

MAINE STATE LEGISLATURE

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R. of S.

L.D. 982

DATE: 4/25/05

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UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 692, L.D. 982, Bill, "An Act To Revise the Charter of the Kennebunk Sewer District"

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, the Kennebunk Sewer District charter should be modified as soon as possible; and

Whereas, the next election when the referendum to approve the amended charter could be held is less than 90 days after adjournment of this Legislature; and

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, '

Further amend the bill in section 2 in the 9th line (page 1, line 46 in L.D.) by inserting after the following: "corporation" the following: 'as provided in this Act'

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2 Further amend the bill in section 2 in the last line (page
2, line 15 in L.D.) by inserting after the following:
4 "transaction" the following: 'to the extent authorized pursuant
to the Maine Revised Statutes, Title 38, section 1252, subsection
6 10'

8 Further amend the bill in section 3 in the first paragraph
in the 8th line (page 2, line 24 in L.D.) by striking out the
10 following: "5" and inserting in its place the following: '3'

12 Further amend the bill in section 3 in the 2nd paragraph by
striking out all of the last sentence (page 2, lines 46 to 48 in
14 L.D.) and inserting in its place the following: 'The trustees
may receive compensation in accordance with the Maine Revised
16 Statutes, Title 38, section 1252, subsection 5.'

18 Further amend the bill in section 4 in the 2nd paragraph in
the first line (page 3, line 19 in L.D.) by striking out the
20 following: "25%" and inserting in its place the following: '10%'

22 Further amend the bill in section 7 in subsection 2 in the
2nd and 3rd lines from the end (page 4, lines 32 and 33 in L.D.)
24 by striking out the following: "40 days nor more than 45 days
from the filing date" and inserting in its place the following:
26 '45 days nor more than 90 days from the date the municipal clerk
certifies the petition as sufficient'

28 Further amend the bill by striking out all of section 8
(page 5, lines 10 to 17 in L.D.) and inserting in its place the
30 following:

32 '**Sec. 8. Eminent domain.** The district's authority to
exercise and the procedures for exercising eminent domain are as
34 specified in the Maine Revised Statutes, Title 38, section 1252,
subsection 2.'

36 Further amend the bill in section 9 in the last line (page
38 5, line 31 in L.D.) by inserting after the following:
"Commission." the following: 'Nothing in this section may be
40 construed as authorizing the district to take by right of eminent
domain any of the property or facilities of any other public
42 utility used or acquired for future use by the owner of the
property or facilities in the performance of a public duty unless
44 expressly authorized by special act of the Legislature.'

46 Further amend the bill in section 10 by striking out all of
the last paragraph (page 6, lines 22 to 31 in L.D.) and inserting
48 in its place the following:

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2 'In accordance with the Maine Revised Statutes, Title 38,
3 section 1252, subsection 3, existing buildings that are already
4 served by a private sewer system are not required to connect with
5 any sewer or drain of the district.'

6 Further amend the bill in section 11 in the 6th line (page
7 6, line 38 in L.D.) by inserting after the following:
8 "wastewater" the following: 'and storm and surface water'

10 Further amend the bill in section 11 in the 3rd line from
11 the end (page 6, line 43 in L.D.) by inserting after the
12 following: "wastewater" the following: 'and storm and surface
13 water'

14 Further amend the bill by striking out all of section 13
15 (page 7, lines 13 to 50 and page 8, lines 2 to 6 in L.D.) and
16 inserting in its place the following:

17 **'Sec. 13. Enforcement of laws and rules.** The district has the
18 enforcement authority specified in the Maine Revised Statutes,
19 Title 38, section 1252, subsection 8. The district or any
20 official designated by the district may pursue any other legal
21 remedies, including but not limited to the recovery of legal
22 fees, that may be available to it under applicable laws against
23 any person, including without limitation a landowner, the
24 landowner's agent or a contractor, who violates a provision of
25 this Act or a district rule or injures the district's property by
26 discharging or otherwise permitting an offensive or injurious
27 material or matter to enter the district's system.'

