

MAINE STATE LEGISLATURE

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L.D. 1620

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ENERGY, UTILITIES AND TECHNOLOGY

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STATE OF MAINE

SENATE

125TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 530, L.D. 1620, Bill, "An Act To Amend the Charter of the Ogunquit Sewer District"

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. P&SL 1963, c. 87, §1-A is enacted to read:

Sec. 1-A. Powers. The district has all powers, rights, privileges and immunities of similar corporations or necessary for the accomplishment of the district's purposes.'

Amend the bill by inserting after section 4 the following:

'Sec. 5. P&SL 1963, c. 87, §6, as amended by P&SL 2001, c. 19, §6, is repealed and the following enacted in its place:

Sec. 6. Limitations on crossing a public utility. If a sewer line of the district crosses the property or line of any other public utility, unless consent is given by the other public utility as to place, manner and conditions of the crossing within 30 days after consent is requested by the district, the Public Utilities Commission shall determine the place, manner and conditions of the crossing, and all work on the property of the public utility must be done under the supervision and to the satisfaction of the public utility, but at the expense of the district. If a sewer line of the district crosses the property or line of a railroad corporation, the procedure is the same as for crossing the property of a public utility except that the Department of Transportation shall determine the place, manner and conditions of the crossing. Nothing in this section may be construed as authorizing the district to take by right of eminent domain any of the property or facilities of any other public utility used or acquired for future use by the owner of the public utility in the performance of a public duty, unless expressly authorized by act of the Legislature.'

Amend the bill by striking out all of section 6 and inserting the following:

'Sec. 6. P&SL 1963, c. 87, §8-A is enacted to read:

Sec. 8-A. Lease of property. The district's lease of its property is governed by the Maine Revised Statutes, Title 38, section 1252, subsection 10.

1 **Sec. 7. P&SL 1963, c. 87, §9**, as amended by P&SL 2001, c. 19, §6, is repealed
2 and the following enacted in its place:

3 **Sec. 9. Conditions for carrying out work.** If the district enters, digs up or
4 excavates any public way or other land for the purpose of laying or maintaining its
5 sewers, drains or pipes, constructing or maintaining manholes or catch basins or their
6 appurtenances or for any other purpose, the work must be done expeditiously, and on
7 completion of the work the district shall restore the way or land to the condition it was in
8 prior to such work or to a condition equally good. If the character of the work is such as
9 to endanger travel on any public way, the municipal officers of the municipality in which
10 the work is being done may order a temporary closing of the way and of any intersecting
11 way upon request of the district, and the way remains closed to public travel until the
12 municipal officers determine it restored to a condition safe for traffic.'

13 Amend the bill in section 7 in Sec. 12 in the first line (page 2, line 20 in L.D.) by
14 striking out the following: "Every" and inserting the following: 'Notwithstanding the
15 Maine Revised Statutes, Title 38, section 1252, subsection 3, every'

16 Amend the bill in section 9 by striking out all of the last paragraph (page 3, lines 36
17 to 38 in L.D.) and inserting the following:

18 'Members of the board of trustees are eligible to serve in any office under the board.
19 ~~The~~ Notwithstanding the Maine Revised Statutes, Title 38, section 1252, subsection 5, the
20 trustees receive a salary not to exceed \$750 \$950 per year and the treasurer may be
21 allowed further compensation as the trustees determine.'

22 Amend the bill by striking out all of sections 10 to 13 and inserting the following:

23 '**Sec. 10. P&SL 1963, c. 87, §17**, as amended by P&SL 2001, c. 19, §8, is
24 repealed and the following enacted in its place:

25 **Sec. 17. Authorized to borrow money and to issue bonds and notes.** To
26 procure funds for the purposes of this Act and for such other expenses as may be
27 necessary for the carrying out of the purposes, the district without a district vote but by
28 action of its board of trustees is authorized to raise funds from sources other than
29 operational activities by borrowing money in accordance with this section. The district
30 may issue its notes and bonds in one series or in separate series from time to time, as long
31 as the aggregate outstanding principal balance at any one time does not exceed
32 \$7,000,000, unless a higher debt obligation limit is approved pursuant to the Maine
33 Revised Statutes, Title 38, section 1256.

