

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. 1324

H. P. 1640

House of Representatives, March 21, 1947.

Reported by Mr. Collins from Committee on Public Utilities and laid on the table to be printed under joint rules.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT to Amend the Charter of Winthrop Water District.

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

Sec. 1. P. & S. L., 1923, c. 98, § 1, amended. Section 1 of chapter 98 of the private and special laws of 1923 is hereby amended by adding at the end thereof the following:

‘And said body shall be constituted also for the purpose of providing adequate sewage facilities for the collection, discharge and disposition of sewage as may be necessary for the convenience and health of the inhabitants of said district.

Provided, however, that the district shall not construct any system of sewage, without first having submitted its plans to the public utilities commission, and obtained its advice therefor in writing, under power vested in said commission by section 13 of chapter 40 of the revised statutes of 1944.’

Sec. 2. P. & S. L., 1923, c. 98, § 2, repealed and replaced. Section 2 of chapter 98 of the private and special laws of 1923 is hereby repealed and the following enacted in place thereof:

‘Sec. 2. Powers of said Winthrop Water District. The said district, for the purpose of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from Narrows Pond, so-called, in said Winthrop,

and from Lake Maranacook in the towns of Winthrop and Readfield, either or both, and from any surface or underground brooks and springs in said Winthrop, and to do any and all things necessary in providing a system of sewage for public purposes and for the health, comfort and convenience of the inhabitants of said district.'

Sec. 3. P. & S. L., 1923, c. 98, § 3, repealed and replaced. Section 3 of chapter 98 of the private and special laws of 1923 is hereby repealed and the following enacted in place thereof:

'Sec. 3. May exercise eminent domain. The said district, for the purposes of its incorporation, is hereby authorized to take and hold as for public uses, real estate and personal property, and any interest therein necessary for such purposes, by purchase, lease or otherwise, and is hereby authorized to exercise the right or eminent domain as hereinafter provided, to acquire for such purposes any land, or interest therein, or water rights necessary for erecting and maintaining dams, plants and works, for flowage, for power, for pumping, for supplying water through its mains and for a sewage system, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining mains, aqueducts and other structures for taking and distributing water, for forming basins, reservoirs and outlets in a sewage system, for erection of buildings, for pumping works, for use therein, for laying pipes and sewers and maintaining the same, and for laying and maintaining conduits for carrying, collecting, discharging and disposing of sewage, for filtering, rectifying, treating and disposal plants, works and facilities, for such other objects necessary, convenient and proper for the purposes of its incorporation, and for rights of way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures, plants, works, facilities and lands. In case of any crossing of any public utility, unless consent is given by the company owning or operating such public utility as to place, manner, and conditions of the crossing within 30 days after such consent is requested by such district, the public utilities commission shall determine the place, manner and conditions of such crossing; and all work on the property of such public utility shall be done under the supervision and to the satisfaction of such public utility, but at the expense of the district.'

Sec. 4. P. & S. L., 1923, c. 98, § 5, repealed and replaced. Section 5 of chapter 98 of the private and special laws of 1923 is hereby repealed and the following enacted in place thereof:

'Sec. 5. Authority as to dams, reservoirs, sewers. The said district is hereby authorized, for the purposes of its incorporation, to erect and main-

tain all dams, reservoirs and structures necessary and convenient for its corporate purposes; to take into, receive and convey through its sewer pipes, conduits and system, all sanitary sewage; to 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 the use thereof, to carry and lay conduits and pipes under any water course, and cross any drain or sewer, or, if necessary, to change its direction in such a manner as not to obstruct the use thereof, and in general to do any other acts or things necessary, convenient and proper to be done for the purposes of its incorporation.'

Sec. 5. P. & S. L., 1923, c. 98, § 13, repealed and replaced. Section 13 of chapter 98 of the private and special laws of 1923 is hereby repealed and the following enacted in place thereof:

'Sec. 13. District authorized to borrow money and issue notes; may issue bonds; district declared to be a quasi-municipal corporation. For accomplishing the purposes of this act, said water district, through its trustees, is authorized to borrow money temporarily and to issue therefor the interest-bearing negotiable notes of the district, and for the purpose of paying or refunding the indebtedness so created, of paying any necessary expenses or liabilities, incurred under the provisions of this act, including the expenses incurred in the creation of the district, in acquiring the plants, properties and franchises of said Hillside Water Company, of the Winthrop Water Company, of the Towle Packing Company and of said Carleton, by purchase or otherwise or in the purchase or acquisition of the properties and franchises of said defendant companies and of said Carleton, of securing sources of supply, taking water and lands, paying damages, laying pipes, constructing, maintaining and operating a water plant and a sewage system and making renewals, extensions, additions and improvements to the same, the said water district, through its trustees, may from time to time issue bonds of the district to an amount or amounts necessary in the judgment of the trustees aforesaid. Said notes and bonds shall be legal obligations of the water district, which is hereby declared to be a quasi-municipal corporation within the meaning of sections 132 and 133 of chapter 49 of the revised statutes of 1944, and all the provisions of said sections shall be applicable thereto. The said notes and bonds shall be legal investments for savings banks.'

