhabitants therein,--shall County constitute a public sewerage district and a body politic and corporate under the name of "Ogunquit Sewer District". The purpose of said the district, subject to the provisions of section 10 hereof, shall be is to take over, control, operate and manage the sanitary sewer system now previously owned by the Town of Ogunquit Village Corporation and as further improved and expanded by the Ogunquit Sewer District with all appurtenances thereto; to extend, increase, enlarge and improve said the sewer system; to extend the present system or systems so as to furnish sewerage facilities to those parts of the district and, as determined appropriate by the trustees of the district, to parts of adjoining municipalities not now served with such facilities; to provide for removal and treatment of sewage when, as and if such treatment becomes necessary; and generally to construct, maintain, operate and provide a system of sewerage, sewage disposal and sewage treatment for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district.

Sec. 3. P&SL 1963, c. 87, §2, as amended by P&SL 1975, c. 81, §1, is further amended to read:

Sec. 2. Authority to construct and maintain. Within said the territory and the territory of any adjoining municipality, said the Ogunquit Sewer 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 lands of any person or corporation as hereafter provided in this act, to and into tidal waters, rivers, watercourses or treatment works or to or into any drain or sewer now or hereafter built which that empties into tidal waters, rivers, watercourses or treatment works, the discharge therefrom from the tidal waters, river, watercourses or treatment works to be at such points consistent with the requirements of public health as-shall be that are found convenient and reasonable for said the district and the flow of existing watercourses; to construct and maintain treatment works, pumping stations, basins, reservoirs, flush tanks and such other appliances for collecting,

2 holding, purifying, distributing and disposing of sewage matter
and industrial waste and, subject to section 10, of surface and
4 waste water, all as may be necessary or proper; and in general,
do any or all other things necessary or incidental to accomplish
6 the purposes of this act.

8 Notwithstanding the aforesaid authority mentioned in
this section, the board of trustees shall hold a public hearing
10 at least 7 days prior to an anticipated vote of said the board
upon any proposal for the construction ~~of lateral lines in or for~~
12 ~~any plan~~ extension of the district. ~~Sueh~~ The public hearing
shall must be held after providing a minimum 7 days' notice of
14 ~~sueh the~~ hearing by publication and shall must be held for the
purpose of enabling the trustees to learn of the approval,
16 ~~sueh the~~ proposals.

18 **Sec. 4. P&SL 1963, c. 87, §§3 and 4** are amended to read:

20 **Sec. 3. Authority to acquire and hold property; right of eminent**
domain conferred. Upon acceptance of this act ~~as hereinafter~~
22 ~~provided~~, and subject to section 10, title to all public sewers
in the Town of Ogunquit ~~Village-Corporation~~ other than sewers
24 used exclusively for storm or surface water drainage shall
~~forthwith remain with and~~ pass to and be are vested in said the
26 district, and said the district ~~thereafter~~ shall maintain and
operate the same. Upon ~~sueh~~ approval, ~~there shall also pass to~~
28 ~~the district~~ title to all plans, maps, specifications and data
relating to said the existing public sewers and, subject to any
30 obligation of the Town of Ogunquit ~~Village-Corporation~~ to the
United States of America or any agency ~~thereof of the United~~
32 States of America, related thereto to any obligation, all plans,
maps, specifications and data relative to any proposed
34 improvement or expansion of the sanitary sewer system of the Town
of Ogunquit Village-Corporation remain with and pass to the
36 district. The said district is authorized and empowered to
acquire and hold real and personal property necessary or
38 convenient for the purposes of this act, and is expressly granted
the right of eminent domain, and for the purposes of this act, is
40 authorized to take and hold, either by exercising its right of
eminent domain, or by purchase, lease or otherwise, as for public
42 uses any land, real estate, easements or interests ~~therein in~~
that land, real estate or easements, and any sewers, drains or
44 conduits and any sewer or drainage rights necessary for
constructing, establishing, maintaining and operating sewers,
46 drains, reservoirs, flush tanks, manholes, catch basins,
treatment works, pumping stations and other appliances and
48 property used or useful for collecting, holding, purifying,
distributing and disposing of sewage matter and industrial waste
50 and surface and waste waters. ~~Nothing herein contained should in~~

2 this section may be construed as authorizing said the district to
4 take by right of eminent domain any of the property or facilities
6 of any other public service corporation or district used or
8 required for future use by the owner thereof of that public
service corporation or district in the performance of a public
duty, unless expressly authorized by subsequent act of the
Legislature.