34 All bonds, notes or other evidences of indebtedness must have inscribed upon their
35 face the words "Ogunquit Sewer District" and must be signed by the treasurer and
36 countersigned by the chair of the board of trustees of the district and, if coupon bonds are
37 issued, the interest coupons attached must bear the facsimile of the signature of the
38 treasurer. Bonds must be issued in accordance with the following provisions.

39 **1. Authorization of bonds.** The district may provide by resolution of its board of
40 trustees, without district vote, for the borrowing of money and the issuance from time to
41 time of bonds for any of its corporate purposes, including, but not limited to:

42 A. Paying and refunding its indebtedness;

- 1 B. Paying any necessary expenses and liabilities incurred, including organizational
2 and other necessary expenses and liabilities, whether incurred by the district or a
3 municipality in the district, the district being authorized to reimburse a municipality
4 in the district for any such expenses incurred or paid by the municipality;
- 5 C. Paying costs directly or indirectly associated with acquiring properties, paying
6 damages, laying sewers, drains and conduits, constructing, maintaining and operating
7 sewage and treatment plants or systems and making renewals, additions, extensions
8 and improvements to the same, and to cover interest payments during the period of
9 construction and for such period thereafter as the trustees may determine;
- 10 D. Providing such reserves for debt service, repairs and replacements or other capital
11 or current expenses as may be required by a trust agreement or resolution securing
12 bonds; or
- 13 E. Any combination of these purposes.

14 Bonds may be issued as general obligations of the district or as special obligations
15 payable solely from particular funds. The principal of and premium, if any, and interest
16 on all bonds are payable solely from the funds provided for that purpose from revenues.
17 For purposes of this Act, "revenues" means and includes the proceeds of bonds, all
18 revenues, rates, fees, entrance charges, assessments, rents and other receipts derived by
19 the district from the operation of its sewer system and other properties, including, but not
20 limited to, investment earnings and the proceeds of insurance, condemnation, sale or
21 other disposition of properties. All bonds issued by the district are legal obligations of the
22 district and the district is declared to be a quasi-municipal corporation within the meaning
23 of the Maine Revised Statutes, Title 30-A, section 5701. Bonds may be issued without
24 obtaining the consent of a commission, board, bureau or agency of the State or of a
25 municipality encompassed by the district and without any proceedings or conditions other
26 than those specifically required by this Act. Bonds issued do not constitute a debt or
27 liability of the State or of a municipality encompassed by the district or a pledge of the
28 faith and credit of the State or a municipality. The bonds are payable solely from the
29 funds provided for that purpose, and a statement to that effect must be recited on the face
30 of the bonds.

31 **2. Notes.** The district may also provide by resolution of its board of trustees, without
32 district vote, for the issuance from time to time of notes in anticipation of bonds
33 authorized and of notes in anticipation of the revenues to be collected or received in any
34 year or in anticipation of the receipt of federal or state grants or other aid. The issue of
35 these notes is governed by the applicable provisions of this Act relating to the issue of
36 bonds, except that notes in anticipation of revenue must mature no later than one year
37 from their respective dates, and notes issued in anticipation of federal or state grants or
38 other aid and renewals of such notes must mature no later than the expected date of
39 receipt of those grants or aid. Notes in anticipation of revenue issued to mature less than
40 one year from their dates may be renewed from time to time by the issue of other notes,
41 as long as the period from the date of an original note to the maturity of a note issued to
42 renew or pay the same or the interest on the note does not exceed one year.

43 The district may enter into agreements with the State or the United States, or an agency of
44 either, or a municipality, corporation, commission or board authorized to grant or loan
45 money to or otherwise assist in the financing of projects of the type that the district is

1 authorized to carry out and to accept grants and borrow money from any such
2 government, agency, municipality, corporation, commission or board as may be
3 necessary or desirable to accomplish the purposes of the district.

