

MAINE STATE LEGISLATURE

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NINETY - THIRD LEGISLATURE

Legislative Document

No. 560

H. P. 924

House of Representatives, February 6, 1947.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Webber of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT to Incorporate the Kenduskeag Development District.

Preamble. Whereas, sewers serving more than 2/3 of the city of Bangor, county of Penobscot, now discharge directly into Kenduskeag stream from Bull's Eye bridge, to the junction of Kenduskeag stream and the Penobscot river, both situated within the territorial limits of the city of Bangor, and which discharge is particularly offensive, and a possible menace to health, in the area of Kenduskeag stream, from Hammond-State streets bridge to the bridge of the Maine Central Railroad Company, located at the approximate junction of Kenduskeag stream and Penobscot river, especially at low tide; and

Whereas, for many years the downtown area of the city of Bangor has been congested with traffic, which has not been materially relieved by the erection of a bridge across Kenduskeag stream from the foot of Washington street, causing delay, public inconvenience and danger, due in great part to the converging of many streets in the busiest part of the city; and

Whereas, it is reasonably anticipated that this traffic problem will become substantially worse during the post-war period, due to marked changes within the city, such as the establishment of an Army Air Base, and the great increase in busses, local, intrastate and interstate, unless forward looking plans are now laid to rectify the situation, and permit the

people of Bangor to take full advantage of the opportunity to create the Kenduskeag Development District, and

Whereas, from Hammond-State streets bridge to the Maine Central Railroad bridge, and within the confines of the banks of said stream, an area of about four and one-half acres can be changed into one of the most valuable assets of the city, as well as help to relieve the menace to health and the traffic congestion; now, therefore,

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

Sec. 1. Quasi-municipal corporation established; purpose. The people and the territory within the territorial limits of the city of Bangor are hereby constituted as a quasi-municipal corporation under the name of Kenduskeag Development District, with power to sue and be sued as such; for the purpose of diverting the flow of sewerage from Kenduskeag stream wherever it is now discharged, and also to reclaim all of the area now occupied by the Kenduskeag stream bed, lying between the present wharf lines and between Hammond-State streets bridge and the Maine Central Railroad bridge; and for the purpose of utilizing the reclaimed area for any utilitarian purposes as hereinafter set forth; and to develop and maintain driveways, sidewalks, lawns and in any other manner to beautify the said area; and for raising money for the purposes of the project, its cost of maintenance, for the necessary expenses of conducting the affairs of said district, and in general for doing all things necessary and incidental to carry out the purposes of this act.

Sec. 2. Trustees, election of; officers; annual meeting; records and reports; vacancies; to serve without compensation. All the affairs of the Kenduskeag Development District shall be under the control and management of 7 trustees, 5 of whom shall be elected by the city council, and shall be qualified voters of the city of Bangor; the chairman of the city council and the city manager of the city of Bangor, for the time being, to serve ex officio as the remaining members of the board of trustees; said trustees, with the exception of the ex officio members, shall serve for 5-year terms; the ex officio members serving for the duration of their tenure of office. As soon as convenient, after the members of said board of trustees have been appointed, said trustees shall hold a meeting in the city of Bangor, and organize, by the election of a president and clerk, adopt a corporate seal, choose a treasurer, and when needful, all other necessary officers and agents. Whenever a vacancy occurs in the office of president, clerk or treasurer, it shall be promptly filled by said board of

trustees. At their first meeting they may determine by agreement, or, failing to agree they shall determine by lot the term of office of each trustee, so that one shall retire each year, and the term of office of the first trustee to expire shall end at the end of the municipal year of the city of Bangor. Following the acceptance of this act, and whenever the term of office of a trustee expires, the city council shall appoint a successor to serve the full term of 5 years, and in case any vacancy arises from any cause, it shall be filled in like manner for the unexpired term, and such elections and tenures of office to continue until the purposes of this act shall have been fulfilled, as hereinafter set forth. All members of the board of trustees, when elected, shall immediately receive certificates of election from the city clerk of Bangor. They may also ordain and establish such by-laws as are necessary for their own convenience and the proper management of the affairs of the district. Thereafter annually, the trustees shall meet and perfect their organization by the choice of a clerk, president, treasurer, and such other officers or committees as they may deem necessary or desirable, the president to be one of their number, but the ex officio members shall hold no office.

No member of the board of trustees shall directly or indirectly receive any compensation as a member, but the clerk and treasurer may receive such compensation as the board may determine, and the same shall be fixed annually in advance. The same person may serve as clerk and treasurer if it is deemed advisable by the board. They shall file a financial report annually with the city council of Bangor at the end of each calendar year as soon thereafter as is practicable.

