

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2022

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Legislative Document

No. 1829

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S.P. 646

In Senate, December 22, 2021

### An Act To Amend the Charter of the Ogunquit Sewer District

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 20, 2021. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator LAWRENCE of York.

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

2 **Sec. 1. P&SL 1963, c. 87, §1**, as amended by P&SL 2011, c. 24, §1, is further  
3 amended to read:

4 **Sec. 1. Territorial limits; incorporation; purposes.** The inhabitants and  
5 territory within the Town of Ogunquit in York County constitute a public sewerage district  
6 and a body politic and corporate under the name of "Ogunquit Sewer District." The purpose  
7 of the district, subject to the provisions of section 10, is to take over, control, operate and  
8 manage the sanitary sewer system previously owned by the Town of Ogunquit and as  
9 further improved and expanded by the Ogunquit Sewer District with all appurtenances  
10 thereto; to extend, increase, enlarge and improve the sewer system; to extend the present  
11 system or systems so as to furnish sewerage facilities to those parts of the district and, as  
12 determined appropriate by the trustees of the district, to parts of adjoining municipalities  
13 not ~~now~~ served with such facilities or served by a failing or failed subsurface wastewater  
14 disposal system or septic system at the time service is extended thereto; to provide for  
15 removal and treatment of sewage when, as and if such treatment becomes necessary; and  
16 generally to construct, maintain, operate and provide a system of sewage collection and  
17 pumping, sewage disposal and sewage treatment for public purposes and for the health,  
18 welfare, comfort and convenience of the inhabitants of the district.

19 **Sec. 2. P&SL 1963, c. 87, §2-A**, as enacted by P&SL 2011, c. 24, §4, is amended  
20 to read:

21 **Sec. 2-A. Sewer extensions.** Sewer extensions are governed by the Maine Revised  
22 Statutes, Title 38, section ~~1252~~, subsection 7 1042.

23 **Sec. 3. P&SL 1963, c. 87, §§3 and 4**, as amended by P&SL 2001, c. 19, §4, are  
24 further amended to read:

25 **Sec. 3. Authority to acquire and hold property; right of eminent domain**  
26 **conferred.** Upon acceptance of this ~~aet~~ Act, and subject to section 10, title to all public  
27 sewers in the Town of Ogunquit other than sewers used exclusively for storm or surface  
28 water drainage remain with and immediately pass to and are vested in the district, and the  
29 district shall maintain and operate the same. Upon approval, title to all plans, maps,  
30 specifications and data relating to the existing public sewers and, subject to any obligation  
31 of the Town of Ogunquit to the United States of America or any agency of the United States  
32 of America, all plans, maps, specifications and data relative to any proposed improvement  
33 or expansion of the sanitary sewer system of the Town of Ogunquit remain with and  
34 immediately pass to the district. The district is authorized and empowered to acquire and  
35 hold real and personal property necessary or convenient for the purposes of this ~~aet~~ Act,  
36 and is expressly granted the right of eminent domain, and for the purposes of this ~~aet~~ Act,  
37 is authorized to take and hold, either by exercising its right of eminent domain, or by  
38 purchase, lease or otherwise, as for public uses any land, real estate, easements or interests  
39 in that land, real estate or easements, and any sewers, drains or conduits and any sewer or  
40 drainage rights necessary for constructing, establishing, maintaining and operating sewers,  
41 drains, reservoirs, flush tanks, manholes, catch basins, treatment works, pumping stations  
42 and other appliances and property used or useful for collecting, holding, purifying,  
43 distributing and disposing of sewage matter and commercial and industrial waste and  
44 surface and waste waters. Nothing in this section may be construed as authorizing the

1 district to take by right of eminent domain any of the property or facilities of any other  
2 public ~~service corporation or district~~ utility used or ~~required~~ acquired for future use by the  
3 owner of that public service corporation or district in the performance of a public duty,  
4 unless expressly authorized by subsequent act of the Legislature.

5 The term "other public utility" as used in this Act may not be construed to imply that  
6 the district is a public utility for purposes of the Maine Revised Statutes, Title 35-A.

7 **Sec. 4. Procedures under eminent domain, condemnation, damages and**  
8 **appeals.** In exercising from time to time the right of eminent domain conferred upon it,  
9 the district, by its board of trustees, shall proceed in accordance with and is subject to the  
10 ~~limitations eminent domain procedures~~ set forth in the Maine Revised Statutes, Title 38,  
11 section ~~1252, subsection 2~~ 1040.