10 **Sec. 4. Procedures under eminent domain, condemnation, damages
and appeals.** In exercising from time to time the right of eminent
12 domain conferred upon it, said the district, by its board of
14 trustees, ~~shall file in the office of the county commissioners of
York County and cause to be recorded in the registry of deeds in
said county plans of the location of all lands, real estate,
16 easements or interest therein, and sewers, drains or conduits and
any sewer or drainage rights to be taken, with an appropriate
description and the names of the owners thereof, if known. When
18 for any reason the district fails to acquire property which it is
authorized to take and which is described in such location, or if
20 the location so recorded is defective and uncertain, it may, at
any time, correct and perfect such location and file a new
22 description thereof, and in such case the district is liable in
damages only for property for which the owner had not previously
24 been paid, to be assessed as of the time of the original taking,
and the district shall not be liable for any acts which would
26 have been justified if the original taking had been lawful. No
entry shall be made on any private lands, except to make surveys,
28 until the expiration of 10 days from such filing, whereupon
possession may be had of all said lands, real estate, easements
30 or interests therein and other property and rights as aforesaid
to be taken, but title thereto shall not vest in said district
32 until payment therefor shall proceed in accordance with and is
subject to the limitations set forth in the eminent domain
34 procedures set forth in the Maine Revised Statutes, Title 38,
section 1252, subsection 2.~~

36 **Sec. 5. P&SL 1963, c. 87, §5** is repealed.

38 **Sec. 6. P&SL 1963, c. 87, §§6, 8, 9, 10 and 13** are amended to read:

40 **Sec. 6. Limitations on crossing a public utility.** ~~In case of~~ When
42 crossing ~~of any a~~ public utility, unless consent is given by the
company owning or operating such the public utility as to place,
44 manner and conditions of the crossing within 30 days after such
the consent is requested by said the district, the Public
46 Utilities Commission shall determine the place, manner and
conditions of such the crossing; and all work on the property of
48 such the public utility shall must be done under the supervision
and to the satisfaction of such the public utility, but at the

2 expense of the district. If a sewer line of the district crosses
4 the property or line of a railroad corporation, the procedure is
6 the same as for the crossing of a public utility, except that the
8 Department of Transportation shall determine the place, manner
10 and conditions of the crossing.

12 **Sec. 8. Contracts with municipalities authorized.** The said
14 district is authorized to contract with persons, corporations,
16 districts and other municipalities both inside and outside the
18 boundaries of the district, including the Town of Ogunquit
20 Village--Corperation, to provide for disposal of sewage and
commercial and industrial waste through the district's system and
through the system of ~~any-sueh~~ a person, corporation, district or
other municipality; and said the Town of Ogunquit Village
Corperation is authorized to contract with said the district for
the collection, distribution and disposal of sewage, surface
water and other waste matter, and for said those purposes, said
village-corporation the district may use the money referred to in
the private and special laws of 1913, section 5, as amended.

22 **Sec. 9. Excavation or repair work, closing of ways.** ~~Whenever-said~~
24 When the district shall-enter enters, dig-up digs up or exeavate
26 any excavates a public way or other land for the purpose of
28 laying its sewers, drains or pipes, constructing manholes or
30 catch basins or their appurtenances, or maintaining the same, or
for any other purpose, the work shall must be expeditiously done
with the least possible interruption, and on completion of the
work, the district shall restore said the way or land to the
condition it was in prior to such work, or to a condition equally
as good.

32 ~~Whenever~~ When the character of the work is such as to
34 endanger travel on any a public way, the overseers of the Town of
Ogunquit Village--Corperation, and the municipal officers of
36 adjoining municipalities, ~~whenever~~ when the instance may apply,
may order a temporary closing of ~~sueh~~ the way, and of any
38 intersecting way, upon request of said the district, and the way
shall must remain closed to public travel until said the
40 overseers or municipal officers, as the case may be, ~~deem-it~~
determine that the way is restored to a condition safe for
42 traffic.

44 **Sec. 10. Surface water facilities; joint facilities; separation of same.**
46 Any other provision of this act to the contrary notwithstanding,
48 the said district shall ~~shall-be~~ is under no duty or obligation to
construct, maintain, improve, extend or provide drains, pipes,
catch basins or any other facilities for storm or surface water
drainage, and all drains, pipes, catch basins or other facilities
owned by said the Town of Ogunquit Village-Corperation and used

2 exclusively for storm or surface water drainage shall remain the
3 property of ~~said corporation~~ the Town of Ogunquit, and no such
4 drain, pipe, catch basin or other facility shall may be
5 transferred to the district to be ~~thereafter~~ maintained and
6 operated by the district without the joint approval of the
7 overseers of ~~said the Town of Ogunquit Village-Corporation~~ and
8 the trustees of ~~said the~~ district. Any sewer or drain owned by
9 ~~said the Town of Ogunquit Village-Corporation~~ at the time of
10 acceptance of this act and used for both sanitary sewage disposal
11 and storm and surface water drainage shall ~~pass~~ passes to and be
12 is vested in ~~said the~~ district, and ~~said the~~ district shall ~~be~~ is
13 entitled to charge ~~said corporation~~ the Town of Ogunquit for the
14 use of the same for storm or surface water drainage at such rates
15 as the trustees may determine. No additional catch basins or
16 other facilities draining into any such combined sewer or drain
17 shall may be constructed without the approval of ~~said the~~
18 trustees. If and when the district shall ~~construct~~ constructs
19 and ~~provide~~ provides a sewer or drain which ~~that~~ permits
20 separation of sanitary sewage previously disposed of through any
21 such combined sewer or drain, the ~~said~~ district, by vote of the
22 trustees, shall transfer and convey back to ~~said the Town of~~
23 Ogunquit Village-Corporation the facilities for storm and surface
24 water drainage.

