

MAINE STATE LEGISLATURE

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

Legislative Document

No. 271

H. P. 465

House of Representatives, January 29, 1947

Referred to the Committee on Public Utilities, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Prout of Lubec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT to Incorporate the Lubec Sewerage District.

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

Sec. 1. Territorial limits; corporate name. The territory embraced within the following limits, to wit: All of that part of the town of Lubec lying easterly of a line drawn between the dwelling houses owned or occupied by Mrs. Mattie Guptill and Daniel Burns, said line extending in a general northwesterly direction to the waters of Johnson Bay, so called, and extending in a general southeasterly direction to Scott's corner, so called, and continuing same direction to West Quoddy Bay, and the inhabitants within said territory, shall constitute a body politic and corporate, under the name of Lubec Sewerage District, for the purpose of providing a system of sanitation sewerage and drainage and storm sewerage and drainage for public purposes and for the health, comfort and convenience of the inhabitants in said district.

Sec. 2. May hold property; right of eminent domain. Said district is hereby authorized and empowered to accept, by action of its trustees hereinafter mentioned, from the inhabitants of the town of Lubec, and said town of Lubec is hereby authorized to convey, by deed signed by a majority of the selectmen of said town of Lubec, duly authorized by the in-

habitants of the town of Lubec, to said district, any and all right, title and interest which said town may have in and to the drains and sewers now located within the limits of said district, but any amounts now owed by said town of Lubec upon said sewers and drains, or any interest now or hereafter due on any amounts owed by said town, shall be paid by said town of Lubec, and any assessments or amounts, now or hereafter due said town, by reason or on account of any sewer or drain heretofore built by said town, shall be paid to said town. Said district is further authorized and empowered to take and hold by purchase, lease or the exercise of the right of eminent domain, which right of eminent domain is expressly granted to said district, or otherwise, personal property, land or real estate, or easements therein, necessary for forming basins or outlets, for laying pipes and maintaining the same, and for laying and maintaining conduits for carrying and collecting, discharging and disposing of sewerage matters and waters, and for all other objects and purposes necessary, convenient and proper for the purposes of this act. The property of said district, wherever located, shall be exempt from taxation.

Sec. 3. Authorized to lay pipes, conduits, etc., and to take over all private sewerage systems. Said district may lay pipes and conduits, take up, repair, and maintain the same or may contract for the same to be done, in and through the streets of the town of Lubec, within said district, and in and through ways and highways, public or private, located in said district, and through land of any corporation, firm or individual, as hereinafter provided, to and into the waters of Lubec Narrows and the tide waters adjacent to the territory of said district, or to and into any drain or sewer now or hereafter built which empties into waters adjacent to the territory of said district, or any part thereof, the discharge therefrom to be at such a point or points in said tide waters adjacent to the territory of said district as shall be most convenient and reasonable for said district, and convey through the same sewerage, surface water and the natural flow of existing water courses, and secure and maintain basins, reservoirs and outlets; may construct, maintain, renew and repair flush tanks, manholes, catch-basins and such other appliances for collecting, holding, distributing and disposing of sewerage matters and waters as may be necessary and proper; and in general to do any and all other acts or things necessary, convenient and proper for the purposes of this act.

It is further provided that the trustees of said district shall have access to any and all profiles and plans relating to sewers within the limits of said district which have been made by, or are in the possession of, said town of Lubec.

