

MAINE STATE LEGISLATURE

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EIGHTY-SECOND LEGISLATURE

H. P. No. 611

H. D. No. 149

House of Representatives, Feb. 13, 1925.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Boynton of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-FIVE

AN ACT to Incorporate the South Portland Sewerage District.

Whereas, there are certain thickly built up portions of the city of South Portland which, at the present time, are unprovided with public sewerage facilities of any sort, and

Whereas, owing to the presence of numerous cesspools and other similar structures, the health of the inhabitants of such districts is endangered, and

Whereas, it is necessary to provide such sewerage facilities before the time that this act would become effective, and

Whereby, by reason of the foregoing facts, an emergency exists, as is contemplated by the constitution of this state, and the passage of this act is immediately necessary for the preservation of public peace, health and safety,

Now, therefore,

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

Section 1. That that part of the territory of the city of
2 South Portland, in the county of Cumberland, embraced
3 within the following limits, to wit: Wards one, two, three,
4 four, five, six, and seven, (except that part of ward seven
5 that lies within the following bounds, to wit: Beginning
6 at a point formed by the intersection of the Cummings road,
7 so called, in said ward seven, with the line of the town of
8 Scarboro; thence northwesterly by said Scarboro town line
9 to the line of the city of Westbrook; thence northeasterly
10 by said Westbrook city line to the Cummings road afore-
11 said; thence southerly by said Cummings road to the point
12 begun at) and the inhabitants within said territory, shall
13 constitute a body politic and corporate, under the name of
14 South Portland Sewerage District, for the purpose of pro-
15 viding a system of sewerage and drainage for public pur-
16 poses and for the health, comfort and convenience of the
17 inhabitants of said district.

Sect. 2. Said district is hereby authorized and empow-
2 ered to accept, by action of its trustees hereinafter men-
3 tioned, from the city of South Portland, and said city of
4 South Portland is hereby authorized to convey, by deed
5 signed by the mayor, duly authorized by vote of the coun-
6 cil, to said district, any and all right, title and interest which
7 said city may have in and to the drains and sewers now
8 located within the limits of said district, but any amounts

9 now owed by said city of South Portland upon said sewers
10 and drains, or any interest now or hereafter due on any
11 amounts owed by said city, shall be paid by said city of
12 South Portland, and any assessments or amounts, now or
13 hereafter due said city, by reason or on account of any
14 sewer or drain heretofore built by said city, shall be paid
15 to said city. Said district is further authorized and em-
16 powered to take and hold by purchase, lease or the exer-
17 cise of the right of eminent domain, which right of emi-
18 nent domain is expressly granted to said district, or other-
19 wise, personal property, land or real estate, or easements
20 therein, necessary for forming basins or outlets, for laying
21 pipes and maintaining the same, and for laying and main-
22 taining conduits for carrying and collecting, discharging
23 and disposing of sewerage matters and waters, and for all
24 other objects and purposes necessary, convenient and proper
25 for the purposes of this act.

The property of said district, wherever located, shall be
2 exempt from taxation.

Sect. 3. Said district may lay pipes and conduits, take
2 up, repair, and maintain the same, or may contract for the
3 same to be done, in and through the streets of the city of
4 South Portland, within said district, and in and through
5 ways and highways, public or private, located in said dis-
6 trict, and through land of any corporation, firm, or indi-
7 vidual, as hereinafter provided, and under any railroad in
8 manner prescribed by law, to and into Fore river, or Port-

9 land harbor, or any part thereof, adjacent to the territory
10 of said district, or to and into any drain or sewer now or
11 hereafter built, which empties into said Fore river or Port-
12 land harbor, or any part thereof, the discharge therefrom
13 to be at such point or points in said Fore river or Portland
14 harbor as shall be most convenient and reasonable for said
15 district, and convey through the same sewerage, surface
16 water and the natural flow of existing water courses, and
17 secure and maintain basins, reservoirs and outlets; may
18 construct, maintain, renew, and repair flush tanks, man-
19 holes, catch-basins and such other appliances for collect-
20 ing, holding, distributing and disposing of sewerage mat-
21 ters and waters as may be necessary and proper; and in
22 general to do any and all other acts or things necessary,
23 convenient and proper for the purposes of this act. It is
24 further provided that the trustees of said district shall have
25 access to any and all profiles and plans relating to sewers
26 within the limits of said district which have been made by,
27 or are in the possession of, said city.