4 **3. Maturity; interest; form; temporary bonds.** The bonds issued under this Act
5 must be dated, must mature at such time or times not exceeding 40 years from their date
6 or dates and must bear interest at such rate or rates as may be determined by the board of
7 trustees, and may be made redeemable before maturity, at the option of the district, at
8 such price or prices and under such terms and conditions as may be fixed by the board of
9 trustees prior to the issuance of the bonds. The board of trustees shall determine the form
10 of the bonds, including any interest coupons to be attached to the bonds, and the manner
11 of execution of the bonds, and shall fix the denomination or denominations of the bonds
12 and the place or places of payment of principal and interest, which may be at any bank or
13 trust company inside or outside the State. Bonds must be executed in the name of the
14 district by the manual or facsimile signature of such officer or officers as may be
15 authorized in the resolution to execute the bonds, but at least one signature on each bond
16 must be a manual signature. Coupons, if any, attached to the bonds must be executed with
17 the facsimile signature of the officer or officers of the district designated in the resolution.
18 If an officer whose signature or a facsimile of whose signature appears on any bonds or
19 coupons ceases to be an officer before the delivery of the bonds, the signature or its
20 facsimile is valid and sufficient for all purposes as if the officer had remained in office
21 until the delivery. Notwithstanding any of the other provisions of this Act or any recitals
22 in any bonds issued under this Act, all such bonds are deemed to be negotiable
23 instruments under the laws of this State. The bonds may be issued in coupon or registered
24 form, or both, as the board of trustees may determine, and provision may be made for the
25 registration of any coupon bonds as to principal alone and as to both principal and interest
26 and for the reconversion into coupon bonds of any bonds registered as to both principal
27 and interest. The board of trustees may sell the bonds in such manner, either at public or
28 private sale, and for such price as the board may determine to be for the best interests of
29 the district. The proceeds of the bonds of each issue must be used solely for the purpose
30 for which those bonds have been authorized and must be disbursed in such manner and
31 under such restrictions, if any, as the board of trustees may provide in the resolution
32 authorizing the issuance of the bonds or in the trust agreement securing the bonds. The
33 resolution providing for the issuance of bonds and a trust agreement securing the bonds
34 may contain such limitations upon the issuance of additional bonds as the board of
35 trustees may determine proper, and these additional bonds must be issued under such
36 restrictions and limitations as may be prescribed by that resolution or trust agreement.
37 Prior to the preparation of definitive bonds, the board of trustees may, under like
38 restrictions, issue interim receipts or temporary bonds, with or without coupons,
39 exchangeable for definitive bonds when those bonds are executed and are available for
40 delivery. The board of trustees may provide for the replacement of any bond that is
41 mutilated, destroyed or lost.

42 **4. Pledges and covenants; trust agreement.** In the discretion of the board of
43 trustees of the district, an issue of bonds may be secured by a trust agreement by and
44 between the district and a corporate trustee, which may be a trust company inside or
45 outside the State.

1 The resolution authorizing the issuance of the bonds or the trust agreement may pledge or
2 assign, in whole or in part, the revenues and other money held or to be received by the
3 district and any accounts and contract or other rights to receive the same, whether then
4 existing or thereafter coming into existence and whether then held or thereafter acquired
5 by the district, and the proceeds of the bonds, but may not convey or mortgage the sewer
6 system or any other properties of the district. The resolution may also contain provisions
7 for protecting and enforcing the rights and remedies of the bondholders as may be
8 reasonable and proper and not in violation of law, including, but not limited to,
9 convenants setting forth the duties of the district and the board of trustees in relation to
10 the acquisition, construction, reconstruction, improvement, repair, maintenance, operation
11 and insurance of its sewer system or of its other properties; the fixing and revising of
12 rates, fees and charges; the application of the proceeds of bonds; the custody,
13 safeguarding and application of revenues; and defining defaults and providing for
14 remedies in the event of a default, which may include the acceleration of maturities, the
15 establishment of reserves and the making and amending of contracts. The resolution or
16 trust agreement may set forth the rights and remedies of the bondholders and of the
17 trustee, if any, and may restrict the individual right of action by bondholders as is
18 customary in trust agreements or trust indentures securing bonds or debentures of
19 corporations. In addition, the resolution or trust agreement may contain such other
20 provisions as the board of trustees may determine reasonable and proper for the security
21 of the bondholders. All expenses incurred in carrying out the resolution or trust
22 agreement may be treated as a part of the cost of operation. The pledge by a resolution or
23 trust agreement is valid and binding and is deemed continuously perfected for the
24 purposes of the Uniform Commercial Code from the time when the pledge is made. All
25 revenues, money, rights and proceeds pledged and thereafter received by the district are
26 immediately subject to the lien of the pledge without a physical delivery or segregation or
27 further action under the Uniform Commercial Code or otherwise, and the lien of the
28 pledge is valid and binding against all parties having claims of any kind in tort, contract
29 or otherwise against the district irrespective of whether those parties have notice of the
30 lien of the pledge.

