

MAINE STATE LEGISLATURE

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R.M.S.

L.D. 413

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UTILITIES AND ENERGY

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REPORT 'B'

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STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "B" 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 P&SL 1951, c. 63, §3, 4th ¶, as repealed and replaced by P&SL 1985, c. 57, §1, is amended to read: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-te must be filed with the municipal officers, who shall include the report in the annual town report.

Sec. 2. P&SL 1951, c. 63, §3-A is enacted to read:

Sec. 3-A. Recall. Trustees of the district may be recalled in accordance with the following provisions.

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

12 2. Within 3 days after the petition is offered for filing,
13 the official with whom the petition is left shall determine by
14 careful examination whether the petition is sufficient and so
15 state in a certificate attached to the petition. If the petition
16 is found to be insufficient, the certificate must state the
17 particulars creating the insufficiency. The petition may be
18 amended to correct any insufficiency within 5 days following the
19 affixing of the original certificate. Within 2 days after the
20 offering of the amended petition for filing, the certificate must
21 again be carefully examined to determine sufficiency and a
22 certificate stating the findings must be attached. Immediately
23 upon finding an original or amended petition sufficient, the
24 official shall file the petition and call a special election to
25 be held not less than 40 days nor more than 45 days from the
26 filing date. The official shall notify the trustee against whom
27 the recall petition is filed of the special election.

28 3. The trustee against whom the recall petition is filed is
29 a candidate at the special election without nomination, unless
30 the trustee resigns within 10 days after the original filing of
31 the petition. There is no primary. Candidates for the office may
32 be nominated under the usual procedure of nomination for a
33 primary election by filing nomination papers, not later than 5
34 p.m., 4 weeks preceding the election and have their names placed
35 on the ballot at the special election.

38 4. The trustee against whom a recall petition has been
39 filed shall continue to perform the duties of office until the
40 result of the special election is officially declared. The person
41 receiving the highest number of votes at the special election is
42 declared elected for the remainder of the term. If the incumbent
43 receives the highest number of votes, the incumbent continues in
44 office. If another person receives the highest number of votes,
45 that person, if qualified, succeeds the incumbent, within 10 days
46 after receiving notification.

48 5. After one recall petition and special election, no
49 further recall petition may be filed against the same trustee
50 during the term for which the trustee was elected.

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

4
5 Any person aggrieved by the decision of the trustees as it
6 relates to any assessment for sewer construction under this
7 section ~~shall have the same rights of appeal as are provided in~~
8 ~~the case of laying out of town ways may appeal the decision to~~
9 ~~the town manager of the Town of York. The decision of the town~~
10 ~~manager may be appealed to the town board of appeals. A final~~
11 ~~decision of the board of appeals may be appealed pursuant to the~~
12 ~~Maine Rules of Civil Procedure, Rule 80B.~~

13
14 Prior to authorizing any sewer extension, except by specific
15 state or federal mandate, the trustees shall notify the
16 legislative bodies and the planning boards of the affected
17 municipalities in order to assure conformity with their
18 comprehensive plans and other public policies relating to their
19 growth and development. The trustees shall publish notice of the
20 proposed action in a newspaper with general circulation in the
21 district no less than 7 days prior to the meeting at which they
22 will take final action on the authorization of the extension.
23 The district shall comply with the Maine Revised Statutes, Title
24 38, section 1252, subsections 7 and 9 with respect to any sewer
25 extensions.

26
27 **Sec. 4. P&SL 1989, c. 34, §2, first line** is amended to read:

28
29 **Sec. 2. P&SL 1985 1951, c. 57 63, §13, as repealed and replaced**
30 **by P&SL 1985, c. 57, §1,** is amended to read:

31
32 **Sec. 5. Referendum; effective date.** This Act takes effect when
33 approved only for the purpose of permitting its submission to the
34 legal voters within the Town of York at an election called for
35 that purpose and held by January 1, 2006. The election must be
36 called, advertised and conducted according to the law relating to
37 municipal elections, except that the registrar of voters is not
38 required to prepare or the clerk to post a new list of voters.
39 For the purpose of registration of voters, the registrar of
40 voters must be in session the secular day preceding the
41 election. The subject matter of this Act is reduced to the
42 following question:

43
44 "Do you favor amending the charter of the York Sewer
45 District to:

46
47 1. Require the York Sewer District to include in its annual
48 report audited financial statements and require the Town of

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2 York to include the district's report in the town's annual
report;

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

8 3. Establish a process for the recall of the trustees of
the York Sewer District?"

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

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

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

24

26

SUMMARY

28 This amendment, which is one of 2 minority reports of the
Joint Standing Committee on Utilities and Energy, replaces the
30 bill. The amendment amends the charter of the York Sewer
District to:

32

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

36

38 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;

40

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

44

46 4. Establish a process for the recall of the trustees of
the York Sewer District;

48

50 5. Fix an incorrect reference in a prior private and
special law; and

50

6. Add a referendum clause to the bill.