

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. 1254

S. P. 450

In Senate, March 7, 1947

Transmitted by the revisor of statutes pursuant to joint order

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

CHESTER T. WINSLOW, Secretary

Presented by Senator Davis of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT Creating a Sewer District for Town of York.

Emergency preamble. Whereas, there are certain thickly built-up portions of the town of York which at the present time are not provided with public sewerage facilities, and such sewerage facilities as now exist have reached the point where they are manifestly inadequate, and

Whereas, the health of the inhabitants in said thickly built-up portions of said town is thereby endangered, and

Whereas, it is necessary to forthwith initiate and provide public sewerage facilities before the time this act would become effective, and

Whereas, 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 the public peace, health and safety, now therefore,

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

Sec. 1. Territorial limits; authority. York Water District, acting by its board of trustees, is hereby granted authority to construct, maintain and operate a system of public sewers within that territory in the town of

York which is embraced within the territorial limits established and described in section 1 of chapter 8 of the private and special laws of 1929, which created said York Water District, said territorial limits to be designated as York Sewerage District. In pursuance of said authority, said York Water District is hereby authorized to lay pipes and conduits, take up, repair and maintain the same, contract for the same to be done, in and along the public ways, or private ways, within said territorial limits, and through lands of any corporation, firm or individual, as hereinafter provided, to and into tidal waters, or to and into any drain or sewer now or hereafter built which empties into tidal waters, the discharge therefrom to be at such points, consistent with public health requirements, as shall be convenient and reasonable for said district and the natural flow of existing water courses; also to construct and maintain basins, reservoirs, outlets, flush tanks, manholes, catch basins and such other appliances for collecting, holding, purifying, distributing and disposing of sewage matter and waters, as may be necessary and proper; and in general do any and all other things necessary or incidental to accomplish the purposes of this act, including engineering surveys; provided, however, that said district shall not construct a system of drainage or sewage disposal without first having submitted its plans to the public utilities commission and obtained its approval therefor under the power vested in said commission by statute.

Sec. 2. Right of eminent domain conferred. Said York Water District, by its board of trustees as aforesaid, for the purposes of this act is hereby authorized to take and hold in the name of York Sewerage District as hereinafter described, as for public uses, by purchase, eminent domain, or otherwise, any land or interest therein or sewers or sewer rights necessary for constructing and maintaining sewers, reservoirs, flush tanks, manholes, catch basins and other appliances for the collecting, holding, purifying and disposal of sewage matter and waters.

Sec. 3. Procedure under eminent domain. In exercising from time to time the right of eminent domain conferred upon it by law, said board of trustees shall file in the office of the county commissioners of York county and cause to be recorded in the registry of deeds in said county plans of the location of all lands or interests therein or sewerage rights, to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective and uncertain, it may at any time correct and perfect such location and file a new description thereof; and in such case the district is liable in damages only for property

for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any acts which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of ten days from such filing, whereupon possession may be had of all said lands or interests therein or rights so taken, but title thereto shall not vest in said district until payment therefor.

Sec. 4. Assessment of damages by county commissioners; procedure on appeals. If any person sustaining damages by any taking as aforesaid shall not agree with said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of York county, may have said damages assessed by them; the procedure and all subsequent proceedings and right of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

Sec. 5. Abutting owner's 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 his lines of pipes and conduits, to enter the same with all proper sewage upon conformity to the rules and regulations of said York Sewerage District and payment of the prices and rentals established therefor.

Sec. 6. Said district and municipalities therein authorized to make contracts. Said district through its trustees is authorized to contract with persons and corporations including the town of York and any municipalities therein and said town and municipalities are authorized to contract with it for the collection, distribution and disposition of sewage and other waste matter.

Sec. 7. Authority to issue bonds and obligations; quasi-municipal corporation, tax exempt. To procure funds for the purpose of this act and to defray the cost of such other expenses as may be necessary to carry out said purposes said York Water District by its board of trustees is hereby authorized to borrow money from time to time for the use and on behalf of said York Sewerage District and to issue negotiable notes or bonds in one series or in separate series in an amount necessary to establish, put into operation and maintain the sewerage system herein provided subject to approval by the public utilities commission and to refund any such obligations. Said bonds and notes shall be denominated and issued as York Sewerage District bonds or notes, and shall be deemed a legal obligation of said York Sewerage District and a legal obligation on the property

within said district for the payment thereof, shall bear the seal of said sewerage district and shall be signed by the treasurer of said York Water District and countersigned by its president, both acting ex officio as president and treasurer of said York Water District. The territorial limits as defined in section 1 of this act and the inhabitants within the same shall be deemed a quasi-municipal public corporation; and the property and rights and franchises of said York Sewerage District shall be forever exempt from taxation. The notes and bonds of said York Sewerage District shall be legal investments for savings banks.

