

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. 1335

H. P. 1643

House of Representatives, March 25, 1947

Transmitted by the revisor of statutes pursuant to joint order

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

HARVEY R. PEASE, Clerk

Presented by Mr. Broggi of Sanford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT Creating a Sewer District in the Town of Sanford.

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

Sec. 1. Territorial limits; corporate name; purposes. The inhabitants and territory within the town of Sanford in the county of York shall be, and hereby are, created a body politic under the corporate name of the "Sanford Sewerage District," hereinafter called the district, for the purposes of providing and maintaining within the district the existing sewers and such additions thereto as are necessary for the adequate operation of said system, and the district is hereby authorized to construct, maintain and operate such systems of sewage and sewage disposal, and to lay, make and maintain such common sewers as the board of trustees may, from time to time, deem necessary for the disposing of its sewage. The district may also construct, maintain and operate such works as it may deem necessary in connection with said system, and for the purpose of providing better surface or other drainage for any part of the district, guarding against pollution of waters, and otherwise protecting the public health, may lay, make and maintain such main drains as it deems best, may deepen, widen and clear all obstructions in brook, stream or water course within the limits of the district, and straighten, alter or divert the courses or chan-

nels thereto, and said district is hereby invested with all powers, rights, privileges and immunities incident to similar corporations or necessary for the accomplishment of these purposes.

Sec. 2. Its powers. The district is hereby authorized for the purposes aforesaid to take over and hold the sewers and other assets of the existing sewerage system of the town of Sanford, and to acquire and hold by purchase, lease, the exercise of the right of eminent domain, or otherwise, land, real estate, rights, easements or interests therein, located within the district or elsewhere, and personal property. It also is empowered through its trustees to make contracts with persons or corporations for the collection, discharge and disposal of sewage and other waste matter.

Sec. 3. Liability for damages. The district shall be liable for all the damages that shall be sustained by any person in his property by the taking of any lands, rights, easements or interest therein, whatsoever, or by entering on or excavating through any land. If any person sustaining damage as aforesaid and the district shall not mutually agree upon the sum to be paid therefor, such person may cause his damage to be ascertained in the same manner and under the same conditions, restrictions and limitations as are or may be prescribed in the case of damages resulting from the location of town ways.

Sec. 4. Power to lay and maintain sewers; liability for injuries. The district is hereby authorized to lay in and through streets and highways, under any water course, way or public and private railroad, in the manner prescribed by law, within and outside the district, and to remove and replace such pipes, aqueducts and fixtures as may be necessary for the objects above set forth, and whenever the district shall lay, remove or replace any pipes, aqueducts or fixtures in any street or highway, it shall cause the work 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 to be replaced in proper condition. The district shall be liable to any person injured by any fault of the district or its agent, or any defects in the highway occasioned by the construction of the work, or during the repair of same, and also liable to said person or persons, who are injured through the carelessness of the employees of the district.

Sec. 5. Offenses and penalties. Any person who shall place or leave any offensive or injurious matter or material on or in the conduits, catch-basins or receptacles of the district contrary to the regulations, or shall wilfully injure any conduit, pipe, reservoir, flush tank, catch-basin, manhole, outlet, engine, pump or other property held, owned or used by the district

for the purposes of this act, shall pay twice the amount of the damages to the district to be recovered in any proper action; and such person, on conviction of either of the acts of wilful injury aforesaid, shall be punished by a fine not exceeding \$200 and by imprisonment not exceeding 1 year.

Sec. 6. Officers. The affairs of the district shall be managed by a board of trustees, 3 in number, residents and qualified voters of the district, who shall be elected by ballot of the voters of the district legally qualified to vote in the town of Sanford elections. They shall hold office for a term of 3 years and until their respective successors are chosen and qualified, except as hereinafter provided.

The 1st board of trustees shall be elected either at a special election of the district to be called by the municipal officers before the next annual elections for the government of the town of Sanford, or at that said succeeding annual election. Candidate receiving the greatest number of votes shall be elected a trustee for a term of 3 years; the candidate receiving the 2nd greatest number shall be elected a trustee for 2 years; and the candidate receiving the 3rd greatest, a trustee for 1 year. After the initial election of trustees, one member shall be chosen at each annual town election to serve for a term of 3 years ending on the 31st day of December of the 3rd year, or until a successor has been chosen. Any qualified voter of the Sanford sewerage district may become a candidate for the office of trustee and have his name appear on the Sanford municipal election ballot by signing and presenting a petition to the town clerk, signed by 25 qualified voters of the district, as provided in the Maine election statute. If a vacancy occurs more than 3 months before the next annual election, a special election shall be called to fill the vacancies and all vacancies shall be filled at an annual election.

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 2 other 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 other needed officers from their own number, adopt a corporate seal and by-laws.