In respect to the manner of constructing drains and sewers
2 in said district, the assessment of abutting owners for the
3 cost of the same and the collection of said assessments, the
4 issuing of permits, and in respect to all other matters cov-
5 ered by the sections herein referred to, the trustees of said
6 district shall be governed by the provisions of sections five
7 to twenty-five inclusive of chapter twenty-two of the re-
8 vised statutes of the state of Maine, and said district is

9 hereby granted the same power and authority in said
10 premises as have the municipal officers of cities and towns
11 in like cases, and the words "town clerk," in said sections,
12 shall be construed to mean the clerk of said district, and
13 the inhabitants of said district shall have the same rights
14 and privileges, and be subject to the same regulations and
15 restrictions, as are now granted to and imposed upon indi-
16 viduals under said sections. In the application of said sec-
17 tions five to twenty-five, the trustees of the said district
18 shall perform all the acts and duties, and be subject to all
19 responsibilities of municipal officers, as is provided by said
20 sections. Said trustees shall have the power to determine
21 when and where in said district sewerage facilities are most
22 needed, and how said sewers shall be built; where, when,
23 and what repairs, renewals, and extensions are necessary,
24 and how the same shall be built, and their decision in such
25 matters, except as is otherwise provided in the sections
26 above referred to, shall be final. It is provided, however,
27 that the municipal officers of said city may make written
28 recommendation to the trustees of said district regarding
29 sewerage necessities in said district.

In prosecuting the work contemplated by this act, said
2 trustees may engage the services of engineers and laborers;
3 may purchase all necessary material and supplies, and con-
4 struct said drains and sewers under their own supervision,
5 or they may, if they deem it advantageous, contract with
6 some responsible person, firm, or corporation, for the con-

7 struction of said drains and sewers, but said district shall
8 in no case be released from liability, as set forth in article
9 five of this act, by reason of having contracted with any
10 person, firm, or corporation, as provided above, for the
11 construction of any sewer, drain or other structure.

And it is further provided that no person, while he is a
2 trustee of said district, shall be interested, either directly
3 or indirectly, in any contract or agreement for the con-
4 struction of any sewer, drain or other structure, in said
5 district, entered into by said district. This provision, how-
6 ever, shall not prevent said district from entering upon, or
7 taking land, or any easement therein, of any officer of said
8 district, while he is such an officer, and awarding damages
9 therefor, if, in the opinion of said trustees, such entering
10 or taking is necessary for the purposes of said district.

Sect. 4. The trustees of said district may exercise the
2 right of eminent domain vested in said district for the pur-
3 poses of this act after hearing, notice of the time and place
4 of said hearing having been given, by publication in two
5 daily papers published in the city of Portland, for two weeks
6 previous to the time appointed for said hearing, and the
7 clerk of said district shall keep a record of their proceed-
8 ings, and their determination and decision, which shall set
9 forth a description of the land or easement taken, and the
10 owners, if known, and the amount of damages awarded
11 therefor, and upon the signing of said record by said trus-
12 tees, and the filing of the same in the registry of deeds for

13 the county of Cumberland, said trustees may enter upon
14 such land and take possession of the same, or an easement
15 therein, as the case may be, for the purposes of this act.
16 Any person aggrieved by the decision of said trustees, so
17 far as it relates to the damages for land or easements there-
18 in so taken, shall have the same rights of appeal as are
19 provided in the case of the laying out of town ways.