12 **Sec. 4. P&SL 1963, c. 87, §8-A,** as enacted by P&SL 2011, c. 24, §7, is amended  
13 to read:

14 **Sec. 8-A. Lease of property.** The district's lease of its property is governed by the  
15 Maine Revised Statutes, Title 38, section ~~1252, subsection 10~~ 1045.

16 **Sec. 5. P&SL 1963, c. 87, §12,** as repealed and replaced by P&SL 2011, c. 24, §9,  
17 is amended to read:

18 **Sec. 12. Connection of private sewers.** Notwithstanding the Maine Revised  
19 Statutes, Title 38, section ~~1252~~ 1046, subsection 3, every building within the district  
20 intended for human habitation or occupancy or with facilities for discharge or disposal of  
21 sewage or commercial or industrial waste that is accessible to a sewer or drain of the district  
22 must have a sanitary sewer or drainage system that must be connected with the sewer or  
23 drain of the district by the owner or person against whom taxes on the premises are assessed  
24 in the most direct manner possible within 90 days after receiving a request for connection  
25 from the district or within such further time as the trustees of the district may grant and, if  
26 feasible, with a separate connection for each building. ~~Existing buildings~~ An existing  
27 building that are is already served by a private sewer system ~~are is~~ not required to connect  
28 with any sewer or drain of the district as long as the private sewer or drainage system  
29 functions in a satisfactory and sanitary manner and does not violate any applicable law or  
30 ordinance applicable to the connection with a sewer or drain or a sewer district or any  
31 applicable requirements of the state plumbing code, as determined by the municipal  
32 plumbing inspector or the plumbing inspector's alternate or, in the event that both are  
33 trustees or employees of the district, the Department of Health and Human Services,  
34 Division of Health Engineering or successor organization. A Notwithstanding Title 38,  
35 section 1046, a building is considered to be accessible to a sewer or drain of the district for  
36 the purposes of this section if that building or any private sewer or drain directly or  
37 indirectly connected to the building, or carrying sewage or commercial or industrial waste  
38 from the building, is at any point or may at some point come within 150 feet of a sewer or  
39 drain of the district, except that nothing in this section requires the owner of any building  
40 to acquire any real property or easement for the sole purpose of making that connection.

41 **Sec. 6. P&SL 1963, c. 87, §13,** as amended by P&SL 2011, c. 24, §10, is further  
42 amended to read:

43 **Sec. 13. Sanitary provisions, standards, rules, regulations, bylaws and**  
44 **penalty for violations.** The district is authorized to adopt standards, establish and amend

1 reasonable rules, regulations and bylaws for the proper management of the affairs of the  
2 district and perform other acts within the powers delegated by law to the trustees. Any  
3 person who places, discharges or leaves an offensive or injurious matter or material on or  
4 in the conduits, catch basins or receptacles of the district contrary to its rules or regulations,  
5 or willfully injures any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet,  
6 engine, pump or other property held, owned or used by the district for the purposes of this  
7 act is liable to pay twice the amount of the damages to the district, to be recovered in a civil  
8 action; and such person, on conviction of any of the acts or willful injury described in this  
9 section, and any person who violates section 11 or 12, may be punished by a fine of up to  
10 \$1,000 per day. The district may seek in a civil action injunctive relief from an industrial  
11 or commercial user that violates a pretreatment standard or requirement administered by  
12 the district. The district may seek a civil penalty of up to \$1,000 per day for each violation  
13 by an industrial or commercial user of a pretreatment standard or requirement.

14 **Sec. 7. P&SL 1963, c. 87, §14, first ¶**, as amended by P&SL 2001, c. 19, §7, is  
15 further amended to read:

16 **Sec. 14. Trustees and officer; tenure of office; annual meetings; election to**  
17 **office; organization; vacancies; compensation; bylaws.** All of the affairs of the  
18 district are managed by a board of 3 trustees, residents of the district, who are chosen as  
19 provided in this section.

20 **Sec. 8. P&SL 1963, c. 87, §14, 4th ¶**, as amended by P&SL 2011, c. 24, §11, is  
21 repealed.

