

MAINE STATE LEGISLATURE

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E I G H T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 416

H. P. 1106

House of Representatives, February 9, 1937.

Referred to Committee on Legal Affairs and 500 copies ordered printed
Sent down for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. McGaughy of Presque Isle.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT Relative to Presque Isle Sewer District.

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

Sec. 1. Revision of previous acts. Chapter 80 of the private and special laws of 1925, as amended by chapter 21 of the private and special laws of 1929, and as further amended by chapter 79 of the private and special laws of 1935, is hereby revised.

Sec. 2. Citation and reference. All acts and actions done and performed heretofore or hereafter by Presque Isle Sewer District in conformity with the provisions of said chapter 80, and the amendments thereto may hereafter be referred to, and cited, as being done and performed under the authority of this act.

Sec. 3. Intent. It is the expressed legislative intent that the rights, powers, duties and obligations of said Presque Isle Sewer District shall be and remain the same as under said chapter 80 of the private and special laws of 1925, as amended, except as herein specifically amended.

Sec. 4. Purpose. The purpose of this act is to re-state existing provisions relating to Presque Isle Sewer District, and to clarify provisions

relating to collection of rates. Nothing herein is to be construed as repealing or amending provisions existing at the date of approval of this act, except and unless repeal or amendment is specifically stated.

Sec. 5. Territorial limits; name; purposes; plans of system to be submitted to public utilities commission for approval. That part of the town of Presque Isle, and the inhabitants within the same, which is bounded and described as follows: Commencing at a point on the south line of that part of the town of said Presque Isle which was formerly the town of Maysville, and which will hereinafter be referred to as Maysville, which point is the northwest corner of lot number 5, in said Presque Isle; thence easterly by said south line of said Maysville to the southeast corner of section numbered 3, in said Maysville; thence northerly by the east line of section numbered 3, in said Maysville, to the intersection of said east line with the center line of the Fort Fairfield road as it is now located; thence westerly by said Fort Fairfield road, to the point where the same strikes the old road running to the farm formerly owned by George A. Parsons and now owned or occupied by Alice Kimball, said road not now being used by the public and a portion of same having at one time been occupied by the Aroostook Valley Railroad Company as a right of way; thence northwesterly by said old road running to the so-called George A. Parsons farm to the intersection of said road with the north line of section numbered 3 in said Maysville; thence westerly along the north lines of sections numbered 3, 2, and 1, in said Maysville, to the northwest corner of lot numbered 1, in section numbered 1, in said Maysville; thence southerly by the west line of said lot numbered 1 to the south line of said Maysville; thence southerly from the last mentioned point, in a straight line, to the northwest corner of lot numbered 83 in said Presque Isle; thence southerly by the west line of said lot numbered 83 to a point from which a line drawn at right angles to said west line of said lot numbered 83 will strike the southwest corner of lot numbered 27 in said Presque Isle; thence easterly, in a straight line, to the said southwest corner of lot numbered 27, in said Presque Isle; thence easterly by said south line of said lot numbered 27 to the southwest corner of lot numbered 26, in said Presque Isle; thence northerly along the west line of said lot numbered 26 to the south line of lot numbered 15, in said Presque Isle; thence easterly by the south line of said lot numbered 15 to the southwest corner of lot numbered 14, in said Presque Isle; thence northerly by the west line of lots numbered 14 and 5, in said Presque Isle, to the south line of said Maysville and the place of beginning; said lot numbers and section numbers being according to the original surveys of that part of said Presque Isle which was formerly Maysville and of said Presque

Isle, made and returned to the state land office, is hereby created a body politic and corporate by the name of Presque Isle Sewer District for the purpose of providing in said district a system of public sewerage and drainage for the comfort, convenience and health of the inhabitants of said district, with all the rights, privileges and immunities incident to similar corporations.

Provided, however, that it shall not construct any system of drainage or sewerage, without first having submitted its plans to the public utilities commission, and obtained its approval therefor in writing, under power vested in said commission by section 13 of chapter 62 of the revised statutes.

Sec. 6. Authority to acquire and hold property; right of eminent domain conferred. For the purpose of providing a system of sewers and drainage for the comfort, convenience and health of the inhabitants of said district, the said district is hereby authorized and empowered to acquire and hold real estate and personal estate necessary and convenient for the purposes aforesaid, and is hereby authorized to take and hold by purchase, lease or the exercise of the right of eminent domain, as hereinafter provided, or otherwise, any land or real estate or easement therein necessary for forming basins, reservoirs and outlets; for erection of buildings for pumping works, and for laying pipes and maintaining same and for laying and maintaining conduits for carrying and collecting, discharging and disposing of sewerage matter and waters and for other objects necessary, convenient and proper for the purposes of this act.