Sect. 5. Whenever said district shall enter, dig up, or
2 excavate any street, way or highway, or other land, within
3 said district, for the purpose of laying pipes or conduits,
4 constructing manholes or catch-basins, or for the purpose
5 of taking up, repairing, extending or maintaining any sewer,
6 drain, manhole, catch-basin, or other structure, or for any
7 other purpose, said street, highway, way, or other land,
8 shall, at the completion of the work of said district, be re-
9 turned to the condition said street, way, highway, or other
10 land was in prior to the work of said district, or to a con-
11 dition equally as good, and said district shall be liable to
12 any person, firm or corporation injured or damaged by any
13 fault of said district or its servants or agents, or by reason
14 of any defect in any way, street or highway occasioned by
15 the construction of any of the works of said district, either
16 during such construction or after the same has been com-
17 pleted, or while the same shall be undergoing repairs, or
18 extensions are being made; and said district shall be liable
19 to the city of South Portland for any and all costs, dam-
20 ages and expenses which said city may suffer or be put to,

21 by reason of the default, neglect, negligence, or carelessness of said district or any of its officers, servants or agents, 22 ness of said district or any of its officers, servants or agents, 23 in creating, maintaining, repairing, or extending said sewerage system. 24

Where the character of the work of said district is such 2 as to endanger travel on any street or way, said city of 3 South Portland shall direct the temporary closing of such 4 streets or ways, and of intersecting streets or ways, upon 5 request of said district, and such streets or ways shall remain closed to public traffic until the work of said district 6 is completed, and the surfaces of said streets or ways are 7 restored to a proper condition, as hereinbefore set forth. 8

Sect. 6. All the affairs of said district shall be managed, 2 governed and controlled by a board of trustees, composed 3 of four members, one of whom shall be the mayor of the 4 city of South Portland, the term of whose office shall be 5 co-terminous with the term of office as such mayor, and 6 the qualification of said mayor to the office of mayor shall 7 also qualify him as a trustee of said district. Said mayor 8 shall act as president of said board, but shall have no voting 9 power.

The three remaining trustees shall be chosen by the inhabitants of said district as is hereinafter provided, but no two 3 of said trustees shall be elected from the same ward of 4 said city.

Sect. 7. The trustees to be first elected shall be elected 2 by a plurality vote of the legal voters of said district, voting

3 at a special election to be called and held as is provided in
4 section eleven of this act. All nominations of candidates
5 so to be voted for shall be made by nomination papers
6 signed in the aggregate for each candidate by no less than
7 fifty qualified voters of said district. Each voter signing
8 a nomination paper shall make his signature in person, and
9 add to it his place of residence, and each voter may sub-
10 scribe to as many nomination papers as there are trustees
11 to be elected in said district, and no more. Such nomi-
12 nation papers shall, before being filed, be submitted to the
13 city clerk of said city of South Portland, who shall forth-
14 with certify thereon what number of the signatures are
15 names of qualified voters in said district. One of the sign-
16 ers to each such separate paper shall swear to the truth
17 thereof, and the certificate of such oath shall be annexed
18 to, or made upon, the nomination papers. Such nomination
19 papers shall be filed with said city clerk at least seven days,
20 exclusive of Sundays, previous to the day of such election.
21 With such nomination papers shall also be filed, in writing,
22 the consent of the person or persons nominated.

All nomination papers filed, which are in apparent con-
2 formity with the foregoing provisions, shall be deemed to
3 be valid; and if not in apparent conformity, they may be
4 seasonably amended, under oath.

The ballot in said district for the election of trustees shall
2 contain the names of all candidates so nominated in said
3 district, printed in one column, under the heading: "For

4 "Trustees of the South Portland Sewerage District," and
5 at the first election, above such heading shall be printed:
6 "Vote for Three. Make a cross to the right of each name
7 voted for," which shall be changed to conform to the neces-
8 sities of each election thereafter, depending upon the num-
9 ber of trustees to be elected. As many blank spaces shall
10 be left after the names of the candidates as there are trus-
11 tees to be elected, in which the voter may insert the name
12 of any person for whom he desires to vote. In preparing
13 his ballot, the voter shall mark a cross (X) against and
14 to the right of such names, on said ballots, as he desires to
15 vote for, not to exceed the number of trustees so to be
16 elected in said district. The result of such election shall
17 be declared by the municipal officers of the city of South
18 Portland, and due certificate thereof filed with the city
19 clerk.