31 The resolution authorizing the issuance of bonds under this Act, or a trust agreement
32 securing those bonds, may provide that all or a sufficient amount of revenues, after
33 providing for the payment of the cost of repair, maintenance and operation and reserves
34 as may be provided in the resolution or trust agreement, are set aside at such regular
35 intervals as may be provided in the resolution or trust agreement and deposited in the
36 credit of a fund for the payment of the interest on and the principal of bonds issued under
37 this Act as the payment becomes due, and the redemption price or purchase price of
38 bonds retired by call or purchase. The use and disposition of money to the credit of the
39 fund are subject to such regulations as may be provided in the resolution authorizing the
40 issuance of the bonds or in the trust agreement securing the bonds and, except as may
41 otherwise be provided in the resolution or trust agreement, the fund is a fund for the
42 benefit of all bonds without distinction or priority of one over another.

43 **5. Trust funds.** Notwithstanding any other law, all money received pursuant to the
44 authority of this Act is deemed to be trust funds, to be held and applied solely as provided
45 in this Act. The resolution authorizing the issuance of bonds or the trust agreement
46 securing the bonds must provide that any officer to whom, or bank, trust company or
47 other fiscal agent to which, that money is paid shall act as trustee of that money and shall

1 hold and apply the same for the purposes of this Act, subject to such regulations as may
2 be provided in the resolution or trust agreement or as may be required by this Act.

3 **6. Remedies.** A holder of bonds issued under this Act or of any of the coupons
4 appertaining to the bonds, and the trustee under a trust agreement, except to the extent the
5 rights given may be restricted by the resolution authorizing the issuance of those bonds or
6 trust agreement, may, either at law or in equity, by suit, action, mandamus or other
7 proceeding, including proceedings for the appointment of a receiver to take possession
8 and control of the properties of the district, protect and enforce all rights under the laws
9 of the State or granted under this Act or under the resolution or trust agreement, and may
10 enforce and compel the performance of all duties required by this Act or by the resolution
11 or trust agreement to be performed by the district or by an officer of the district, including
12 the fixing, charging and collecting of rates, fees and charges for the use of or for the
13 services and facilities furnished by the district.

14 **7. Refunding bonds.** The district by resolution of its board of trustees, without
15 district vote, may issue refunding bonds for the purpose of paying its bonds at maturity or
16 upon acceleration or redemption. The refunding bonds may be issued at such time prior to
17 the maturity or redemption of the refunded bonds as the board of trustees determines to
18 be in the public interest. The refunding bonds may be issued in sufficient amounts to pay
19 or provide the principal of the bonds being refunded, together with any redemption
20 premium on the refunding, any interest accrued or to accrue to the date of payment of the
21 bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds
22 being refunded and such reserves for debt service or other capital or current expenses
23 from the proceeds of the refunding bonds as may be required by a trust agreement or
24 resolution securing bonds. The issue of refunding bonds, the maturities and other details
25 of the refunding bonds, the security for the refunding bonds, the rights of the holders of
26 the refunding bonds, and the rights, duties and obligations of the district in respect of the
27 same are governed by the applicable provisions of the Maine Revised Statutes, Title 38,
28 chapter 11 relating to the issue of bonds other than refunding bonds.