Assessment of damages; procedure. Said district shall be liable to pay all damages that shall be sustained by any person or corporation in their property by the taking of any land or easements therein, under the provisions of this act; and if any person or corporation sustaining damages as aforesaid, and the district shall not mutually agree upon the sum to be paid therefor, such person or corporation may cause his or its damages to be ascertained in the same manner and under the same conditions and limitations as are by law prescribed in the case of damages resulting from the laying out of highways.

Right to lay pipes and other particular rights enumerated. Said district may lay pipes, and construct conduits in manner aforesaid in and through said district to and into the Presque Isle stream, the discharge therefrom to be at such point or points in said Presque Isle stream as shall be most reasonable and convenient for said district, and convey through the same, sewerage, surface water and the natural flowage of existing water courses, and secure and maintain basins, reservoirs and

outlets; may build and maintain pumping stations and buildings convenient for same; may construct and maintain flush tanks, man-holes, lamp holes, and such usual appliances for collecting, holding, distributing and disposing of sewerage matters; may provide water for such flush tanks and for flushing said system of sewers and for any other purposes for which said district may deem the same desirable, and install all pipes and necessary structures and appliances to this end; may establish through and by its trustees regulations for the use of sewers and fix and collect the prices to be paid for entering the same, and also the annual rentals for using thereof; and said district is hereby authorized for the purposes aforesaid, to lay down, in and through the streets, highways, and land of said district, and take up, replace and repair all such conduits, pipes, and fixtures as may be necessary or desirable for the objects of its incorporation; to carry and lay conduits and pipes under any water course, way, public or private, or railroad, in the manner prescribed by law, and to cross any drain or sewer, or, if necessary, to change its direction in such a manner as not to obstruct the use thereof, and to enter and dig up any such streets, road or way, for the purpose of laying pipes beneath the surface thereof, for placing man-holes or other fixtures and for maintaining or repairing the same, and in general to do any other acts or things necessary, convenient and proper to be done for the purpose of this act.

Abutting owners have right to enter. Said district at all times, after it shall commence receiving pay for the facilities supplied by it, shall be bound to permit the owners of all premises abutting upon its lines of pipes and conduits, to enter the same with all proper sewerage upon conformity to the rules and regulations of said Presque Isle Sewer District, and payment of the prices and rentals established therefor.

Sanitary provisions and penalty for violation of. Any person who shall place or leave any offensive or injurious matter or material on or in the conduits, catch-basins, or receptacles of said district contrary to its regulations, or shall wilfully injure any conduit, pipe, reservoir, flush tank, catch-basin, man-hole, lamp-hole, outlet, engine, pump or other property held, owned or used by said district for the purposes of this act, shall pay twice the amount of the damages to said district to be recovered in any proper action; and such person on conviction of either of said acts of wilful injury aforesaid, shall be punished by a fine not exceeding \$200, and by imprisonment not exceeding 1 year.

Liability of district for damages. Said district shall be liable to any person injured by any fault of said district or its agents, or any defects in the highway occasioned by the construction of the works, i. e., sewer system, of said district during said construction or after the same has

been completed or while the same shall be undergoing repairs or extensions are being made; and said district shall also be liable to the said town of Presque Isle for any and all costs, damages, and expenses which said town may suffer or be put to, by reason of the default, neglect, negligence or carelessness of said district or of any of its officers, servants or agents in creating, maintaining or repairing said sewer system.

P. L., 1933, c. 1. §§ 15, 16, 87, 91, 94, made applicable. Sections 15, 16, 87, 91 and 94, as amended, of chapter 1 of the public laws of 1933 shall apply to sewers and drains constructed hereunder by said district and the acceptance of this charter by the legal voters within the limits of said district as is hereinafter provided, shall constitute an acceptance of said sections, as an acceptance is prescribed and contemplated by section 17 of said chapter 1 of the public laws of 1933. In the application of said sections 15, 16, 87, 91 and 94, the trustees of said district shall perform all acts and duties and be subject to all responsibilities of municipal officers as prescribed by said sections.

Sec. 7. Trustees; election of; tenure of office; vacancies; first meeting and organization of board; annual report. All the affairs of said district shall be managed by a board of 3 trustees, residents or owners of real estate therein, who shall be elected by ballot of the persons therein legally qualified to vote in town meetings. They shall hold office for the term of 3 years and until their respective successors are chosen and qualified, except, however, as hereinafter provided. Vacancies shall be filled for the unexpired term.