22 **Sec. 9. P&SL 1963, c. 87, §14, 5th ¶**, as amended by P&SL 2001, c. 19, §7, is  
23 repealed.

24 **Sec. 10. P&SL 1963, c. 87, §14, 7th ¶**, as amended by P&SL 2001, c. 19, §7, is  
25 further amended by amending the 2nd to last sentence to read:

26 In preparing the voter's ballot the voter shall mark a cross (X) or a check mark (☐) (✓) against  
27 and to the right of the names on the ballot as the voter desires to vote for, not to exceed the  
28 number of trustees so to be elected in the district.

29 **Sec. 11. P&SL 1963, c. 87, §14, 10th ¶**, as amended by P&SL 2011, c. 24, §11, is  
30 further amended to read:

31 Members of the board of trustees are eligible to serve in any office under the board.  
32 ~~Notwithstanding the Maine Revised Statutes, Title 38, section 1252, subsection 5, the~~ The  
33 trustees of the district receive a salary not to exceed \$950 per year and the treasurer may  
34 be allowed further compensation as the trustees determine compensation as recommended  
35 by the trustees and approved by majority vote of the municipal officers in municipalities  
36 representing a majority of the population within the district, including compensation for  
37 any duties they perform as officers as well as for their duties as trustees. Certification of  
38 the vote must be recorded with the Secretary of State and recorded in the bylaws.  
39 Compensation for duties as trustees must be based on an amount specified in the bylaws  
40 for each meeting actually attended plus reimbursement for travel and expenses, with the  
41 total not to exceed a specific amount as specified in the bylaws. Compensation schedules  
42 in effect on January 1, 2013 continue in effect until changed.

1           **Sec. 12. P&SL 1963, c. 87, §14**, as amended by P&SL 2011, c. 24, §11, is further  
2 amended by adding at the end 2 new paragraphs to read:

3           The annual meeting of the district, not the Town of Ogunquit's annual meeting, must  
4 be held at an hour, date and place designated by resolution of the board of trustees. At the  
5 annual meeting of the district, the trustees shall elect a chair, a treasurer and a clerk to serve  
6 for the ensuing year and until their successors are elected and qualified.

7           The board of trustees shall adopt a budget for the next fiscal year of the district  
8 following an opportunity for public comments on the budget.

9           **Sec. 13. P&SL 1963, c. 87, §15, last ¶**, as enacted by P&SL 1997, c. 78, §2, is  
10 repealed.

11           **Sec. 14. P&SL 1963, c. 87, §17, first ¶**, as enacted by P&SL 2011, c. 24, §12, is  
12 amended to read:

13           **Sec. 17. Authorized to borrow money and to issue bonds and notes.** To  
14 procure funds for the purposes of this Act and for such other expenses as may be necessary  
15 for the carrying out of the purposes, the district without a district vote but by action of its  
16 board of trustees is authorized to raise funds from sources other than operational activities  
17 by receiving governmental aid and also by borrowing money in accordance with this  
18 section. The district may issue its notes and bonds in one series or in separate series from  
19 time to time, as long as the aggregate outstanding principal balance at any one time does  
20 not exceed ~~\$7,000,000~~ \$12,000,000, unless a higher debt obligation limit is ~~approved~~  
21 established pursuant to the Maine Revised Statutes, Title 38, section ~~4256~~ 1054, ~~except that~~  
22 the district may employ the procedures set forth in Title 30-A, section 2354 as an alternative  
23 to the procedures in Title 30-A, chapter 121.

24           **Sec. 15. P&SL 1963, c. 87, §17, sub-§1, last ¶**, as enacted by P&SL 2011, c. 24,  
25 §12, is amended by amending the 5th sentence to read:

26 Bonds may be issued without obtaining the consent of a commission, board, bureau or  
27 agency of the State or of a municipality encompassed by the district and without any  
28 proceedings or conditions other than those specifically required by this Act or other  
29 applicable law.

30           **Sec. 16. P&SL 1963, c. 87, §17, sub-§4, last ¶**, as enacted by P&SL 2011, c. 24,  
31 §12, is amended to read:

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

1           **Sec. 17. P&SL 1963, c. 87, §17, sub-§§8 and 9**, as enacted by P&SL 2011, c. 24,  
2           §12, are amended to read:

3           **8. Tax exemption.** All bonds, notes or other evidences of indebtedness issued under  
4 this Act and their transfer and the income from bonds, notes or other evidences of  
5 indebtedness, including ~~the~~ any profit made on the sale of bonds, notes or other evidences  
6 of indebtedness are ~~at all times free~~ exempt from taxation within the State.