Sec. 3. Powers of said Kenduskeag Development District. Said Kenduskeag Development District is hereby authorized, for the purposes aforesaid, to divert the flow of sewerage from Kenduskeag stream, where it is now discharged, by the construction of intercepting sewers which may be laid in the ground, on private property, on the public lands or highways, or in the bed of the stream; said proposed intercepting sewers to receive the discharge of all public or private sewers now discharging directly into Kenduskeag stream, which said intercepting sewers shall in turn discharge into deep water in the Penobscot river; and further, shall be constructed in such manner as to anticipate connection with, and discharge of sewerage therefrom, into a modern sewerage disposal plant. Said Kenduskeag Development District, in relation to its sewerage disposal project, shall not be confined or restricted as to any particular area of the city, but shall necessarily include all such sections of the city of Bangor, the sewers from

which depend upon an outlet into Kenduskeag stream, and shall also embrace those areas which at present have no sewerage disposal system but which, in the future, shall require sewerage disposal and shall, because of geographical location, utilize Kenduskeag stream as a sewerage outlet.

Said Kenduskeag Development District is authorized to reclaim all of the area now occupied by the Kenduskeag stream bed situate between the present wharf lines and between Hammond-State Streets bridge and the Maine Central Railroad bridge, by the installation of conduits or any other suitable means, which would contain and control the waters of Kenduskeag stream as it flows into the Penobscot river, so that the area thus reclaimed, by means of a solid fill, or other appropriate construction, may be utilized for the purposes intended herein.

The said district is authorized to locate, construct and maintain aqueducts, pipes, conduits, pumping stations and other necessary structures and equipment therefor, and do all things necessary to furnish sewerage disposal for public purposes and for health, comfort and convenience of the inhabitants of said district.

Sec. 4. Right of eminent domain conferred; procedure in taking lands. The said district, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, by purchase, eminent domain, to accept as gifts, and by any other lawful means, acquire any land or interest therein, for maintaining and laying aqueducts and other structures, for taking, discharging and disposing of sewerage, and for rights of way or roadways to said reclaimed portion of Kenduskeag stream; and for such land or structures as are necessary to the proper and economical reclamation of said Kenduskeag stream; also all things necessary for sewerage disposal and the creation of the reclamation project as aforesaid. The said district may, for the purposes outlined in this act, do any and all things necessary in providing a system of sewerage and drainage for public purposes and the health, comfort and convenience of the inhabitants of said district, but nothing in this chapter shall be construed to give said district the power to own property outside the limits of the city of Bangor.

In case of a taking of any land or interest therein for any of the purposes of the Kenduskeag Development District by eminent domain, the trustees shall proceed in any manner, now or hereinafter established by law, for the taking of such land or the interest therein by cities or towns for municipal purposes.

Sec. 5. Authorized to lay sewer mains, pipes, conduits, through public ways and across private lands. The said district is hereby authorized to lay in, and through, the streets, roads, ways, highways, and Kenduskeag stream bed, in the city of Bangor, and across private lands therein, and to maintain, repair and replace all sewer mains, conduits, aqueducts, and fixtures as may be necessary and convenient for its corporate purposes; and whenever said district shall lay any such sewer mains, conduits, aqueducts, and fixtures in any street, roadway, highway, Kenduskeag stream bed, or private land, it shall cause the same to be done with as little obstruction as possible to the public travel, and shall, at its own expense, without unnecessary delay, cause the earth and pavement removed by it to be replaced in proper condition. Plans and profiles of all changes of location of any sewers now established in the city of Bangor, or of the construction of new sewers, as contemplated by this chapter, shall be filed in the same manner, and with the same details as now required by law, of the city of Bangor.

Sec. 6. Authorized to borrow money and to issue bonds and notes. For accomplishing the purposes of this act and to provide the necessary funds, Kenduskeag Development District, through its trustees, is authorized to borrow money temporarily, and to issue therefor interest bearing negotiable notes, and from time to time, bonds of the district, to such an aggregate amount as shall be deemed sufficient, for the purpose of refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this act, including the expenses incurred in the creation of the district; of securing sources of supply, taking land or buildings, paying damages, laying pipes, constructing, maintaining and operating a sewerage and drainage system and making extensions, repairs, additions and improvements to the same; of laying pipes and conduits, of completing, constructing, building, laying earth fill, or by the use of concrete and steel, or other means, employed to reclaim the Kenduskeag stream area aforementioned, so that it may be utilized as a revenue bearing project.

Said notes and bonds shall be legal obligations of said district and not of the body politic. The said notes and bonds shall be legal investments for savings banks and exempt from taxation. They shall bear the signatures of both the president and treasurer of the district, and all coupons shall bear the facsimile signature of the treasurer.

As the work of the project progresses, notes or bonds or either, may be issued from time to time to obtain funds for construction costs, but the

trustees shall arrange for serial bonds, and shall arrange their maturities and that of the notes, so that the principal sum shall be spread over such a period of time to make the annual amount to be raised by means (as hereinafter provided) as uniform as possible, and as light as practicable, total interest payments thus decreasing steadily until the termination thereof. As construction of the project progresses, notes may be issued in payment therefor, but as soon as the project has been completed, the trustees shall cause the bonds to be prepared, and as soon thereafter as practicable shall refund all notes into bonds.

