

# MAINE STATE LEGISLATURE

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UTILITIES AND ENERGY

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REPORT 'A'

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STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT 'A' to S.P. 137, L.D. 413, Bill, "An Act To Amend the Procedure by Which the York Sewer District May Be Dissolved"

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

'An Act To Amend the Charter of the York Sewer District'

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

'Sec. 1. P&SL 1951, c. 63, §3, 4th ¶, as repealed and replaced by P&SL 1985, c. 57, §1, is amended to read:

At the close of each fiscal year, the trustees shall make a detailed report of their doings, of the receipts and expenditures of the sewer district, of its financial and physical condition and of other matters and things pertaining to the district and show the inhabitants how the trustees are fulfilling the duties and obligations of their trust. The report must include audited financial statements. This report is to be filed with the municipal officers, who shall include the report in the annual town report.

Sec. 2. P&SL 1951, c. 63, §14, 2nd and 3rd ¶¶, as enacted by P&SL 1985, c. 57, §1, are amended to read:

Any person aggrieved by the decision of the trustees as it relates to any assessment for sewer construction under this

COMMITTEE AMENDMENT

2 ~~section shall have the same rights of appeal as are provided in~~  
3 ~~the case of laying out of town ways~~ may appeal the decision to  
4 ~~the town manager of the Town of York. The decision of the town~~  
5 ~~manager may be appealed to the town board of appeals. A final~~  
6 ~~decision of the board of appeals may be appealed pursuant to the~~  
7 ~~Maine Rules of Civil Procedure, Rule 80B.~~

8 Prior to authorizing any sewer extension, except by specific  
9 state or federal mandate, the trustees shall notify the  
10 legislative bodies and the planning boards of the affected  
11 municipalities in order to assure conformity with their  
12 comprehensive plans and other public policies relating to their  
13 growth and development. The trustees shall publish notice of the  
14 proposed action in a newspaper with general circulation in the  
15 district no less than 7 days prior to the meeting at which they  
16 will take final action on the authorization of the extension.  
17 The district shall comply with the Maine Revised Statutes, Title  
18 38, section 1252, subsections 7 and 9 with respect to any sewer  
19 extensions.

20  
21 **Sec. 3. P&SL 1951, c. 63, §23,** as repealed and replaced by P&SL  
22 1985, c. 57, §1, is amended to read:

23 **Sec. 23. Dissolution; voluntary.** The trustees of the district  
24 may at any time enter into negotiations with the Town of York for  
25 the purpose of dissolving the district and transferring its  
26 entire assets and ~~liabilities~~ obligations to the Town of York.  
27 If an agreement to dissolve the district is reached with the  
28 municipal officers of the Town of York, the district may be  
29 dissolved upon the unanimous vote of the trustees and upon  
30 referendum vote being taken at the next annual municipal election  
31 in the Town of York. The town clerk of the Town of York shall  
32 reduce the subject matter to the following question:

33  
34 "Shall the York Sewer District be dissolved and all of its  
35 assets and ~~liabilities~~ obligations be assumed by and become  
36 the responsibility of the Town of York?"

37  
38 The voters shall indicated by a cross or check mark placed  
39 upon their ballots against the ~~words~~ word "Yes" or "No" their  
40 opinion of the same. The ~~result~~ results shall be declared by the  
41 municipal officers and due certificate ~~thereof~~ of the results  
42 filed by the town clerk with the Secretary of State and, if the  
43 result so filed shows that a majority of the voters is for the  
44 approval of the dissolution of the York Sewer District, ~~it shall~~  
45 ~~take complete~~ the dissolution takes effect upon filing with the  
46 town clerk an attested copy of the unanimous votes of the  
47 trustees of the district to dissolve the district according to  
48 the terms ~~hereof~~ of this section; provided that only if the total  
49 vote cast for and against the dissolution of the York Sewer  
50

2 District equals, or exceeds, 25% of the total vote for all  
candidates for Governor cast at the last gubernatorial election.

