

MAINE STATE LEGISLATURE

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

Legislative Document

No. 475

H. P. 1069

House of Representatives, February 9, 1949

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

HARVEY R. PEASE, Clerk

Presented by Mr. Patterson of Freeport by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT to Amend the Charter of the Freeport Sewer District.

Emergency preamble. Whereas, the sewer system of this District is nearly completed and ready for use; and

Whereas, it is essential that said system be placed in operation to protect and preserve the public health, peace and safety; and

Whereas, it is necessary that there be a different method of procuring income for maintenance, operation, payment of interest and retirement of indebtedness than is now provided by the charter, in order to create a more equitable basis for charges; and

Whereas, in the judgment of the legislature, these facts create an emergency within the meaning of the constitution and require the following legislation as 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. P. & S. L., 1947, c. 60, § 4, amended. Section 4 of chapter 60

of the private and special laws of 1947 is hereby amended to read as follows:

Sec. 4. Right to lay pipes and other particular rights enumerated. Said district may lay pipes and construct conduits in manner aforesaid in and through said district to and into any stream or water course within the town of Freeport leading into Casco bay, the discharge therefrom to be at such point or points in any stream or water course within the town of Freeport leading into Casco bay as shall be most reasonable and convenient for said district, and convey through the same, sewerage, ~~surface water and the natural flowage of existing water courses~~ and secure and maintain basins, reservoirs and outlets; may build and maintain pumping stations and buildings convenient for same; may construct and maintain flush tanks, manholes, lamp-holes, and such usual appliances for collecting, holding, distributing and disposing of sewerage matters; may provide water for such flush tanks and for flushing said system of sewers and for any other purposes for which said district may deem the same desirable, and install all pipes and necessary structures and appliances to this end; may establish through and by its trustees regulations for the use of sewers and fix and collect the prices to be paid for entering same, and also the annual rentals for the use thereof, **which rentals may be based upon (a) the metered consumption of water on premises connected with the sewer system, making due allowances for commercial use of water; (b) the number and kind of plumbing fixtures connected with the system or situated in buildings which the sewer system is ready to serve; (c) the number of persons served by said sewer system; (d) the frontage of unserved property within 150 feet of any sewer street; or (e) may be determined by the trustees upon any other equitable basis, and the trustees may change the rates of such rents from time to time as may be reasonably required**; and said district is hereby authorized for the purposes aforesaid, to lay down, in and through the streets, highways and lands of said district, and take up, replace and repair all such conduits, pipes and fixtures as may be necessary or desirable for the objects of its incorporation; to carry and lay conduits and pipes under any water course, way, public or private, or railroad, in the manner prescribed by law, and to cross any drain or sewer, or, if necessary, to change its direction in such a manner as not to obstruct the use thereof, and to enter and dig up any such streets, road or way, for the purpose of laying pipes beneath the surface thereof, for placing manholes or other fixtures and for maintaining or repairing the same, and in general to do any other acts or things necessary, convenient and proper to be done for the purpose of this act. Provided, however, that said district shall not con-

struct any system of drainage or sewerage, without first having submitted its plans to the public utilities commission and obtained its approval therefor, under power vested in said commission.'

Sec. 2. P. & S. L., 1947, c. 60, § 5, amended. Section 5 of chapter 60 of the private and special laws of 1947 is hereby amended to read as follows:

'Sec. 5. Powers of trustees to determine necessity of sewer facilities. 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 of 1911 and all acts amendatory thereof, 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 section, 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, the trustee 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 The 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 is otherwise provided in the sections above referred to~~ shall be final. It is provided, however, that the municipal officers of said town may make written recommendation to the trustees of said district regarding sewerage necessities in said district.'

Sec. 3. P. & S. L., 1947, c. 60, § 12, amended. The 1st sentence of section 12 of chapter 60 of the private and special laws of 1947 is hereby amended to read as follows:

'The annual meeting of the district shall be held in the district on the ~~and~~ 4th Monday of March in each year at such hour and place as may be designated by resolution of the board of trustees as provided in the by-laws.'

Sec. 4. P. & S. L., 1947, c. 60, § 17, amended. The 3rd sentence of sec-

tion 17 of chapter 60 of the private and special laws of 1947 is hereby amended to read as follows:

'Each bond or note shall have inscribed on its face the words "FREEPORT ~~WATER SEWER~~ DISTRICT BOND" or "FREEPORT ~~WATER SEWER~~ DISTRICT NOTE" as the case may be, and shall bear interest at such rates as the trustees shall determine.'

Sec. 5. P. & S. L., 1947, c. 60, § 19, repealed and replaced. Section 19 of chapter 60 of the private and special laws of 1947 is hereby repealed and the following enacted in place thereof:

'Sec. 19. Rates. All persons and all associations and corporations, private, public or municipal, shall pay to the treasurer of the district, rates, tolls, rents, entrance charges and other lawful charges established by the board of trustees of said district for services used or available to them. The rates may include rates for the district's readiness to serve charged against owners, or persons in possession, or against whom the taxes are assessed, of all land and real estate abutting on a street or location through which said district has constructed a sewer line, or the property line of which is within 150 feet of a sewer line constructed by said district, although said premises are not actually connected thereto.

Said rates and other charges shall be uniform within the territory supplied by the district whenever installation and maintenance of sewers or other appurtenances and the cost of service is substantially uniform; but nothing in this act shall preclude the district from establishing a higher rate, toll, rent or entrance charge than the regular rates, tolls, rents and charges in sections where for any reason the cost of construction and maintenance or the cost of service exceeds the average, but such higher rates, tolls, rents and charges shall be uniform throughout the section where they apply.

The sewer rates, tolls, rents and entrance charges shall be so established as to provide revenue for the following purposes:

- I. To pay the current running expenses for operating and maintaining a sewerage system.
- II. To pay for such extensions and renewals as may become necessary.
- III. To provide for the payment of the interest on the indebtedness of the district.
- IV. To provide each year a sum equal to not less than 3% of the entire indebtedness of the district, as a sinking fund for the final extinguish-

ment of said indebtedness. Money set aside in the sinking fund shall be devoted to the retirement of the obligations of said sewer district, or invested in such securities as savings banks in this state are allowed to hold.

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

Sec. 6. P. & S. L., 1947, c. 60, § 19-A, additional. Chapter 60 of the private and special laws of 1947 is hereby amended by adding thereto a new section, to be numbered 19-A, to read as follows:

'Sec. 19-A. Lien for payment of rates. There shall be a lien to secure the payment of rates established under section 19 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 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 and demanding 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 Cumberland 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 incumbrances of any nature, except liens, attachments and claims for taxes, and shall give 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.'

Emergency clause; effective date; referendum. In view of the emergency cited in the preamble hereof, this act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the Freeport Sewer District at a special meeting called and held for the purpose by the trustees of said district within 30 days of the effective date of this act. Such meeting shall be called, advertised and conducted according to the charter of the Freeport Sewer District. The clerk of the Freeport Sewer District shall prepare the required ballots upon which he shall reduce the subject matter of this act to the following question: "Shall 'An Act to

Amend the Charter of the Freeport Sewer District' be accepted?" and the voters shall indicate by a cross or check mark placed over the words "Yes" or "No" their opinion of the same. The result of the vote in said district shall be declared by the trustees of said district and due certificate thereof filed by the clerk with the secretary of state. This act shall take effect in full immediately upon its acceptance by a majority of the legal voters voting at said meeting.