Sec. 7. Revenue to district. For the purpose of redeeming notes and bonds issued by the district, said trustees are empowered to lease, or rent, any and all of the reclaimed area of Kenduskeag stream to any persons, firms or corporations for any public, semi-public or other lawful use, including, and not by way of limitation, parking stalls for automobiles, taxicab stands and bus terminals, charging rentals therefor, and upon such terms and conditions, and with such safeguards, as to the trustees in their discretion, shall be most advantageous to the district.

All municipal taxes collected by the city of Bangor, based upon all increased valuations on the real property abutting the reclaimed area of Kenduskeag stream, as determined by the assessors of the city of Bangor, shall be paid over by the treasurer of the city of Bangor, to said trustees annually, not later than the 1st Monday of December in each year. All money derived from this source is to be used for the general purposes of the Kenduskeag Development District as herein enacted.

Except where assessments for entrance to public sewers or drains have been paid heretofore, on any property served by existing sewers and drains, all such assessments collected by the city of Bangor in manner now established by law, or hereafter enacted, shall be paid over by the city treasurer as collected, to said district, limited however, to those sewers, drains or conduits, established or altered by the district within the powers of this act.

Should the trustees deem it advisable and in the best interests of the district, they may lease the area between the Hammond-State streets bridge and the Maine Central Railroad bridge in Kenduskeag stream to persons, firms or corporations upon such terms and conditions as to the trustees may seem desirable and advantageous, for the purpose of developing the whole or any part of this project; provided, however, that if such area or any part thereof is so leased, such lease shall be only of sufficient tenure

to assure return of the developed project to the city of Bangor, free and clear of all encumbrance.

Sec. 8. Rates, application of revenue; sinking fund. All individuals, firms or corporations, whether private, public or municipal, shall pay to the treasurer of said district, rental rates, established by said board of trustees for leases (other than leases for development), rental agreements or tenancies. Said rates shall be so established as to provide revenue for the following purposes:

1. To pay the current expenses of operating and maintaining the district.
2. To provide for the payment of the interest on the indebtedness created or assumed by the district.
3. To provide each year, a sum equal to not less than 1% nor more than 5% of the entire indebtedness created or assumed by the district, which said sum shall be turned into a sinking fund and there kept to provide for the extinguishment of said indebtedness. The money set aside for the sinking fund shall be devoted to the retirement of the obligations of the district or invested in such securities as savings banks are allowed to hold; provided, however, that the trustees may, in their discretion and in lieu of the establishment of a sinking fund, issue the bonds of the district so that not less than 1% of the amount of the bonds so issued shall mature and be retired each year.
4. If any surplus remains at the end of the year, it may be turned into the sinking fund, in the sound discretion of the trustees.

Sec. 9. Incidental powers granted. All incidental powers, rights and privileges necessary to the accomplishment of the main object herein set forth are granted to the corporation hereby created.

Sec. 10. Property, tax exempt. The property of said Kenduskeag Development District shall be exempt from all taxation in the city of Bangor.

Sec. 11. Execution of instruments. Any and all instruments to be executed by the district may, upon authorization of the board of trustees, be executed in its behalf by its president and treasurer, who may impress its corporate seal and make any necessary acknowledgment thereof, except that on interest coupons attached to any bonds to be issued, the facsimile signature of the treasurer shall be sufficient.

Sec. 12. Local referendum for the city of Bangor; election, how called; form of ballot; certificate to secretary of state. This act shall not be in

full force and effect unless and until legally qualified voters of the city of Bangor, voting in the manner hereinafter set forth, shall have accepted it at the next regular municipal election following the passage of this act by the legislature. The city clerk of Bangor shall reduce the subject of the act to the following question: "Shall the Act to Incorporate the Kenduskeag Development District be Accepted?" and the voters shall indicate by a cross placed against the words "Yes" or "No" their opinion of the same. Said city clerk shall cause to be prepared, ballots in proper form for delivery to the voting places of the city of Bangor on election day. The result shall be declared by the city council of Bangor, acting as municipal officers, and due certificate thereof filed with the secretary of state.

Sec. 13. Action for injuries against district. When the project heretofore mentioned starts operations for the public benefit, any person or persons who receive injury by reason of any defect or want of repair of the project may recover damages from the said district in the manner provided by section 88 of chapter 84 of the revised statutes of Maine, and they shall be subject to all provisions therein, except that the notices required shall be given to the president or clerk of the board of trustees, or to any of the trustees of the district.

Sec. 14. District to convey property to city when obligation paid. After the Kenduskeag Development District shall have paid all its bonds, notes and settled all its other obligations and liabilities, it shall, as soon as it can legally do so, convey without compensation to the city of Bangor, by release deed, all its right, title and interest in and to the developed project, hereinbefore mentioned, and also all its personal property then on hand. After the board shall have completed their duties and ended the affairs of the district, they shall deposit their records, books and papers in the office of the city clerk in Bangor.