Sec. 4. Provisions of R. S., c. 84, §§ 133 to 155, inclusive, made applicable; trustees and other officers to have same powers as municipal officers; other powers of trustees. In respect to the manner of constructing drains and sewers in said district, the assessment of abutting owners for the cost of the same and the collection of said assessments, the issuing of permits and in respect to all other matters covered by the sections herein referred to, the trustees of said district shall be governed by the provisions of sections 133 to 155, inclusive, of chapter 84 of the revised statutes, and the district is hereby granted the same power and authority in said premises as have the municipal officers of cities and towns in like cases, and the words "town clerk", in said sections, shall be construed to mean the clerk of said district, and the inhabitants of said district shall have the same rights and privileges, and be subject to the same regulations and restrictions, as are now granted to and imposed upon individuals under said sections. In the application of said sections 133 to 155, inclusive, the trustees of the said district shall perform all the acts and duties, and be subject to all responsibilities of municipal officers, as is provided by said sections. Said trustees shall have the power to determine when and where in said district sewerage facilities are most needed, and how said sewers shall be built; where, when, and what repairs, renewals and extensions are necessary, and how the same shall be built, and their decision in such matters, except as if otherwise provided in the sections above referred to shall be final. It is provided, however, that the municipal officers of said town of Lubec may make written recommendation to the trustees of said district regarding sewerage necessities of said district.

Sec. 5. Trustees authorized to employ engineers and laborers and to make contracts. In prosecuting the work contemplated by this act, said trustees may engage the services of engineers and laborers; may purchase all necessary material and supplies, and construct said drains and sewers under their own supervision, or they may, if they deem it advantageous, contract with some responsible person, firm or corporation for the construction of said drains and sewers, but said district shall in no case be released from liability, as set forth in section 8 of this act, by reason of having contracted with any person, firm or corporation, as provided above, for the construction of any sewer, drain or other structure.

Sec. 6. Trustees not to be interested in contracts of district. It is further provided that no person, while he is a trustee of said district, shall be interested, either directly or indirectly, in any contract or agreement for the construction of any sewer, drain or other structure in said district, entered into by said district. This provision, however, shall not prevent

said district from entering upon, or taking land, or any easement therein, of any officer of said district, while he is such an officer, and awarding damage therefor, if, in the opinion of said trustees, such entering or taking is necessary for the purposes of said district.

Sec. 7. Procedure in exercise of right of eminent domain. The trustees of said district may exercise the right of eminent domain vested in said district for the purposes of this act after hearing, notice of the time and place of said hearing having been given by publication in the Lubec Herald, a weekly newspaper published in said Lubec, for 3 consecutive weeks previous to the time appointed for said hearing, and the clerk of said district shall keep a record of their proceedings, and their determination and decision, which shall set forth a description of the land or easement taken, and the owners, if known, and the amount of damages awarded therefor, and upon the signing of said record by said trustees, and the filing of the same in the registry of deeds for the county of Washington, said trustees may enter upon such land and take possession of the same, or an easement therein, as the case may be, for the purpose of this act. Any person aggrieved by the decision of said trustees, so far as it relates to the damages for land or easements therein so taken, shall have the same rights of appeal as are provided in the case of the laying out of town ways.

Sec. 8. Excavations and repair work; property to be left in good condition; liability for damages; closing of streets. Whenever said district shall enter, dig up or excavate any street, way, highway or other land within said district, for the purpose of laying pipes or conduits, constructing manholes or catch-basins, or for the purpose of taking up, repairing, extending or maintaining any sewer, drain, manhole, catch-basin or other structure, or for any other purpose, said street, highway, way or other land shall, at the completion of the work of said district, be returned to the condition said street, way, highway or other land was in prior to the work of said district, or to a condition equally as good and for the purposes of this act, sections 112 to 120, inclusive, chapter 84, revised statutes, shall apply to said district.

Where the character of the work of said district is such as to endanger travel on any street or way, said town of Lubec shall direct the temporary closing of such streets or ways, and of intersecting streets or ways, upon request of said district, and such streets or ways shall remain closed to public traffic until the work of said district is completed, and the surfaces of said streets or ways are restored to a proper condition, as hereinbefore set forth.

Sec. 9. Trustees. All the affairs of said district shall be managed, governed and controlled by a board of trustees, composed of 3 members, who shall be legal voters in the town of Lubec and residing within said district, and shall be chosen by the legal voters in said district. Said trustees may establish regulations for the use of sewers and fix and collect the prices to be paid for entering same and also the annual rental for using thereof.