24 **Sec. 13. Sanitary provisions, standards and penalty for violations.**

26 The district is authorized to adopt standards as may be required
27 to conform its operations with state and federal environmental
28 statutes and regulations. Any person who shall ~~place~~ places,
29 ~~discharge~~ discharges or ~~leave~~ leaves an offensive or
30 injurious matter or material on or in the conduits, catch basins
31 or receptacles of ~~said the~~ district contrary to its rules or
32 regulations, or shall willfully ~~injure~~ injures any conduit, pipe,
33 reservoir, flush tank, catch basin, manhole, outlet, engine, pump
34 or other property held, owned or used by ~~said the~~ district for
35 the purposes of this act shall ~~be~~ is liable to pay twice the
36 amount of the damages to ~~said the~~ district, to be recovered in
37 ~~any proper~~ a civil action; and such person, on conviction of any
38 of ~~said the~~ acts or willful injury ~~aforsaid~~ described in this
39 section and any person who violates ~~sections~~ section 11 or 12,
40 shall may be punished by a fine of ~~not more than \$200 or by~~
41 ~~imprisonment for not more than one year, or by both~~ up to \$1,000
42 per day. The district has the right to seek in a civil action
43 injunctive relief for actions of industrial users that violate
44 pretreatment standards or requirements administered by the
45 district. The district may seek civil penalties of up to \$1,000
46 per day for each violation by an industrial user of a
47 pretreatment standard or requirement.

48 **Sec. 7. P&SL 1963, c. 87, §14,** as amended by P&SL 1975, c. 81,
49 §§2 to 5, is further amended to read:

2 **Sec. 14. Trustees and officer; tenure of office; annual meetings;**
3 **election to office; organization; vacancies; compensation.** All of the
4 affairs of said the district shall ~~be~~ are managed by a board of 3
5 trustees, residents therein of the district, who shall ~~be~~ are
6 chosen as hereinafter provided in this section.

8 ~~As soon as may be after the acceptance of this act, the~~
9 ~~overseers of the Ogunquit Village Corporation shall appoint 3~~
10 ~~trustees of said district to hold office as follows: One to~~
11 ~~serve until the first annual meeting of said district following~~
12 ~~the acceptance of this act; one to serve until the 2nd annual~~
13 ~~meeting of said district following such acceptance; and one to~~
14 ~~serve until the 3rd annual meeting of said district following~~
15 ~~such acceptance.~~

16 The district is managed by a board of trustees elected at an
17 annual election to be held at the same time as and in conjunction
18 with the Town of Ogunquit's annual election. In the event that
19 the Town of Ogunquit does not hold an annual election, the
20 district shall arrange an election to choose the board of
21 trustees.

22 The annual meeting of the district shall ~~shall~~ must be held on the
23 last Monday of June ~~of each year at such~~ an hour and place as may
24 be designated by resolution of the board of trustees as provided
25 in the bylaws.

26 At each annual meeting of said the district, the board of
27 trustees shall present a proposed budget for the next fiscal year
28 of the district to solicit the approval, disapproval or suggested
29 changes of the voters of the district to ~~such~~ the proposed
30 budget. The board of trustees shall adopt a budget for the next
31 fiscal year of the district following ~~such~~ public consideration
32 thereof of the budget.

33 ~~At each annual meeting of the Ogunquit Village Corporation~~
34 ~~beginning with the annual meeting for 1976, one trustee shall be~~
35 ~~elected by ballot as hereinafter provided to begin serving his~~
36 ~~term at the adjournment of the annual meeting of the district and~~
37 ~~to serve until the annual meeting of said district occurring 3~~
38 ~~years thereafter and until his successor is elected and~~
39 ~~qualified. Trustees must be residents of the district. When any~~
40 ~~a trustee ceases to be a resident of said the district, he that~~
41 ~~trustee vacates his the office as trustee. All trustees, if~~
42 ~~residents of said the district, shall be are eligible for~~
43 ~~reelection or reappointment.~~
44 Trustees must be residents of the district. When any
45 a trustee ceases to be a resident of said the district, he that
46 trustee vacates his the office as trustee. All trustees, if
residents of said the district, shall be are eligible for
reelection or reappointment.