As soon as convenient, after the members of said board
2 have been so chosen, the trustees shall meet and organize,
3 adopt a corporate seal, and choose a clerk and such other
4 officers and agents as shall be needful for the proper man-
5 agement of the affairs of said district, but it is hereby pro-
6 vided that the treasurer of said city of South Portland shall
7 be the treasurer of said district, whose term of office shall
8 be co-terminous with the term of office as such city treas-
9 urer, and the qualification of said city treasurer to the office
10 of city treasurer shall also qualify him as treasurer of said
11 district.

Before assuming the duties of his office, the treasurer of
2 said district shall give bond to said district for the faithful
3 performance of said duties, in such sum, and with such
4 sureties as said trustees shall determine; the expenses of
5 such bond to be paid by said district.

In the event of a tie between two or more candidates, the
2 matter shall be determined by lot, under the direction of
3 the clerk of said city.

At the first meeting, the trustees so elected shall determine
2 by lot the term of office of each trustee, so elected, so that
3 one of said elected trustees shall retire each year, and the
4 term of office of the first trustee to end shall end at the
5 date of the municipal election of said city of South Port-
6 land in nineteen hundred and twenty-six, and thereafter the
7 term of office of a trustee so elected shall end, and his
8 successor shall be chosen at the time of said municipal elec-
9 tion, in manner aforesaid.

The trustees so elected shall serve the full term of three
2 years, but when any trustee ceases to be a resident of said
3 district, he vacates the office of trustee. All such trustees
4 shall be eligible to re-election.

In case any vacancy arises in the membership of said board
2 of trustees, it shall be filled, for the unexpired term, by
3 special election, to be called by the municipal officers of
4 said city, and held as hereinbefore set forth.

At the close of each fiscal year, said trustees shall make
2 a detailed report of their doings, of the financial and physi-

3 cal condition of said district, and all such other matters
4 and things pertaining to said district as shall show the
5 inhabitants thereof how said trustees are fulfilling the du-
6 ties and obligations of their trust; said reports to be filed
7 with the municipal officers of said city.

It is hereby provided that the treasurer of said district
2 shall be paid the sum of one hundred dollars per year for
3 his services as such treasurer, but the trustees of said dis-
4 trict shall serve without pay.

Sect. 8. To procure funds for the purposes of this act,
2 and for such other expenses as may be necessary for the
3 carrying out of said purposes, the said district, without dis-
4 trict vote, but by action of its board of trustees, is author-
5 ized to issue its notes and bonds in one series, or in sepa-
6 rate series from time to time, to an amount not exceeding
7 the sum of three hundred thousand dollars. Said bonds
8 shall be a legal obligation of said district, shall be a legal
9 investment for savings banks in the state of Maine, and
10 shall be tax exempt. Each bond or note shall have inscribed
11 on its face the words "South Portland Sewerage District
12 Bond," or "South Portland Sewerage District Note," as the
13 case may be, and shall bear interest at such rates as the
14 trustees shall determine. If said bonds be issued from time
15 to time each authorized issue shall constitute a separate
16 loan. Each loan shall be payable in annual amounts of
17 principal, beginning not more than one year from its date,
18 or made to run for such period as said trustees shall de-

19 termine, but no series shall run for a longer period than
20 twenty-five years from its date.

All bonds or notes issued by said district shall bear the
2 district seal, and shall be signed by the treasurer and coun-
3 tersigned by the president of said district, and if coupon
4 bonds be issued, each coupon shall bear the facsimile sig-
5 nature of the president and treasurer.