Sec. 6. P. & S. L., 1923, c. 98, § 15, repealed and replaced. Section 15 of chapter 98 of the private and special laws of 1923 is hereby repealed and the following enacted in place thereof:

'Sec. 15. Rates; use of revenue; sinking fund. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of said district the rates established by said trustees for the entrance and use of said sewer system, and said rates shall be uniform within the territory served by said district. Said rates shall be so established by said trustees as to provide revenue for the following purposes:

I. To pay the current expenses for operating and maintaining the water system and sewage system.

II. To provide for the payment of the interest on the indebtedness created by the district.

III. To provide each year a sum equal to not less than one-half of one per centum nor more than five per centum of the entire indebtedness created by the district, which 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.

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

Sec. 7. P. & S. L., 1923, c. 98, § 15-A, additional. Chapter 98 of the private and special laws of 1923 is hereby amended by adding thereto a new section to be numbered 15-A, to read as follows:

'Sec. 15-A. Lien to secure payment of sewer rates; procedure, etc. There shall be a lien to secure the payment of sewer rates legally assessed on real estate within the Winthrop Water District, which shall take precedence of all other claims on said real estate and interests therein, excepting only claims for taxes. Real estate for the purpose of this act shall bear the same definition as is given in section 3 of chapter 81 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, give to the person against whom said rate is assessed, or leave at his last and usual place of abode, or send by registered mail to his last known place of abode, a notice in writing signed by said treasurer 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 or mailing of such notice.

If such person against whom such rate is assessed shall die before such demand is made on him, such demand may be made upon the executor or administrator of his estate or upon any of his heirs or devisees. After the expiration of said 10 days and within 10 days thereafter, the treasurer shall record in the registry of deeds for Kennebec county, a certificate signed by him 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. When the rate has been assessed to heirs or devisees of a decedent without designating any of them by name it will be sufficient to record the certificate in said registry in the name of the heirs or devisees without designating them by name. At the time of the recording of the certificate in the registry of deeds as herein provided, in all cases the treasurer shall file in the office of said sewer district a true copy of said certificate and also at the time of recording as aforesaid, the treasurer shall mail by registered letter to each record holder of a mortgage on said real estate, addressed to him at his place of last and usual abode, a true copy of said certificate. If the rate has not been assessed to the record owner of the real estate the treasurer shall send by registered mail at the time of recording, a true copy of said certificate to the record owner. The fee to be charged to the rate payer for such notice and filing shall be \$1 together with the cost of registered mail and 50c to be charged by the register of deeds.

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 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.

If said mortgage, together with interest at 6% per annum from the time of filing in the registry, 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.

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

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.

After the foreclosure of such mortgage and the expiration of the right of redemption therefrom has expired, the record holder of a mortgage on said real estate or his assignee and the record owner if the sewer rate has not been assessed to him or the person claiming under him, in the event the notice provided herein for such record holder of a mortgage and such record owner has not been given as provided herein, shall have the right to redeem the said real estate at any time within 3 months after receiving actual knowledge of the recording of the certificate by payment or tender of the mortgage, together with interest and costs and the registry fee for recording and discharging said mortgage, which shall be discharged by the treasurer at the time of redemption in manner provided for the discharge of mortgages of real estate.

The mortgage shall be prima facie evidence in all courts in all proceedings by and against the Winthrop Water District, its successors and assigns, of the truth of the statements therein and after the period of redemption has expired, of the title of the district to the real estate therein described, and of the regularity and validity of all proceedings with reference to the acquisition of title by such mortgage and the foreclosure thereof.'

Sec. 8. P. & S. L., 1923, c. 98, § 16-A, additional. Chapter 98 of the private and special laws of 1923 is hereby amended by adding thereto a new section to be numbered 16-A, to read as follows:

'16-A. Trustees may receive contributions. The trustees shall receive from individuals, partnerships, firms or corporation such contributions as may be made by them to the district and upon such terms and conditions as mutually may be agreed upon by such donors and the trustees.'

Sec. 9. Ratification. This act shall take effect when approved by a majority vote of the legal voters resident within said district, but if and

only if the total number of votes cast for and against the acceptance of this act in said election equals or exceeds 20% of the total vote for all candidates for governor cast in said district at the previous gubernatorial election, by ballot, at an election to be specially called by the selectmen of said town of Winthrop upon petition therefor signed by at least twenty legal voters resident within said district and held for that purpose. Such election shall be called, warned and conducted according to the law relating 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 voters, and for the purpose of registration of voters said selectmen shall be in session the secular day next preceding such special election. The town clerk shall reduce the subject matter of this act to the following question, "Shall the act to amend the charter of Winthrop Water District be accepted?" and the voters shall indicate by a cross placed upon their ballots over the words "Yes" or "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. Failure of approval by the necessary percentage of voters shall not prevent subsequent elections. Subject to the conditions, limitations and exceptions hereinbefore provided, this act shall take effect in ninety days after the final adjournment of the legislature so far as necessary to empower the calling and holding of the election authorized in this section.