2 The nomination of all candidates for trustee to be elected
3 as provided by this act shall must be by nomination papers signed
4 in the aggregate for each candidate by ~~not less~~ no fewer than 25
5 qualified voters resident in said the district. Each voter
6 signing a nomination paper shall make ~~his~~ that voter's signature
7 in person, and each voter may subscribe to as many nominations as
8 there are trustees to be elected in said the district and no
9 more. ~~Sueh~~ The nomination papers, before being filed, shall must
10 be submitted to the clerk of the Ogunquit Sewer District, who
11 shall ~~forthwith~~ certify ~~thereon~~ on the nomination papers that
12 number of the signatures ~~which~~ that are names of qualified voters
13 resident in said the district. One of the signers to each ~~sueh~~
14 separate paper shall swear to the truth ~~thereon~~ on the paper, and
15 the certificate of ~~sueh~~ that oath shall must be annexed to or
16 made upon the nomination papers. ~~Sueh~~ The nomination papers
17 shall must be filed with the clerk of the Ogunquit Sewer District
18 not less than 14 days, exclusive of Sundays, previous to the day
19 of ~~sueh~~ the election. With ~~sueh~~ the nomination papers shall must
20 also be filed the consent in writing of the person or persons
21 nominated. All nomination papers, being filed and being in
22 apparent conformity with the ~~foregoing~~ provisions of this
23 ~~section, shall-be-deemed~~ are determined to be valid. If not in
24 apparent conformity, they may be seasonably amended under oath.
25 ~~In-case-any~~ If a candidate who has been duly nominated under the
26 provisions ~~hereof-shall-die~~ of this section dies before the day
27 of election, or shall ~~withdraw~~ withdraws in writing, or shall
28 ~~remove-his~~ removes ~~that candidate's~~ place of residence from said
29 the district, the vacancy may be supplied in the manner ~~herein~~
30 provided in this section for ~~sueh~~ the nominations, except that
31 the time limit for filing ~~sueh~~ the nomination papers shall does
32 not apply. The name so supplied for the vacancy shall must, if
33 the ballots have not been printed, be placed on the ballots
34 instead of the original nomination; or if the ballots have been
35 printed, new ballots containing the new nomination shall must, if
36 practical, be furnished, or slips containing the new nomination
37 shall must be printed under the direction of the district clerk
38 ~~which-shall~~ and must be pasted upon said the ballots and over the
39 name of the candidate whose nomination has been vacated as
40 ~~afesaid~~ pursuant to this section, and ~~thereafter-shall-become~~
41 becomes part of said the ballots as if originally printed ~~thereon~~
42 on the ballots. The ballot in said the district shall must
43 contain the names of all candidates so nominated in ~~sueh~~ the
44 district alphabetically arranged, printed in one column under the
45 heading "For Trustee of Ogunquit Sewer District". Above ~~sueh~~
46 the heading shall must be printed "Vote for (the number to
47 be elected to be inserted ~~therein~~). Make a cross or a check mark
48 to the right of the name(s) voted for". As many blank spaces
49 shall must be left after the names of the candidates as there are
50 trustees to be elected in which the voter may, by writing, insert

2 the name of any person or persons for whom he the voter desires
3 to vote. In preparing his the voter's ballot the voter shall
4 mark a cross (X) or a check mark (✓) against and to the right of
5 such the names on the ballot as he the voter desires to vote for,
6 not to exceed the number of trustees so to be elected in said the
7 district. The result of such the election shall must be declared
8 by the trustees of the district and due certificate thereof of
9 the result filed with the clerk of the Town of Ogunquit Village
10 Corperation.

11 As soon as convenient after ~~their~~ the election or
12 appointment of a new trustee, the ~~first~~ board of trustees shall
13 hold a meeting at some convenient place in the district, to be
14 called by any member ~~thereof of the board of trustees~~ in writing,
15 designating the time and place and delivered in hand to the other
16 2 members not less than 2 full days before the meeting; ~~provided,~~
17 ~~however,~~ except that they may meet by agreement without such a
18 notice. At this ~~original~~ meeting the trustees shall organize by
19 electing from their own members a ~~chairman~~ chair, a treasurer and
20 a clerk and adopting a corporate seal. The trustees may adopt
21 and establish bylaws, consistent with the laws of the State of
22 Maine and the United States as may be necessary for their own
23 convenience and the proper management of the affairs of the
24 district, and perform any other acts within the powers delegated
25 to them by law.

26 Within one week after each annual meeting, the trustees
27 shall meet for the purpose of electing a ~~chairman~~ chair,
28 treasurer and clerk to serve for the ensuing year and until their
29 successors are elected and qualified. The trustees from time to
30 time may choose and employ, and fix the compensation of, any
31 other necessary officers and agents who shall serve at their
32 pleasure. The treasurer shall furnish bond in such sum and with
33 such sureties as the trustees shall approve, the cost ~~thereof of~~
34 the bond to be paid by the district.

35 Members of the board of trustees ~~shall-be~~ are eligible to
36 serve in any office under the board. The trustees shall receive
37 a salary ~~of~~ not to exceed \$750 per year and the treasurer
38 may be allowed such further compensation as the trustees shall
39 determine.

40 The trustees ~~shall-be~~ are sworn to the faithful performance
41 of their duties as ~~such,~~ which shall include the duties of any
42 member who shall ~~serve~~ serves as clerk or clerk pro tem. They
43 shall make and publish an annual report, including a report of
44 the treasurer, and such report may be included in, and published
45 as part of, the ~~corperation~~ Town of Ogunquit's report.