Sect. 9. In case any of said bonds are made to run for
2 a period of years, a sinking fund shall be established by the
3 trustees of said district, for the purpose of redeeming said
4 term bonds when they become due, and not less than three
5 per centum of the aggregate principal of the outstanding
6 sinking fund bonds issued on account of or in behalf of
7 said sewerage district, as aforesaid, shall be turned into said
8 sinking fund each year, to provide for the final extinguish-
9 ment of said district funded debt.

The money set aside for the sinking fund shall be devoted
2 to the retirement of said notes and bonds, and shall be used
3 for no other purpose, and shall be invested in such securi-
4 ties as savings banks are allowed to hold.

All sums of money received or recovered by said trustees
2 by reason of any assessment upon the persons or property
3 of individuals in said district shall be added to said sinking
4 fund, or used for the payment of notes or temporary loans.

Whenever any bonds of said district become due, or can
2 be purchased by said trustees on favorable terms, said trus-
3 tees shall if sufficient funds have accumulated in said sink-

4 ing fund, redeem or purchase said bonds, and cancel them.
5 In no case shall bonds so cancelled or redeemed be re-issued.

In case the amount in said sinking fund shall not be sufficient to pay the total amount of the bonds falling due at any one time, authority to issue new bonds sufficient to redeem so many of said bonds as cannot be redeemed from the sinking fund is hereby granted to said district, but in no case shall new bonds run beyond twenty-five years from the date of the original issue.

Sect. 10. The trustees of said district shall determine the sum to be paid annually in the sinking fund, or if any of the bonds authorized by this act shall be issued to mature annually, what amount is required each year to meet sinking fund requirements and the bonds falling due, and what sum is required each year to meet the interest on said bonds, and any other necessary expenses of said district, and shall each year, before the first day of April issue their warrant, in the same form as the warrant of the state treasurer for taxes, with proper changes, to the assessors of the city of South Portland, requiring them to assess the sum so determined upon the taxable polls and estates within said district, and to commit their assessment to the constable or collector of said city of South Portland, who shall have all authority and powers to collect said taxes as is vested by law in him to collect state, county, and municipal taxes.

On or before the thirty-first day of December of the year

2 in which said tax is so levied, the treasurer of said city
3 shall pay the amount of the tax so assessed to the treasurer
4 of said district. In case of the failure on the part of the
5 treasurer of said city to pay said sum, or in case of his
6 failure to pay any part thereof, on or before said thirty-
7 first day of December of the year in which said tax is so
8 levied, the treasurer of said district may issue his warrant
9 for the amount of said tax, or so much thereof as shall
10 then remain unpaid, to the sheriff of Cumberland county,
11 requiring him to levy by distress and sale on real and per-
12 sonal property of any of the inhabitants of said district,
13 and the sheriff, or either of his deputies, shall execute said
14 warrant, except as is otherwise provided herein.

The same authority as is vested in county officials for the
2 collection of county taxes, under the provisions of the re-
3 vised statutes, is hereby vested in the trustees of said dis-
4 trict, in relation to the collection of taxes within said dis-
5 trict. All incidental powers, rights and privileges neces-
6 sary to the accomplishment of the main objects of this act,
7 as hereinbefore set forth, are granted to the district hereby
8 created, and it is hereby provided that section twenty-five
9 of chapter two hundred and forty-two of the private laws
10 of eighteen hundred and ninety-five shall be repealed upon
11 the passage of this act.

The city of South Portland is hereby relieved of any and
2 all duty to build, repair, or maintain drains or sewers with-
3 in said district.

Sect. 11. The first election of trustees, as is provided in section seven of this act, shall be held on the sixth day of May, A. D. 1925. Such special election shall be called, advertised and conducted according to the law relating to municipal elections, provided, however, that the board of registration of said city of South Portland shall not be required to prepare for posting or the city clerk to post a new list of voters, nor at said first election shall said board of registration be in session for the purpose of registering voters.

Sect. 12. In view of the emergency cited in the preamble of this act, two-thirds of all the members elected to the legislature having so directed, it shall take effect when approved.