Sec. 10. Trustees, how elected; nomination papers, how signed and filed. The trustees to be first elected shall be elected by a plurality vote of the legal voters of said district, voting at a special election to be called and held as is provided in section 16 of this act. All nominations of candidates so to be voted for shall be made by nomination papers signed in the aggregate for each candidate by no less than 20 qualified voters of said district. Each voter signing a nomination paper shall make his signature in person, and add to it his place of residence, and each voter may subscribe to as many nomination papers as there are trustees to be elected in said district, and no more. Such nomination papers shall, before being filed, be submitted to the town clerk of said town of Lubec, who shall forthwith certify thereon what number of the signatures are names of qualified voters in said district. One of the signers to each such separate paper shall swear to the truth thereof, and the certificate of such oath shall be annexed to, or made upon, the nomination papers. Such nomination papers shall be filed with said town clerk at least 7 days, exclusive of Sundays, previous to the day of such election. With such nomination papers shall also be filed, in writing, the consent of the person or persons nominated.

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

The ballot in said district for the election of trustees shall contain the names of all candidates so nominated in said district, printed in one column, under the heading: "For Trustees of the Lubec Sewerage District," and at the first election, above such heading shall be printed: "Vote for Three. Make a Cross to the right of each name voted for," which shall be changed to conform to the necessities of each election thereafter, depending upon the number of trustees to be elected. As many blank spaces shall be left after the names of the candidates as there are trustees to be elected, in which the voter may insert the name of any person for whom he desires to vote. In preparing his ballot, the voter shall mark a cross against and to the right of such names, on said ballots, as he desires to vote for, not to

exceed the number of trustees so to be elected in said district. The result of such election shall be declared by the municipal officers of the town of Lubec, and due certificate thereof filed with the town clerk.

Sec. 11. Organization of board of trustees; seal; choice of officers; town treasurer to be treasurer of district, etc. As soon as convenient after the members of said board have been so chosen, the trustees shall meet and organize, adopt a corporate seal, and choose a clerk and such other officers and agents as shall be needful for proper management of the affairs of said district, but it is hereby provided that the treasurer of said town of Lubec shall be the treasurer of said district, whose term of office shall be coterminous with the term of office as such town treasurer, and the qualification of said town treasurer to the office of town treasurer shall also qualify him as treasurer of said district.

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

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

At the first meeting, the trustees so elected shall determine by lot the term of office of each trustee so elected, so that one of said elected trustees shall retire each year, and the term of office of the first trustee to end shall end at the date of the municipal election of said town of Lubec, and thereafter the term of office of a trustee so elected shall end, and his successor shall be chosen at the time of said municipal election, in manner aforesaid.

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

In case any vacancy arises in the membership of said board of trustees, the remaining trustees may appoint a member to serve as trustee until the next, following, annual municipal election. If the remaining trustees fail or neglect to appoint such member within 90 days from the date of such vacancy, the municipal officers of said town of Lubec shall call a meeting of the inhabitants of said district for the purpose of filling said vacancy. Notice of said meeting shall be given in manner required of municipal officers to call a special election.

At the close of each fiscal year, said trustees shall make a detailed report of their doings, of the financial and physical condition of said district, and

all such other matters and things pertaining to said district as shall show the inhabitants thereof how said trustees are fulfilling the duties and obligations of their trust; said reports to be filed with the municipal officers of said town.

The salaries of the trustees and other officers shall be determined by a majority vote of the qualified voters of said sewerage district present and voting at any annual meeting of said district.