2 Vacancies in the office of trustee ~~from-whatever-cause-shall~~
3 must be filled by appointment by the remaining trustees until the
4 next annual ~~meeting~~ election. If at any an annual election there
5 ~~shall-exist~~ exists a vacancy in an unexpired term, a trustee
6 ~~shall~~ must be elected to fill ~~such~~ the vacancy for ~~such~~ the
7 unexpired term, and the voters of the district shall cast their
8 ballots as ~~hereinafore~~ prescribed in this section, voting for as
9 many candidates as there are offices to be filled.

10
11 **Sec. 8. P&SL 1963, c. 87, §17**, as amended by P&SL 1991, c. 22,
12 §1 and affected by §2, is further amended to read:

13
14 **Sec. 17. Authorized to borrow money, to issue bonds and notes.** For
15 accomplishing the purposes of this act, ~~said~~ the district, by
16 vote of its board of trustees, without district vote except as
17 ~~hereinafter~~ provided in this section, is ~~hereby~~ authorized to
18 borrow money temporarily and to issue ~~therefor~~ for its negotiable
19 notes, and for the purpose for renewing and refunding the
20 indebtedness so created, of paying any necessary expenses and
21 liabilities incurred under this act, including organizational and
22 other necessary expenses and liabilities whether incurred by the
23 district or incurred prior to the organization of the district by
24 the Town of Ogunquit Village-Corporation, the district being
25 authorized to reimburse ~~said~~ the Town of Ogunquit Village
26 Corperation for any such expense incurred or paid by it, and in
27 acquiring properties, paying damages, laying sewers, drains and
28 conduits, constructing, maintaining and operating a sewage plant
29 or system and making renewals, additions, extensions and
30 improvements to the same and to cover interest payments during
31 the period of construction, ~~said~~ the Ogunquit Sewer District, by
32 votes of its board of trustees, without district vote except as
33 ~~hereinafter~~ provided in this section, is also ~~hereby~~ authorized
34 to issue, from time to time, bonds, notes or other evidences of
35 indebtedness of the district in such amount or amounts, bearing
36 interest at such rate or rates, and having such terms and
37 provisions as the trustees shall determine. The total
38 indebtedness of ~~said~~ the district at any one time outstanding may
39 not exceed the sum of \$7,000,000. In the case of a vote by the
40 trustees to authorize bonds or notes to pay for the acquisition
41 of property, for the cost of a sewage plant or system or part
42 ~~thereof~~ of a sewage plant or system, for renewals or additions or
43 for other improvements in the nature of capital costs, the
44 estimated cost of which singly or in the aggregate is \$30,000 or
45 more, but not for renewing or refunding existing indebtedness or
46 to pay for maintenance, repairs or for current expenses, notice
47 of the proposed debt and of the general purpose or purposes for
48 which it was authorized ~~shall~~ must be given by the clerk by
49 publication at least once in a newspaper having a general
50 circulation in the Town of Ogunquit Village

2 Corporation. No debt may be incurred under such a vote of the
3 trustees until the expiration of 7 full days following the date
4 on which such the notice was first published. Prior to the
5 expiration of said the period, the trustees may call a special
6 district meeting for the purpose of permitting the voters of the
7 district to express approval or disapproval of the amount of debt
8 so authorized, and the trustees shall call such a special
9 district meeting, if within 7 days following the publication of
10 the said notice, there ~~shall have been~~ was filed with the clerk
11 of the district a petition or petitions signed by ~~not less~~ no
12 fewer than 50 qualified voters of the district requesting that
13 such a special district meeting be called. If at such the
14 district meeting a majority of voters present and voting ~~therein~~
15 expresses disapproval of the amount of debt authorized by the
16 trustees, the said debt shall may not be incurred and the vote of
17 the trustees authorizing the same shall ~~be~~ is void ~~and of no~~
18 effect. Said The bonds, notes and evidences of indebtedness may
19 be issued to mature serially in annual installments of not less
20 than 2% of the face amount of the issue and beginning not later
21 than 3 years from the date thereof, or made to run for such
22 periods as the trustees may determine, but ~~no~~ an issue ~~thereof~~
23 shall may not run for a longer period than 40 years from the date
24 of original issue ~~thereof~~ of the bond. Bonds, notes or evidences
25 of indebtedness may be issued with or without provision for
26 calling the same prior to maturity; and if callable may be made
27 callable at par or at such premium as the trustees may
28 determine. All bonds, notes or other evidences of indebtedness
29 shall must have inscribed upon their face the words "Ogunquit
30 Sewer District", shall must be signed by the treasurer and
31 countersigned by the ~~chairman~~ chair of the board of trustees of
32 the district, and if coupon bonds are issued, the interest
33 coupons attached ~~thereto~~ shall must bear the facsimile of the
34 signature of the treasurer. All such bonds, notes and evidences
35 of indebtedness so issued by the district shall ~~be~~ are legal
36 obligations of the district, which is ~~hereby~~ declared to be a
37 quasi-municipal corporation within the meaning of the Maine
38 Revised Statutes ~~of 1954, chapter 90-A~~ Title 30-A, section 23
39 5701, as amended, and all provisions of said the section shall ~~be~~
40 applicable thereto apply. The said district may, from time to
41 time, issue in one series or in separate series, its bonds, notes
42 and other evidences of indebtedness, for the purpose of paying,
43 redeeming or refunding outstanding bonds, notes or evidences of
44 indebtedness, and each authorized issue shall ~~constitute~~
45 constitutes a separate loan. All bonds, notes and evidences of
46 indebtedness issued by said the district shall ~~be~~ are legal
47 investments for savings banks in the State of Maine and shall ~~be~~
48 are tax exempt. The said district is authorized and empowered to
49 enter into agreements with the State Government or Federal
50 Government to grant or loan money to or otherwise assist in the
financing of projects such as the district is authorized to carry