Sec. 8. Excavation work; shall restore. Whenever said district shall enter, dig up or excavate any public way or other land for the purpose of constructing any sewer or its appurtenances, said district shall, on completion of the work, restore the excavation and shall be liable for any damage done, in the same manner and to the same extent as is provided by statute with respect to similar public service corporations.

Sec. 9. Separate records and accounts; clerk; execution of instruments. In executing the purposes of this act pertaining to said sewerage district, the trustees of said York Water District shall set up and keep records, financial accounts, and cash receipts, separate and distinct from those of York Water District, it being the intention and purpose of this act to establish the board of trustees of said water district, its agents and employees, as an appropriate instrument and governing board for the economical administration of said sewerage district; and in the performance of their duties under this act the trustees of York Water District may be denominated and styled trustees of York Sewerage District and may execute all appropriate instruments under the name and in behalf of York Sewerage District. Said trustees shall choose a clerk for said sewerage district who shall be sworn to the faithful performance of his duties; may adopt a corporate seal for it and choose such other officers and agents as may be found necessary.

Sec. 10. Rates; applications of revenues; sinking fund. All individuals, firms and corporations, whether private, public, or municipal, shall pay to the treasurer of said district the rates established by the board of trustees for the services used or available to them, the sewer rates for the district's readiness to serve charged against owners, or persons in possession, or against whom the taxes are assessed, of all buildings, or premises, intended for human habitation, or occupancy, whether the same are occupied or not, which abut on a street, or location, through which said district has constructed a sewer line, or the property line of which is within 100 feet of

a sewer line constructed by said district, although said premises are not actually connected thereunto. Rates shall be uniform within the district, and the rates, rules and regulations of the district shall be subject to the approval of the public utilities commission. Payment of rates so established, approved and promulgated, shall be an obligation recoverable in an action at law and may also be enforced by appropriate regulations approved by said commission.

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

I. To pay the current expenses for operating and maintaining a sewerage system ;

II. To provide for the payment of the interest on the indebtedness created by such system ;

III. To provide each year a sum equal to not less than $\frac{1}{2}$ of 1% nor more than 5% of the entire indebtedness created by said sewerage district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of said indebtedness. Money set aside for the sinking fund shall be devoted to the retirement of the obligations of said sewerage district, or invested in such securities as savings banks are allowed to hold.

IV. If any surplus remains at the end of the year, it may be turned into the sinking fund.

Sec. 11. Contracts with municipalities authorized. Said York Water District is hereby authorized to make contracts with the town of York, or any municipal corporation therein, for the purpose of providing sewage disposal; and said town, or any municipal corporation therein, for said purpose may raise money in the same manner as for other municipal charges.

Sec. 12. Incidental powers granted. Said York Water District and said York Sewerage District are hereby respectively vested with all incidental powers, rights and privileges necessary to the accomplishment of the main purposes of this act.

Sec. 13. Referendum. This act shall take effect when approved by a majority vote of the legal voters resident within said district, by ballot at an election to be specially called by the selectmen of said town of York and to be held on the 3rd Monday of May, 1947, for that purpose. Said election shall be called, warned and conducted according to the law relat-

ing to municipal elections in said town, provided, however, that the selectmen of said town shall not be required to prepare for posting or the town clerk to post a new list of said voters, and for the purpose of registration of voters said selectmen shall be in session on the secular day next preceding said special election. The town clerk shall reduce the subject matter of this act to the following question: "Shall the Act to Amend York Water District to Enable It to Construct and Maintain a Sewerage District" as enacted by the 93rd legislature, be accepted? And the voters shall indicate by a cross placed upon their ballots over the words "yes" and "no" their opinion of the same. The result shall be declared by the selectmen and due certificate thereof filed by the town clerk with the secretary of state, and if said result so filed shows that a majority of the votes is for approval of this act, it shall take complete effect. In the event of failure of approval by the necessary percentage of voters, subsequent elections to be called, held and conducted in the same manner as hereinbefore provided may be held on petition therefor and on a day fixed in said petition when said petition is signed by at least 20 legal voters resident within said district, and a certificate of the result of any such election shall be filed by the town clerk with the secretary of state, with the same effect as obtains with respect to the 1st election, as provided in this act.

Sec. 14. Emergency clause. In view of the emergency recited in the preamble hereof, this act shall take effect when approved by the legal voters in said district and a certificate of such approval is filed with the secretary of state as provided in section 13 of this act.