29 **8. Tax exemption.** All bonds, notes or other evidences of indebtedness issued under
30 this Act and their transfer and the income from bonds, notes or other evidences of
31 indebtedness, including the profit made on the sale of bonds, notes or other evidences of
32 indebtedness are at all times free from taxation within the State.

33 **9. Bonds declared legal investments.** Bonds and notes issued by the district under
34 this Act are made securities in which all public officers and public bodies of the State and
35 its political subdivisions, all insurance companies and associations and other persons
36 carrying on an insurance business, trust companies, banks, bankers, banking associations,
37 savings banks and savings associations, including savings and loan associations, credit
38 unions, building and loan associations, investment companies, executors, administrators,
39 trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons
40 carrying on a banking business, and all other persons who are now or may hereafter be
41 authorized to invest in bonds or other obligations of the State, may properly and legally
42 invest funds, including capital in their control or belonging to them. The bonds and notes
43 are made securities that may properly and legally be deposited with and received by a
44 state, municipal or public officer, or an agency or political subdivision of the State, for
45 any purpose for which the deposit of bonds or other obligations of the State is now or
46 may hereafter be authorized by law.

1 **Sec. 11. P&SL 1963, c. 87, §19**, as amended by P&SL 1975, c. 81, §6, is
2 repealed and the following enacted in its place:

3 **Sec. 19. Rates and tolls; application of revenues.** All individuals, firms and
4 corporations, whether public, private or municipal, shall pay to the treasurer of the district
5 rates, tolls, rents, entrance charges and other lawful charges established by the board of
6 trustees in accordance with this Act for the services used or available to them. The sewer
7 rates may be adjusted for the quality and character of the material discharged into the
8 sewer system and may include discounts and late charges, rates for the district's
9 connection fees, impact fees and readiness to serve charge against owners or persons in
10 possession or against whom the taxes are assessed of all buildings or premises intended
11 for human habitation or occupancy, whether occupied or not, that abut on a street or
12 location through which the district has constructed a sewer line or that are within 150 feet
13 of a sewer line constructed by the district, even if the buildings or premises are not
14 actually connected to the sewer line.

15 In this Act, the words "other lawful charges" or "other charges" include, but are not
16 limited to, interest on delinquent accounts at a rate not to exceed the highest lawful rate
17 set by the Treasurer of State for municipal taxes.

18 Rates, tolls, rents and entrance charges must be uniform within the district if the cost
19 to the district of installation and maintenance of sewers or their appurtenances and the
20 cost of service is substantially uniform; but nothing precludes the district from
21 establishing a higher rate, toll, rent or entrance charge than the regular rates, tolls, rents
22 and entrance charges in sections where, for any reason, the cost to the district of
23 construction and maintenance or the cost of service exceeds the average, but the higher
24 rates, tolls, rents and entrance charges must be uniform throughout the sections where
25 they apply.

26 Prior to the adoption of a new rate schedule, the board of trustees shall hold a public
27 hearing regarding the proposed rate schedule. The board of trustees shall publish the
28 proposed rates and notice of the hearing at least once in a newspaper having a general
29 circulation in the district not less than 7 days prior to the hearing. The district shall mail
30 to each ratepayer a notice of the public hearing and the proposed new rate at least 14 days
31 prior to the hearing.

32 Notwithstanding any other provision of law, districts that share, supply or contract
33 with another district for services shall establish rates, tolls, rents and entrance charges
34 mutually agreeable to the board of each participating district.

35 The sewer rates, tolls, rents, entrance charges, assessments and other lawful charges
36 established by the board of trustees in accordance with this Act must be fixed and
37 adjusted to produce in the aggregate revenue at least sufficient, together with any other
38 money available, to:

39 1. **Current operating expenses.** Pay the current expenses of operating and
40 maintaining the sewerage, drainage and treatment system of the district;

41 2. **Payment of interest and principal.** Pay the principal of, premium, if any, and
42 interest on all bonds and notes issued by the district under this Act and the Maine Revised
43 Statutes, Title 38, chapter 11 as the same become due and payable;