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

6 **Sec. 9. P&SL 1963, c. 87, §§20, 22, 23 and 24** are amended to read:

8 **Sec. 20. Assessments against lots benefited.** When the district
has constructed ~~and-completed~~ a common sewer or constructed or
10 acquired other improvements associated with a common sewer, the
trustees may, if they so determine, in order to ~~defray-a-portion~~
12 of recover the expense--thereof expenses of the construction,
determine what lots or parcels of land, whether or not buildings
14 or other structures are located ~~thereon~~ on the lots or parcels of
land or whether or not they are otherwise improved, are benefited
16 by such sewer, and construction or acquisition. The district
shall then estimate and assess upon such lots and parcels of
18 land, or person in possession or against whom taxes ~~thereon~~ on
the lots or parcels of land are assessed, whether said the person
20 to whom the assessment is so made ~~shall-be~~ is the owner, tenant,
lessee or agent, or against the heirs or devisees of a deceased
22 owner without designating any of them by name and whether the
same is occupied or not, such a sum reflecting an appropriate
24 portion of the expenses of constructing the common sewer or
acquisition of other improvements, the amount assessed not
26 exceeding to exceed the amount of such benefit as they-may-deem
the district determines just and equitable towards defraying the
28 expenses of constructing and completing such sewer, construction
or acquisition of other improvements, together with such sewage
30 disposal units and appurtenances as may be necessary, ~~the-whole~~
~~of-such-assessments-not-to-exceed-1/2-of-the-cost-of-such-sewer~~
32 ~~and-sewage-disposal-units.~~ The trustees shall file with the
clerk of the district a plan showing the location of such sewer
34 and or construction or showing the acquisition of other
improvements, sewage disposal units, and their assessment roll
36 containing a statement of the amount assessed upon each lot or
parcel of land so assessed, a description of each lot or parcel,
38 and the name of the person against whom ~~said~~ the assessment is
made, ~~and-the.~~ The clerk of ~~such~~ the district shall record the
40 same in a book kept for that purpose, and each person so assessed
~~shall~~ must be notified of ~~such~~ the assessment by having an
42 authentic copy of ~~said~~ the assessment roll, with an order or
notice signed by the clerk of ~~said~~ the district, stating the time
44 and place for a hearing upon the subject matter of ~~said~~ the
assessments, given to each person so assessed or left at ~~his~~ the
46 person's usual place of abode in ~~said~~ the district at least 10
days before ~~said~~ the hearing, or by mailing the same to each
48 person so assessed by certified mail addressed to ~~his~~ the
person's last known address and by publishing the same once a

2 week, for 3 successive weeks in any newspaper of general
3 circulation in said the district, said the mailing and the last
4 such publication to be at least 30 days before the hearing. A
5 return made upon a copy of such notice by a ~~sheriff or his deputy~~
~~or by any constable in the Town of Wells or said Ogunquit Village~~
6 ~~Corperation~~ notary public or the production of the paper
7 containing such notice or the certificate of the clerk of mailing
8 or publication shall ~~be~~ is conclusive evidence that said the
9 notice has been given, ~~and upon such~~. At the hearing the
10 trustees shall have the power to revise, increase or diminish any
11 of ~~such~~ the assessments, and any ~~such~~ revisions, increases or
12 diminutions shall must be in writing and recorded by the clerk of
13 the district. The trustees also have the power to make
14 supplemental assessments for additional expenses it incurs in the
15 construction of common sewers or acquisitions of other
16 improvements. Supplemental assessments may be made within 5
17 years from the date of any assessment roll whenever it appears
18 any lot or parcel of land benefited has been omitted from the
19 assessment or said ~~assessment~~, improperly assessed or any part
20 thereof, of the original assessment is invalid or void for any
21 reason. ~~The trustees for the time being may make such~~
22 ~~supplemental assessment~~ Supplemental assessments may be made
23 according to the precedure procedures and the principles of ~~the~~
24 ~~original assessment~~, ~~and such supplemental assessment shall be~~
25 ~~valid even though it may when added to the original, exceed 1/2~~
26 ~~of the cost of the sewer and sewage disposal units~~ for
27 assessments.