28 Further amend the bill in section 15 in subsection 1 in the
29 blocked paragraph in the 13th line (page 9, line 3 in L.D.) by
30 inserting after the following: "district." the following: 'The
31 district is a quasi-municipal corporation within the meaning of
32 the Maine Revised Statutes, Title 30-A, section 5701.'

33 Further amend the bill in section 15 by inserting after
34 subsection 8 the following:

35 '9. Bonds and notes issued by the district are securities
36 in which all public officers and public bodies of the State and
37 its political subdivisions, insurance companies and associations
38 and other persons carrying on an insurance business; trust
39 companies, banks, bankers and banking associations; savings banks
40 and savings associations, including savings and loan
41 associations; credit unions; building and loan associations;
42 investment companies; executors, administrators, trustees and
43 other fiduciaries; pension, profit-sharing and retirement funds;
44 and other persons carrying on a banking business, and all other
45 persons who are authorized to invest in bonds or other
46 persons who are authorized to invest in bonds or other

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obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are securities that may properly and legally be deposited with and received by any state, municipal or public officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is authorized by law.'

Further amend the bill in section 17 by striking out all of the 3rd paragraph (page 14, lines 37 to 44 in L.D.) and inserting in its place the following:

'Prior to the adoption of a new rate schedule, the trustees shall hold a public hearing regarding the proposed rate schedule in accordance with the Maine Revised Statutes, Title 38, section 1252, subsection 1.'

Further amend the bill in section 17 in subsection 5 in the first line (page 15, line 20 in L.D.) by striking out the following: "Payment of obligations."

Further amend the bill by striking out all of section 20.

Further amend the bill in section 21 in the first line (page 17, line 16 in L.D.) by inserting after the following: "assessment" the following: 'imposed under section 18'

Further amend the bill in section 21 in the 3rd line (page 17, line 18 in L.D.) by striking out the following: "20" and inserting in its place the following: '21'

Further amend the bill in section 22 in the form in the 4th line (page 19, line 40 in L.D.) by striking out the following: "Title 38 M.R.S.A. Section 1208"

Further amend the bill by inserting after section 27 the following:

'Sec. 28. Existing law not affected; rights conferred subject to provisions of law. Except as expressly provided in this Act, nothing contained in this Act is intended to repeal or may be construed as repealing the whole or part of any existing law, and all rights and duties mentioned in this Act must be exercised and performed in accordance with the applicable provisions of the Maine Revised Statutes, Title 38, chapter 12 and any amendments thereto.'

Further amend the bill in section 28 by striking out all of the first paragraph (page 21, lines 25 to 34 in L.D.) and inserting in its place the following:

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Sec. 28. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act takes effect when approved but only for the purpose of permitting its submission to the legal voters within the territory described in section 1 at the election called for that purpose by January 1, 2006. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the town clerk to post a new list of voters. For the purpose of registration of voters, the registrar of voters must be in session on the secular day preceding the election. The subject matter of this Act is reduced to the following question:

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment makes a number of clarifying changes to the bill. It also makes the following more substantive changes.

1. It reduces the terms of the trustees from 5 years to 3 years. As provided in the bill, current trustees continue to serve until their terms expire.
2. It provides that on petition by 10% of the voters of the district the trustees shall call a district meeting as currently provided in the district's charter.
3. It modifies the timing of a recall election to allow the election to be called up to 90 days after a recall petition has been certified.
4. It clarifies that the district may contract to provide for the disposal of storm and surface water. This mirrors provisions for sanitary districts in the Maine Revised Statutes, Title 38, chapter 11.
5. It replaces a provision granting particular enforcement powers to the district with a provision that references an enforcement power specified in statute. It also authorizes the district to pursue any other legal remedies that may be available to it under other applicable laws.
6. It states that the district is a quasi-municipal corporation pursuant to statutes and that its securities are legal investments.

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2 7. It removes a duplicative provision regarding liens of
the district.

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6 8. It adds an emergency preamble and emergency clause to
the bill and modifies the referendum language to allow but not
require a referendum to be held. The bill does not take effect
8 unless it is submitted to and approved by a vote in referendum.

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