The first board of trustees shall be elected at the meeting called for the acceptance of this act, 1 to serve until the first annual meeting of the district, 1 until the second, and 1 until the third such meeting. Thereafterward, 1 member shall be chosen at each annual meeting to serve for the term of 3 years. If a vacancy occurs in said board more than 3 months before the date of the next succeeding annual meeting, a special meeting shall be called to fill the vacancy, and all vacancies existing at the date of an annual meeting shall then be filled.

As soon as convenient after said 1st election the trustees shall hold a meeting at some convenient place in the district to be called by any member thereof in writing designating the time and place and delivered in hand to the other 2 members not less than 2 full days before the meeting; provided, however, that they may meet by agreement without such notice. They shall then organize by the election of a chairman and clerk from their own number, adopt a corporate seal and by-laws, and perform any other acts within the powers delegated to them by law.

When necessary they may choose a treasurer and other needful officers and agents who shall serve at their pleasure. The treasurer shall furnish bond in such sum and with such sureties as they may approve. Members of the board shall be eligible to any office under the board, but shall not receive any compensation therefor except as trustees unless authorized by vote of the district. The compensation of the trustees shall be \$50 each per annum unless otherwise provided by vote of the district.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member as clerk or clerk protem. They shall make and publish an annual report including a report of the treasurer.

Sec. 8. Annual meeting 1st Monday in March; qualification of voters of district. The annual meeting of the district shall be held in the district on the 1st Monday of March in each year at such hour and place as may be designated by resolution of the board of trustees as provided in the by-laws. Notice thereof, signed by the chairman or clerk of the board, shall be conspicuously posted in 2 public places within the district, not less than 7 days before the meeting. Special meetings may be called by the board in like manner at any time, and notice of special meetings shall state the business to be transacted thereat. Eleven persons qualified to vote in such meetings shall constitute a quorum. If for any reason an annual meeting is not held on the above date, a meeting in lieu thereof may be called in like manner to be held within 3 months from said date.

All persons resident in said district and qualified to vote for governor under the laws of this state shall be entitled to vote in any meeting of the district, including the meeting for acceptance of this charter.

Sec. 9. Trustees granted certain powers of selectmen. After the meeting for acceptance of this charter, the trustees shall have the same powers and perform the same duties as otherwise are exercised and performed by the selectmen of towns in correcting and preparing lists of the persons qualified to vote in said district, and for that purpose they shall be in session at the place designated for holding the meeting between the hours of 10 o'clock in the forenoon and 12 o'clock noon of the secular day next before the date of every meeting; and 2 hours next before the opening of the meeting; and notice thereof shall be given in the call for the meeting. All meetings of the district shall be presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings.

Sec. 10. District and town authorized to make contracts. Said district through its trustees is authorized to contract with persons and corporations

including the town of Presque Isle, and said town of Presque Isle is authorized to contract with it, for the collection, discharge, and disposition of sewage or other waste matter.

Sec. 11. Authorized to acquire sewage system of town; right of eminent domain conferred. Said sewer district is hereby authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain, which right is hereby expressly delegated to said district for said purpose, the entire plant and property of the sewage system now in said district and owned by the town of Presque Isle; and the town of Presque Isle is hereby authorized and empowered to sell its said sewage plant and system to said district, provided the voters in said town shall at a town meeting legally called, notified, and held, legally vote so to do.

Sec. 12. Property tax exempt. The property, rights and franchises of said district shall be forever exempt from taxation.

Sec. 13. Authorized to issue notes and bonds; district declared a quasi-municipal corporation; bonds a legal investment for savings banks; temporary loans. For accomplishing the purposes of this act said district is hereby authorized and empowered through its trustees, to issue its notes, bonds and other evidences of indebtedness to an amount sufficient to procure funds to pay the expenses incurred in acquiring and constructing its plant or plants, properties and franchises and for further extensions, additions and improvements of the same, whether done at one time or from time to time, and to refund the same as they shall fall due. Said notes, bonds and other evidences of indebtedness shall be a legal obligation of said district, which is hereby declared to be a quasi-municipal corporation within the meaning of section 116 of chapter 56 of the revised statutes of 1930, and all the provisions of said section and acts amendatory thereof shall be applicable thereto. Said bonds shall be a legal investment for savings banks. The trustees may also borrow on the notes of the district such sums as may be necessary to meet the current expenses of the district in anticipation of the collection of rates.