4 Upon completion of the transfer of assets and obligations of  
6 the district to the Town of York in accordance with this section,  
8 the clerk of the Town of York shall file a certificate to this  
10 effect with the Secretary of State, and the corporate existence  
12 of the district terminates. The certificate must be prepared by  
14 the clerk of the Town of York once all of the necessary assets  
16 and obligations have been transferred to the Town of York from  
18 the district. The Town of York may commence and carry out  
20 municipal sewer service prior to completion of the transfer of  
22 assets and obligations of the district if necessary to carry out  
24 the purposes of this section, and, in such an event, the district  
may continue to exist for the limited purpose of carrying out the  
requirements of this section until such a time as the transfer of  
assets and obligations is complete. After filing the certificate  
with the Secretary of State, the town clerk of the Town of York  
shall submit legislation to repeal Private and Special Law 1951,  
chapter 63, as repealed and replaced by Private and Special Law  
1985, chapter 57, as amended. The legislation may include any  
necessary amendments or additions to law to allow the Town of  
York to provide adequate sewer service.

26 **Sec. 4. P&SL 1951, c. 63, §24** is enacted to read:

28 **Sec. 24. Dissolution; involuntary.** The qualified electors of the  
district may petition for a referendum vote on dissolution in  
accordance with this section.

30 **1. Petition.** The petition must be signed by electors within  
32 the district equal to at least 20% of the vote cast for the  
34 office of Governor at the last gubernatorial election and filed  
with the town clerk of the Town of York. Within 3 days after the  
36 petition is offered for filing, the town clerk of the Town of  
38 York 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  
40 certificate must state the particulars creating the  
insufficiency. The petition may be amended to correct any  
42 insufficiency within 5 days following the affixing of the  
original certificate. Within 2 days after the offering of the  
44 amended petition for filing, the certificate must again be  
carefully examined to determine sufficiency, and a certificate  
46 stating the findings must be attached. Upon finding an original  
or amended petition sufficient, the town clerk of the Town of  
48 York shall file the petition, and a referendum vote on  
dissolution must be held at the next regular town election.

2 2. Referendum. The town clerk of the Town of York shall  
3 reduce the subject matter to the following question:

4 "Shall the Town of York and the York Sewer District be  
5 directed to arrange for the dissolution of the York Sewer  
6 District and the transfer of all of its assets and  
7 liabilities to the Town of York?"

8  
9 The voters shall indicate by a cross or check mark placed  
10 upon their ballots against the word "Yes" or "No" their opinion  
11 of the same. The result must be declared by the municipal  
12 officers, and due certificate of the results filed by the town  
13 clerk of the Town of York with the Secretary of State.

14  
15 If the results filed show that a majority of the voters  
16 voted for the dissolution of the district and the total votes  
17 cast for and against the dissolution of the district equals or  
18 exceeds 25% of the total vote for all candidates for Governor  
19 cast at the last gubernatorial election, the municipal officers  
20 of the Town of York and the trustees of the district shall enter  
21 into discussions to make arrangements for transferring the  
22 district's entire assets and obligations to the Town of York.  
23 Within one year of a vote on the referendum, pursuant to  
24 arrangements made with the trustees of the district, the trustees  
25 of the district shall transfer to the municipal officers of the  
26 Town of York the entire assets and obligations of the district in  
27 accordance with subsection 3.

28  
29 3. Transfer. If a transfer of the assets and obligations of  
30 the district to the Town of York is required under this section,  
31 the district shall, within one year of the vote on the referendum  
32 requiring the transfer, convey, assign and transfer to the Town  
33 of York:

34  
35 A. All physical and intangible assets of the district,  
36 including all cash, lands, mains, pipes, fixtures,  
37 machinery, tools, apparatus, appliances, structures and any  
38 other physical element necessary and convenient for  
39 providing sewer services;

40  
41 B. All valid and legally enforceable contracts or other  
42 obligations between the district and any 3rd party as of the  
43 effective date of the transfer. The town shall redeem or  
44 otherwise satisfy all nonassumable debt of the district; and

45  
46 C. All permits, licenses and approvals of any municipal,  
47 state or federal entity or agency.