Sec. 12. Authorized to issue notes and bonds; form of bond; legal investment for savings banks. To procure funds for the purposes of this act, and for such other expenses as may be necessary for the carrying out of said purposes, said district, without district vote, but by action of its board of trustees, is authorized to issue its notes and bonds in one series, or in separate series from time to time, to an amount not exceeding the sum of \$250,000. Said bonds shall be a legal obligation of said district, shall be a legal investment for savings banks in the state of Maine, and shall be tax exempt. Each bond or note shall have inscribed on its face the words, "LUBEC SEWERAGE DISTRICT BOND" or "LUBEC SEWERAGE DISTRICT NOTE", as the case may be, and shall bear interest at such rates as the trustees shall determine. If said bonds be issued from time to time, each authorized issue shall constitute a separate loan. Each loan shall be payable in annual amounts of principal, beginning not more than 1 year from its date, or made to run for such period as said trustees shall determine, but no series shall run for a longer period than 40 years from its date.

All bonds or notes issued by said district shall bear the district seal, and shall be signed by the treasurer and countersigned by the president of said district, and if coupon bonds be issued, each coupon shall bear the facsimile signature of the president and treasurer.

Sec. 13. Sinking fund provided for; issue of refunding bonds authorized. In case any of said bonds are made to run for a period of years, a sinking fund shall be established by the trustees of said district for the purpose of redeeming said term bonds when they become due, and not less than 2% of the aggregate principal of the outstanding sinking fund bonds, issued on account of or in behalf of said sewerage district, as aforesaid, shall be turned into said sinking fund each year, to provide for the final extinguishment of said district funded debt.

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

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

Whenever any bonds of said district become due, or can be purchased by said trustees on favorable terms, said trustees shall, if sufficient funds have accumulated in said sinking fund, redeem or purchase said bonds, and cancel them. 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 40 years from the date of issue.

Sec. 14. Authority for assessments of taxes; procedure for assessment and collection; incidental powers granted; town relieved from duty relating to sewers. 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 in addition to net income from sewer rental and service charges 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 1st 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 town of Lubec, requiring them to assess the sum so determined upon the taxable estates within said district, and to commit their assessment to the collector of said town of Lubec, who shall have all authority and powers to collect said taxes as is vested by law in him to collect municipal taxes.

On or before the 31st day of December of the year in which said tax is so levied, the treasurer of said town shall pay the amount of the tax so assessed to the treasurer of said district.

In case of the failure on the part of the treasurer of said town to pay said sum, or in case of his failure to pay any part thereof, on or before said 31st day of December of the year in which said tax is so levied, the treasurer of said district may issue his warrant for the amount of said tax, or so much thereof as shall remain unpaid, to the collector or a constable of said town of Lubec, requiring him to levy by distress and sale on real

and personal property of all of the delinquent inhabitants of said district, and said collector or constable shall execute said warrant, except as is otherwise provided herein. The same authority as is vested in municipal officers of the towns and cities of this state for the collection of town or municipal taxes under the provisions of the revised statutes, is hereby vested in the trustees of said district, in relation to the collection of taxes within said district. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this act, as hereinbefore set forth, are granted to the district hereby created.

Sec. 15. Construction of pipe lines, drains, etc., permits for. Trustees shall obtain permission in writing from a majority of the board of selectmen of said town of Lubec, before laying out or construction of any sewerage pipe line or storm sewerage pipe line or drains in said district.

Sec. 16. Local referendum provided for; form of question. This act shall take effect when accepted and approved by a majority vote of the legal voters of the territory embraced within the limits of said district, voting at an election to be specially called and held for the purpose, and for the purpose of electing trustees, as provided in section 10, within 60 days after the approval of this act. 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 town of Lubec shall not be required to prepare for posting, or the town clerk to post a new list of voters, and for the purpose of registration of voters said board shall be in session the 3 secular days next preceding such election, the first 2 days thereof to be devoted to the registration of voters, and the last day to enable the board to verify the corrections of said lists and to complete and close up their records of said sessions. The town clerk shall reduce the subject matter of this act to the following question, "Shall the act to incorporate the Lubec Sewerage District be accepted?" and the voters shall indicate by a cross placed over the words "Yes" or "No" their opinion of the same. The result in said district shall be declared by the municipal officers of said town, and due certificate filed by the town clerk with the secretary of state.