Trustee serving as 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 trustee. The compensation of the trustees shall be the sum of \$5 for each called meeting. Each member shall be sworn in for faithful performance of his duty.

The annual town meeting shall be the annual meeting of said district and the duly elected and qualified representative town meeting members shall constitute the legal voting members of said district. If district funds are not sufficient, articles may be inserted in the town warrant and appropriations made for the construction of any replacements or additions to said sewer system. The plans for such replacements or additions shall be approved by the trustees of said district and the construction shall be under their supervision. Any replacement or addition thereto shall become the property of said district. The trustees may establish reasonable rules, regulations and by-laws for the use of sewers and fix and collect the fees to be paid for entering the same and also the quarterly rentals for the use thereof.

In addition to the above, the chairman of the board of selectmen and the chairman of the Sanford water district shall be ex officio members of the board of trustees, with all the powers invested in them as are delegated to a regularly elected member of said board.

Sec. 7. 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 Sanford, and said town of Sanford is hereby authorized to convey, by deed signed by a majority of the selectmen of said town of Sanford, duly authorized by the inhabitants of the town of Sanford, 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 Sanford 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 Sanford, 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. 8. Right of abutters to enter the sewer. The district, at all times, shall be bound to permit the owners of all premises abutting upon its lines

and pipes and conduits to enter the same with all proper sewage, upon conformity to the rules and regulations of the district, and payment of the rates, prices and rentals established therefor.

Sec. 9. The town of Sanford may be assessed for the use of system for highway drains. The district is hereby authorized to assess the town of Sanford for the use of said sewer system as public drains for highways a sum based upon the number of yards of waste matter retained in said catch-basins, and removed by the said district, semiannually. Said rate shall not exceed the actual cost of the removal and disposal of said waste matter from the catch-basins of the said sewer system.

The town of Sanford, however, may clean the waste matter from said catch-basins and dispose of the same, but this operation shall be wholly under the supervision of, and to the satisfaction of the board of trustees of said district or their agents.

Sec. 10. 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 \$500,000. 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, "SANFORD SEWERAGE DISTRICT BOND" or "SANFORD 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 chairman of said district, and if coupon bonds be issued, each coupon shall bear the facsimile signature of the chairman and treasurer.

Sec. 11. 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 reissued.

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, or if bonds of said district can be purchased by said trustees on favorable terms, 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. 12. Rates. All individuals, firms and corporations, whether public or private or municipal, shall pay to the treasurer of said district quarterly the rates established by the board of trustees for the services used or available to them. The sewer rates may include rates for the district's readiness to serve charge 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 thereto. Rates shall be equitable within the district, as determined by the board of trustees, and the said rates, rules and regulations of the district shall be subject to the approval of the public utilities 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 the sewage system and such other contingencies as might be reasonably anticipated.

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 $\frac{1}{2}$ of 1%, nor more than 5% 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. 13. Lien for payment of rates. There shall be a lien to secure the payment of rates established under section 12 of this act and legally assessed on real estate within the district, which shall take precedence of all other claims on such real estate, 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 81 of the revised statutes.

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

In addition to other methods previously established by law for the collection of the rates, the lien herein created may be enforced in the following manner; provided, however, that in making the assessment there shall be a description of the real estate served by the several sewers of the 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 the rate, in the case of a person resident in the town where the rate is assessed, give to the person against whom the rate is assessed, or leave at his last and usual place of abode, a notice in writing signed by the officer, stating the amount of such rate, describing the real estate on which the rate is assessed, alleging that a lien is claimed on the real estate to secure the payment of the rate within 10 days after the service of such notice. After the expiration of the 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 the rate to said officer, the officer shall record in the registry of deeds of York county a certificate signed by the 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 the real estate to secure the payment of the rate, that a demand for payment of the rate has been made in accordance with

the provisions of this act and that the rate remains unpaid. In all cases, except in the case of a resident, the 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 the district a true copy of the certificate and also at the time of recording as aforesaid, the 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 the 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 deeds for such filing shall not exceed 50c.

The filing of the aforesaid certificate in the registry of deeds as aforesaid shall be deemed to create and shall create a mortgage on the real estate to the 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 the district all the rights usually incident to a mortgage, except that the mortgagee shall not have any right of possession of the real estate until the right of redemption herein provided for shall have expired.

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

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

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

Sec. 14. Local referendum. This act shall take effect when accepted by the majority vote of the legal voters of the said town of Sanford at a regular town meeting to be held prior to January 1st, 1948. The town clerk shall reduce the subject of this act to the following question:

“Shall the Act Creating a Sewer District in the Town of Sanford, as passed by the 93rd legislature, be accepted”

And the voters shall indicate by a cross or check mark placed in the box following the words “Yes” or “No” their opinion of the same. The result shall be declared by the selectmen, and due certificate thereof filed with the secretary of state by the town clerk.