Sec. 14. Collection of Presque Isle Sewer District charges provided for. Section 10 of chapter 80 of the private and special laws of 1925, as amended by section 1 of chapter 79 of the private and special laws of 1935, is hereby further amended to read as follows:

'Sec. 10. Rates payable; how collected; application of revenue; sinking fund. All individuals, firms and corporations, whether public, private or municipal, shall pay to the treasurer of said district the rates established by the board of trustees for the service used by them, and said rates shall

be uniform within the district. ~~The clerk of said sewer district shall have all the authority and powers to collect said sewer rates as is vested in the collector of taxes for the town of Presque Isle, for the collection of state, county and municipal taxes.~~

There shall be a lien to secure the payment of sewer rates legally assessed on real estate within the Presque Isle Sewer District, which shall take precedence of all other claims on said real estate and interests, excepting only claims for taxes. Real estate, for the purpose of this act shall bear the same definition as given in section 3 of chapter 13 of the revised statutes.

The treasurer of said sewer district shall have the authority and power to collect said sewer rates, and all rates shall be committed to him.

In addition to other methods previously established by law for the collection of said rates, the lien herein created may be enforced in the following manner, provided, however, that in making the assessment for sewer services there shall be a description of the real estate served by the several sewers of said district, sufficiently accurate to identify the real estate against which any of the several rates may be charged; the treasurer, when a rate has been committed to him for collection, may, after the expiration of 8 months and within 1 year after date of commitment to him of said rate, in the case of a person resident in the town where the rate is assessed give to the person against whom said rate is assessed, or leave at his last and usual place of abode, a notice in writing signed by said officer stating the amount of such rate, describing the real estate on which the rate is assessed, alleging that a lien is claimed on said real estate to secure the payment of the rate and demanding the payment of said rate within 10 days after the service of such notice. After the expiration of said 10 days and within 10 days thereafter, in the case of a resident, and in all other cases within a year from the date of commitment of said rate to said officer, said officer shall record in the registry of deeds of the county, or registry district, where said real estate is situated, a certificate signed by the said officer setting forth the amount of such rate, a description of the real estate on which the rate is assessed and an allegation that a lien is claimed on said real estate to secure the payment of said rate, that a demand for payment of said rate has been made in accordance with the provisions of this act and that said rate remains unpaid. In all cases, except in the case of a resident, said certificate so filed need not contain the allegation that payment of the rate has been demanded. At the time of the recording of the certificate in the registry of deeds as herein provided, in all cases such officer shall file in the office of said sewer district a true copy of said certificate and also at the time of re-

ording as aforesaid, the said officer shall mail by registered letter to each record holder of a mortgage on said real estate, addressed to him at his last and usual place of abode, a true copy of said certificate. The fee to be charged to the rate-payer for such notice and filing shall not exceed \$1 and the fee to be charged by the register of deed for such filing shall not exceed 50c.

Filing of certificate to create mortgage. The filing of the aforesaid certificate, in the registry of deeds as aforesaid shall be deemed to create and shall create a mortgage on said real estate to the said sewer district in which the real estate is situated having priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and shall give to said sewer district all the rights usually incident to a mortgagee, except that the mortgagee shall not have any right of possession of said real estate until the right of redemption herein provided for shall have expired.

Foreclosure provisions. If said mortgage, together with interest and costs, shall not have been paid within 18 months after the date of filing of said certificate in the registry of deeds as herein provided, the said mortgage shall be deemed to have been foreclosed and the right of redemption to have expired.

Notice. The filing of said certificate in said registry of deeds shall be sufficient notice of the existence of the mortgage herein provided for.

Discharge. In the event that said rate, interest and costs shall be paid within the period of redemption herein provided for, the treasurer of said sewer district shall discharge said mortgage in the same manner as is now provided for discharge of real estate mortgages.

Said rates shall be so established as to provide revenue for the following purposes:

1. To pay the current running expenses of the district including maintenance and provision for depreciation.
2. To provide for payment of interest on the indebtedness of the district.
3. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness of the district, which sum shall be turned into a sinking fund to provide for the final extinguishment of the debt. The money so set aside shall be devoted to the retirement of the obligations of the district, or invested in securities lawful for savings banks. Provided, however, that the trustees may, in their discretion and in lieu of the establishment of a sinking fund, issue bonds of the district

so that not less than 1% of the amount of the bonds so issued shall mature and be retired annually.'

Sec. 15. Incidental powers granted. Said district is hereby vested with all incidental powers, rights and privileges necessary to the accomplishment of the main objects of this act.

Chapter 80 of the private and special laws of the state of Maine, 1925, and chapter 79 of the private and special laws of the state of Maine, 1935, having been referred to referendum of the inhabitants of said district and duly accepted; and, this act being a re-statement and amplification of said chapters; such portion of said chapters as provided for such referendums are hereby omitted.