48  
49 Unless other legal arrangements are made, all property,  
50 contracts, obligations and franchises of the district must be

2 conveyed subject to all debentures, bonds, mortgages, liens and  
encumbrances, all of which must be assumed by the Town of York.

4 In order to avoid any unconstitutional impairment of  
existing contractual rights that are valid and enforceable, the  
6 Town of York and, if necessary, the district shall enter into any  
contractual agreements necessary for the Town of York to fulfill  
8 any such contractual obligations of the district, including any  
existing financial obligations to the district's bondholders.

10 For purposes of assuming all debts and obligations of the  
12 district, the Town of York is the corporate successor to the  
district upon the transfer of the assets and obligations of the  
14 district to the Town of York pursuant to this section.

16 Upon completion of the transfer of assets and obligations of  
the district to the Town of York in accordance with this section,  
18 the town clerk of the Town of York shall file a certificate to  
that effect with the Secretary of State, and the corporate  
20 existence of the district terminates. The certificate must be  
prepared by the town clerk of the Town of York once all of the  
22 necessary assets and obligations have been transferred to the  
Town of York from the district. The Town of York may commence and  
24 carry out municipal sewer service prior to completion of the  
transfer of assets and obligations of the district if necessary  
26 to carry out the purposes of this section, and, in such an event,  
the district may continue to exist for the limited purpose of  
28 carrying out the requirements of this section until such time as  
the transfer of assets and obligations is complete. After filing  
30 the certificate with the Secretary of State, the town clerk of  
the Town of York shall submit legislation to repeal Private and  
32 Special Law 1951, chapter 63, as repealed and replaced by Private  
and Special Law 1985, chapter 57, as amended. The legislation may  
34 include any necessary amendments or additions to law to allow the  
Town of York to provide adequate sewer service.

36 **Sec. 5. P&SL 1989, c. 34, §2, first line is amended to read:**

38 **Sec. 2. P&SL ~~1985~~ 1951, c. ~~57~~ 63, §13, as repealed and replaced**  
40 **by P&SL 1985, c. 57, §1, is amended to read:**

42 **Sec. 6. Referendum; effective date.** This Act takes effect when  
44 approved only for the purpose of permitting its submission to the  
legal voters within the Town of York at an election called for  
46 that purpose and held by January 1, 2006. The election must be  
called, advertised and conducted according to the law relating to  
48 municipal elections, except that the registrar of voters is not  
required to prepare or the clerk to post a new list of voters.  
50 For the purpose of registration of voters, the registrar of  
voters must be in session the secular

day preceding the election. The subject matter of this Act is reduced to the following question:

"Do you favor amending the charter of the York Sewer District to:

1. Require the York Sewer District to include in its annual report audited financial statements and require the Town of York to include the district's report in the town's annual report;

2. Provide that decisions of the York Sewer District relating to assessments for sewer construction may be appealed to the Town of York; and

3. Authorize a citizen-initiative process to call for a referendum to dissolve the York Sewer District and transfer its assets and obligations to the Town of York?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

The results must be declared by the municipal officers of the Town of York and due certificate of the results filed by the clerk with the Secretary of State.

This Act takes effect for all purposes immediately upon its approval by a majority of the legal voters voting at the election. Failure to achieve the necessary approval in any referendum does not prohibit subsequent referenda consistent with this section as long as the referenda are held prior to January 1, 2006.'

### SUMMARY

This amendment, which is the majority report of the Joint Standing Committee on Utilities and Energy, replaces the bill. The amendment amends the charter of the York Sewer District to:

1. Cross-reference statutory law requiring municipal review and approval of sewer extensions;

2. Require the York Sewer District to include in its annual report audited financial statements and require the Town of York to include the district's report in the town's annual report;

3. Provide that decisions of the district relating to assessments for sewer construction may be appealed to the Town of York;

COMMITTEE AMENDMENT "A" to S.P. 137, L.D. 413

2           4. Establish a process for involuntary dissolution of the  
York Sewer District and for the transfer of its assets and  
4 obligations to the Town of York. The process is initiated by  
citizen petition followed by a referendum vote within the town;

6           5. Add a referendum clause to the bill; and

8           6. Fix an incorrect reference in a prior private and  
10 special law.