7           **9. Bonds declared legal investments.** Bonds and notes issued by the district under  
8 this Act are ~~made~~ securities in which all public officers and public bodies of the State and  
9 its political subdivisions, all insurance companies and associations and other persons  
10 carrying on an insurance business, trust companies, banks, bankers, banking associations,  
11 savings banks and savings associations, including savings and loan associations, credit  
12 unions, building and loan associations, investment companies, executors, administrators,  
13 trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons  
14 carrying on a banking business, and all other persons who are ~~now or may hereafter be~~  
15 authorized to invest in bonds or other obligations of the State, may properly and legally  
16 invest funds, including capital in their control or belonging to them. The bonds and notes  
17 are ~~made~~ securities that may properly and legally be deposited with and received by a state,  
18 municipal or public officer, or an agency or political subdivision of the State, for any  
19 purpose for which the deposit of bonds or other obligations of the State is ~~now or may~~  
20 ~~hereafter be~~ authorized by law.

21           **Sec. 18. P&SL 1963, c. 87, §17-A** is enacted to read:

22           **Sec. 17-A. Investments.** Investments by the district are governed by the Maine  
23 Revised Statutes, Title 38, section 1055.

24           **Sec. 19. P&SL 1963, c. 87, §19, 3rd ¶**, as enacted by P&SL 2011, c. 24, §13, is  
25 amended by adding at the end a new sentence to read:

26 Rates, tolls, rents and entrance charges for services provided in adjoining municipalities  
27 must be established by the trustees based on costs associated with those services and are  
28 not subject to a requirement of uniformity.

29           **Sec. 20. P&SL 1963, c. 87, §19, sub-§3**, as enacted by P&SL 2011, c. 24, §13, is  
30 amended to read:

31           **3. Sinking fund for retirement of obligations; repairs; replacement; renewals.**  
32 Create and maintain sinking funds and other reserves for retirement of obligations as may  
33 be required by any trust agreement or resolution securing bonds and notes and provide  
34 funds for paying the cost of all necessary repairs, replacements and renewals of the  
35 sewerage, drainage and treatment systems of the district; ~~and~~

36           **Sec. 21. P&SL 1963, c. 87, §19, sub-§3-A** is enacted to read:

37           **3-A. Payment of repairs, replacements and renewals.** Provide funds for paying the  
38 cost of all necessary repairs, replacements and renewals of the sewerage, drainage and  
39 treatment systems of the district; and

40           **Sec. 22. P&SL 1963, c. 87, §20, first ¶**, as amended by P&SL 2001, c. 19, §9, is  
41 further amended by amending the 2nd sentence to read:

1 The district shall then estimate and assess upon such lots and parcels of land, and against  
2 the owner of the lots or parcels of land, or person in possession or against whom taxes on  
3 the lots or parcels of land are assessed, whether the person to whom the assessment is so  
4 made is the owner, tenant, lessee or agent, or against the heirs or ~~devises~~ devises of a  
5 deceased owner without designating any of them by name and whether the same is occupied  
6 or not, a sum reflecting an appropriate portion of the expenses of constructing the common  
7 sewer or acquisition of other improvements, the amount assessed not to exceed the amount  
8 of such benefit as the district determines just and equitable towards defraying the expenses  
9 of constructing and completing such sewer, construction or acquisition of other  
10 improvements, together with such sewage disposal units and appurtenances as may be  
11 necessary.

12 **Sec. 23. P&SL 1963, c. 87, §24-A**, as enacted by P&SL 2011, c. 24, §14, is  
13 amended to read:

14 **Sec. 24-A. Landlord access to tenant bill payment information.** Landlord  
15 access to payment information related to sewer service is governed by the Maine Revised  
16 Statutes, Title 38, section ~~1252~~, ~~subsection 11~~ 1051.

17 **Sec. 24. P&SL 1963, c. 87, §25, 2nd ¶**, as enacted by P&SL 2001, c. 19, §10, is  
18 amended by amending the 2nd sentence to read:

19 This lien arises and is perfected as services are provided and takes precedence over all other  
20 claims on the real estate, excepting only claims for taxes.