28 **Sec. 22. Assessments; lien; sheriff's sale.** All assessments and
29 supplemental assessments made under section 20 shall create a
30 lien upon each and every lot or parcel of land so assessed and
31 the buildings upon the same, ~~which~~. The lien shall ~~take~~ takes
32 effect when the trustees file with the clerk of the district the
33 completed assessment roll, and shall ~~continue~~ continues for one
34 year thereafter or for one year after the termination of any
35 appeal; and within 10 days after the date of hearing on said the
36 assessment, the clerk of the district shall make out a list of
37 all ~~such~~ assessments, the amount of each, and the name of the
38 person against whom the same is assessed, and ~~he~~ the clerk shall
39 certify the list and deliver it to the treasurer of said the
40 district. If said the assessments are not paid within 3 months
41 from the date thereof, the treasurer may bring civil action for
42 the collection of said the assessment in the name of the district
43 against the person against whom said the assessment is made.
44 Such The action shall ~~be~~ is begun by writ of attachment
45 commanding the officer serving it to specially attach the real
46 estate upon which the lien is claimed, which shall must be served
47 as other writs of attachment to enforce liens on real estate.
48 The declaration in such action shall must contain a statement of
49 such assessment, a description of the real estate

2 against which the assessment is made, and an allegation that a
lien is claimed on said the real estate to secure the payment of
the assessment. If no service is not made upon the defendant or
4 it ~~shall appear~~ appears that any other persons are interested in
such the real estate, the court shall order such further notice
6 of such the action as appears proper, and shall allow such the
other persons to become parties ~~thereto~~ to the action. If it
8 ~~shall appear~~ appears upon trial of such the action that such the
assessment was legally made against said the real estate, and is
10 unpaid, and that there is an existing lien on said the real
estate for the payment of such the assessment, judgment shall
12 must be rendered for such the assessment, interest and costs of
suit against the defendants and against the real estate upon
14 which the assessment was made, and execution issued ~~thereon~~ on
the assessment to be enforced by sale of such the real estate in
16 the manner provided for a sale on execution of real estate
attached on original writs; ~~provided that~~ as long as in making
18 said the sale, the officer shall follow the procedure in selling
and conveying and there shall must be the same rights of
20 redemption as are provided in the Maine Revised Statutes ~~of 1954,~~
~~chapter 91-A, Title 36, section 87,~~ as amended 941.

22
Sec. 23. Additional method of collection of assessments. If
24 assessments under section 20 are not paid and said the district
does not proceed to collect unpaid assessments by a sheriff's
26 sale of the real estate upon which such the assessments are made
under section 22, or does not collect or is in any manner delayed
28 or defeated in collecting such the assessments by a sheriff's
sale of said the real estate under section 22, then the
30 treasurer, in the name of said the district, may maintain a civil
action against the party so assessed for the amount of said the
32 assessment or supplemental assessment, as for money paid, laid
out and expended, in any court of competent jurisdiction, and in
34 such a suit may recover the amount of such the assessment, with
interest at the rate of 10% per year on the same from the date of
36 said the assessment or supplemental assessment, and costs.

38
Sec. 24. Assessments paid by other than owner, how recovered.
When any assessment under section 20 ~~shall be~~ is paid by any
40 person against whom such the assessment has been made, who is not
the owner of such the lot or parcel of land, then the person so
42 paying the same ~~shall have~~ has a lien upon such the lot or parcel
of land with the buildings ~~thereon~~ on the lot or parcel for the
44 amount of said the assessment so paid by said the person, and
incidental charges, which lien ~~shall continue~~ continues for one
46 year and which lien may be enforced in a civil action as for
money paid, laid out and expended, and by attachment in the way
48 and manner provided for the enforcement of liens upon buildings
and lots under the Maine Revised Statutes ~~of 1954, chapter 178,~~
50 Title 36, section 941.

2 **Sec. 10. P&SL 1963, c. 87, §25** is repealed and the following
enacted in its place:

4
6 **Sec. 25. Lien securing collection of rates; lien certificates for**
collection of assessments on rates; procedure. Liens on lots or
8 parcels of land created by section 22, in addition to other
methods established by law, may be enforced in the following
10 manner.

12 There is a lien to secure the payment of rates established
under section 19 and assessments established under section 20 of
14 this act assessed by the district on real estate within the
district. This lien takes precedence over all other claims on
16 the real estate, excepting only claims for taxes. The treasurer
of the district has the authority and power to collect the rates,
18 and all rates must be committed to the treasurer.

20 In addition to other methods previously established by law
for the collection of the rates, the lien created may be enforced
22 in the following manner, as long as in making the assessment
there is a description of the real estate served by the several
24 sewers of the district that is sufficiently accurate to identify
the real estate against which any of the several rates may be
26 charged. The treasurer, when a rate, assessment or supplemental
assessment has been committed to the treasurer for collection,
28 may, after the expiration of 8 months and within 1 year after
commitment to the treasurer of the rate, give to the person
30 against whom the rate, is assessed, or leave at the person's last
and usual place of abode, or send by certified mail, return
32 receipt requested, to the person's last known address, a notice
in writing signed by the treasurer stating the amount of the
34 rate, assessment or supplemental assessment describing the real
estate on which the rate is assessed, alleging that a lien is
36 claimed on the real estate to secure the payment of the rate and
demanding the payment of the rate within 10 days after the
38 service of the notice. After the expiration of the 10 days and
within 10 days after the expiration, if the rate, assessment or
40 supplemental assessment remains unpaid, the treasurer shall
record in the registry of deeds of York County a certificate
42 signed by the treasurer setting forth the amount of the rate,
assessment or supplemental assessment, a description of the real
44 estate on which the rate is assessed and an allegation that a
lien is claimed on the real estate to secure the payment of the
46 rate, assessment or supplemental assessment, that a demand for
payment of the rate has been made in accordance with the
48 provisions of this act and that the rate remains unpaid. In all
cases, the certificate so filed need not contain the allegation
50 that payment of the rate has been demanded. At the time of the
recording of the certificate in the registry of deeds as provided