21 **Sec. 25. P&SL 1963, c. 87, §25, 6th ¶**, as enacted by P&SL 2001, c. 19, §10, is  
22 amended to read:

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

30 STATE OF MAINE  
31 OGUNQUIT SEWER DISTRICT  
32 NOTICE OF IMPENDING AUTOMATIC FORECLOSURE OF SEWER LIEN  
33 P & S L 2001, c. 19  
34

35 IMPORTANT: DO NOT DISREGARD THIS NOTICE. YOU WILL LOSE YOUR  
36 PROPERTY UNLESS YOU TIMELY PAY THE SEWER CHARGES, COSTS AND  
37 INTERESTS THAT HAVE BEEN LIENED BY THE OGUNQUIT SEWER DISTRICT.

38 To:

39 You are the party named on the Sewer Lien Certificate filed on \_\_\_\_\_, 20\_\_\_\_, by  
40 ~~the Ogunquit Sewer District~~ and recorded in the York County Registry of Deeds in Book  
41 \_\_\_\_\_, Page \_\_\_\_\_.



1 The district's filing created a sewer lien mortgage on the real estate described in the  
2 Sewer Lien Certificate. On \_\_\_\_\_, 20\_\_, the sewer lien mortgage will be foreclosed  
3 and your rights to redeem the mortgage and recover your property by paying the sewer  
4 charges, costs and interest that are owed will expire.

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

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

9 \_\_\_\_\_  
10 District Treasurer

11 **Sec. 26. P&SL 1963, c. 87, §25, 7th ¶**, as enacted by P&SL 2001, c. 19, §10, is  
12 amended to read:

13 The filing of the certificate in the registry of deeds is sufficient notice of the existence  
14 of the mortgage provided for in this section. ~~If In the event that~~ the rate, ~~assessment or~~  
15 ~~supplemental assessment~~, interest and costs are paid within the period of redemption  
16 provided for in this section, the treasurer of the district shall discharge the mortgage in the  
17 same manner as is now provided for discharge of real estate mortgages.

18 **Sec. 27. P&SL 1963, c. 87, §25, last ¶**, as enacted by P&SL 2001, c. 19, §10, is  
19 repealed.

20 **Sec. 28. P&SL 1963, c. 87, §25**, as repealed and replaced by P&SL 2001, c. 19,  
21 §10, is amended by adding at the end a new paragraph to read:

22 The fee to be charged by the district to the ratepayer for the notice and filing may not  
23 exceed \$3 in addition to the fee to be charged to the district by the register of deeds for  
24 filing and recording the same.

25 **Sec. 29. P&SL 1963, c. 87, §25-A** is enacted to read:

26 **Sec. 25-A. Waiver of sewer district lien foreclosure.** The district's waiver of a  
27 lien foreclosure for any lien created pursuant to this Act is governed by the Maine Revised  
28 Statutes, Title 38, section 1049.

29 **Sec. 30. P&SL 1963, c. 87, §28**, as enacted, is repealed.

30 **Sec. 31. P&SL 1963, c. 87, §28-A**, as enacted by P&SL 2011, c. 24, §15, is  
31 amended to read:

32 **Sec. 28-A. Coordination with municipal planning.** The district shall coordinate  
33 municipal planning and sewer extension planning in accordance with the Maine Revised  
34 Statutes, Title 38, section ~~1252, subsection 9~~ 1037.

35 **Sec. 32. P&SL 1963, c. 87, §31** is enacted to read:

36 **Sec. 31. Town of Ogunquit; sewer system; storm water system.** The  
37 authority to construct and maintain a sanitary sewer system and to provide for the removal  
38 and treatment of sewage, and to construct, maintain, operate and provide a system of  
39 sewage collection and pumping, sewage disposal and sewage treatment, having been  
40 granted to the district, the Town of Ogunquit may not construct or maintain sanitary sewers

1 or sewage treatment facilities. This section does not limit the authority of the Town of  
2 Ogunquit to construct and maintain storm water sewers or a storm water sewer system.

3

### **SUMMARY**

4 This bill amends the Ogunquit Sewer District charter to update the charter and make it  
5 conform with the Maine Revised Statutes, Title 38, chapter 10 and reflect current and more  
6 efficient and effective practices.