2 in this section, in all cases the treasurer shall file in the
3 office of the district a true copy of the certificate and also at
4 the time of recording, the treasurer shall mail by certified
5 mail, return receipt requested, to each record holder of a
6 mortgage on the real estate, addressed to the mortgage holder at
7 the mortgage holder's last and usual place of abode, a true copy
8 of the certificate. The fee to be charged to the ratepayer or
9 person assessed for the notice and filing must include the costs
10 of mailing copies of the certificate to the record holders of a
11 mortgage on the real estate and the then-current fee charged by
12 the register of deeds for the filing.

13
14 The filing of the certificate in the registry of deeds
15 creates a mortgage on the real estate to the district having
16 priority over all other mortgages, liens, attachments and
17 encumbrances of any nature, except liens, attachments and claims
18 for municipal property taxes, and gives the district all the
19 rights usually incident to a mortgage, except that the mortgagee
20 has no right of possession of the real estate until the right of
21 redemption provided for in this section has expired.

22 If the mortgage, together with interest and costs, has not
23 been paid within 18 months after the date of filing of the
24 certificate in the registry of deeds as provided in this section,
25 the mortgage is deemed to be foreclosed and the right of
26 redemption to have expired.

27
28 The treasurer shall notify the party named on the
29 certificate and each record holder of a mortgage on the real
30 estate no more than 45 days nor less than 30 days before the date
31 of foreclosure of the mortgage created under this section. The
32 notification must be in writing left at the owner's and all
33 mortgagees' last and usual abode or sent by certified mail,
34 return receipt requested, to the owner and mortgagees at their
35 last known addresses. The notice must indicate the exact date of
36 foreclosure and include the warnings and other information
37 substantially in the following form:

38
39 STATE OF MAINE
40 OGUNQUIT SEWER DISTRICT
41 NOTICE OF IMPENDING AUTOMATIC FORECLOSURE OF SEWER LIEN
42 P & S L 2001, c. _____

43
44 IMPORTANT: DO NOT DISREGARD THIS NOTICE.
45 YOU WILL LOSE YOUR PROPERTY UNLESS YOU TIMELY
46 PAY THE SEWER CHARGES, COSTS AND INTERESTS THAT HAVE
47 BEEN LIENED BY THE OGUNQUIT SEWER DISTRICT.

48 To:

2 You are the party named on the Sewer Lien Certificate filed
4 on _____, 20 _____, by the Ogunquit Sewer District and recorded
in the York County Registry of Deeds in Book _____, Page _____.

6 The district's filing created a sewer lien mortgage on the
8 real estate described in the Sewer Lien Certificate. On
10 _____, 20 _____, the sewer lien mortgage will be foreclosed and
12 your rights to redeem the mortgage and recover your property by
14 paying the sewer charges, costs and interest that are owed will
16 expire.

18 IF THE SEWER LIEN FORECLOSES, THE OGUNQUIT SEWER DISTRICT
20 WILL OWN YOUR PROPERTY, SUBJECT ONLY TO MUNICIPAL TAX LIENS.

22 If you cannot pay the outstanding sewer charges, costs and
24 interest that are the subject of this notice, please contact me
26 to discuss this notice.

28 _____
30 District Treasurer

32 The filing of the certificate in the registry of deeds is
34 sufficient notice of the existence of the mortgage provided for
36 in this section. If the rate, assessment or supplemental
38 assessment, interest and costs are paid within the period of
40 redemption provided for in this section, the treasurer of the
42 district shall discharge the mortgage in the same manner as is
44 now provided for discharge of real estate mortgages.

46 In addition to the collection authorizations set forth in
48 this section, the treasurer of the district has all authority
50 under the Maine Revised Statutes, Title 38, sections 1206 and
52 1208 to initiate a civil action for the collection of unpaid
assessments or rates or supplemental assessments.

Sec. 11. P&SL 1963, c. 87, §26, as amended by P&SL 1975, c. 81,
§§7 and 8, is repealed.

SUMMARY

This bill amends the charter of the Ogunquit Sewer District. The changes are required to allow the district to update its operations to reflect current conditions that will better serve the district's customers and the Town of Ogunquit. The bill also changes the lien procedures that will enhance notification to those affected by liens for unpaid assessments, supplemental assessments or rates and will allow the district to avoid forfeiture of its liens in the event that properties subject to its liens become the subject of bankruptcy proceedings.