

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(Transmitted by Director of Legislative Research pursuant to joint order.)

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. 1085

H. P. 1731

House of Representatives, February 25, 1949

Referred to the Committee on Public Utilities. Sent up for concurrence and 1000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Brown of Baileyville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

**AN ACT Authorizing Municipalities to Construct, Operate and Maintain
Sewerage Facilities.**

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

R. S., c. 80, §§ 89-A - 89-Q, additional. Chapter 80 of the revised statutes is hereby amended by adding thereto 17 new sections to be numbered 89-A to 89-Q, inclusive, to read as follows:

‘Sewerage Facilities

Sec. 89-A. Short title. Sections 89-A to 89-Q, inclusive, may be cited as “The Sewerage Facilities Act”.

Sec. 89-B. Definitions. When used in sections 89-A to 89-Q, inclusive:

The term “bonds” shall mean bonds, interim certificates of other obligations of a municipality payable solely from revenues derived from the operation of sewerage facilities, and issued by the legislative body pursuant to sections 89-A to 89-Q, inclusive, or pursuant to any other law, as supplemented by, or in conjunction with said sections;

The term “legislative body” shall mean for a town the selectmen; for a

city the board of aldermen or other similar body of officials; and for a district the board of trustees of said district;

The term "municipality" shall mean any city or town in this state or any district organized, among other things, for the purpose of collecting, treating and disposing of sewage and industrial waste;

The term "sewerage facilities" shall mean sewers, sewer systems and sewage treatment and disposal plants, including intercepting sewers, outfall sewers, force mains, pumping stations and all appurtenances and equipment necessary, useful or convenient for the collection, treatment and disposal of sewage and industrial waste, and including any extensions, improvements, remodeling, additions and alterations thereto.

Sec. 89-C. Additional powers. In addition to the powers which it may now have, every municipality shall have power under the provisions of sections 89-A to 89-Q, inclusive:

I. To plan, construct, lease, acquire, reconstruct, improve, extend, better, repair, equip, and operate and maintain sewerage facilities, within or without the municipality, or partially within and partially without the municipality, but no sewerage facilities shall be operated in whole or in part in any other municipality unless the approval of such other municipality in the territory in which the facilities will be located is obtained;

II. To borrow money and to issue bonds to finance the planning, construction and acquisition of sewerage facilities;

III. To enter into cooperative agreements with and accept contributions from industrial establishments relative to the planning, construction, lease or other acquisition, maintenance and operation of sewerage facilities, and to apply for and accept grants or loans or any other aid which the United States of America or any agency thereof may give or make to any political subdivision or agency of the state for sewerage facilities, including all necessary action preliminary thereto, the purpose of which is to aid in the prevention or abatement of water pollution, and to make contracts and execute instruments containing such terms, provisions and conditions as, in the discretion of the legislative body of the municipality, may be necessary, proper or advisable for the purpose of obtaining such aid;

IV. To lease sewerage facilities to or from any other municipality, public or private agency, or person;

V. To enter into and perform contracts, whether long-term or short-

term, with any industrial establishment for the provision and operation by the municipality of sewerage facilities when the legislative body of said municipality determines such action to be in the public interest and otherwise essential in order to abate or reduce the pollution of waters caused by discharge of industrial wastes by the industrial establishment, and to provide for the periodical payment by such industrial establishment to the municipality of amounts at least sufficient, in the determination of such legislative body, to compensate the municipality for the cost of providing (including the payment of principal and interest charges, if any) and of operating and maintaining the sewerage facilities serving such industrial establishment;

VI. To prescribe, revise and collect rents, rates or other charges for the services or commodities furnished by the sewerage facilities, and in anticipation of the collection of the revenues of such sewerage facilities to issue revenue anticipation bonds to finance in whole or in part the cost of acquisition, construction, reconstruction, improvement, betterment or extensions of such sewerage facilities;

VII. To acquire by purchase, gift or by the exercise of the power of eminent domain, and to hold and dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property in connection with the sewerage facilities, whether subject to mortgages, liens, charges or other encumbrances, or otherwise;

VIII. To do all acts and things necessary or convenient in order to carry out the powers conferred by sections 89-A to 89-Q, inclusive.

Sec. 89-D. Joint action by municipality. Any two or more municipalities through their respective legislative bodies are hereby authorized and empowered to enter into and perform such contracts and agreements as they may deem proper for or concerning the planning, construction, lease or other acquisition and financing of sewerage facilities and the maintenance and operation thereof. Any such municipalities so contracting with each other may also provide in any contract or agreement for a board, commission or such other body as their legislative bodies may deem proper for the supervision and general management of the sewerage facilities and for the operation thereof, and may prescribe its powers and duties and fix the compensation of the members thereof. Such contract or agreement shall be in full force and effect when ratified by a majority of the qualified voters of such municipality voting upon such proposition at a meeting duly warned and held in accordance with the provisions of existing law, in the case where such municipality is a town, or, when ratified by the legis-

lative body of the municipality, in the case where such municipality is a city.

Sec. 89-E. Authorization of sewerage facilities and the issuance of bonds by a town. The provision of sewerage facilities and the issuance of bonds for the purpose of financing the cost thereof by any town shall be authorized by a vote of a majority of the qualified voters of such town present and voting on the question at a meeting of such town duly called for such purpose in the manner provided by this chapter, or any amendment thereto hereinafter enacted. Nothing in this section shall be construed to prevent action at such meeting upon any other lawful matter, the subject of which has been duly set forth in the warning calling such meeting.

Sec. 89-F. Conduct of meeting. All meetings of a town under the provisions of sections 89-A to 89-Q, inclusive, shall be conducted and proceeded with in the same manner as meetings are now conducted under any law governing such town unless otherwise in conflict with said sections. Any town when lawfully assembled at said meeting shall have power to choose a moderator to preside at such meeting, who shall regulate the business thereof, decide questions of order and make a public declaration of every vote passed. A vote taken on a resolution authorizing the issuance of bonds shall be taken by ayes and nays, and the total number of ayes and the total number of nays shall be recorded in the record of the meeting.

Sec. 89-G. Authorization of sewerage facilities and issuance of bonds by a city. The provision of sewerage facilities and issuance of bonds therefor by a city must be authorized by resolution of the legislative body at any regular or special meeting of such body called for that purpose, passed by a majority of all the members of such body, or of each branch thereof, if there be 2 branches, elected and then in office, taken by ayes and nays, and approved in writing by the mayor, or other officer being the chief executive of the city, if such approval is necessary under the provisions of any other law. Any city having an officer with the power to veto any act of the legislative body, if such officer does not approve such resolution within a period of 2 days after the same shall have been passed by the legislative body, such resolution shall be in full force and effect, but if within such period of 2 days such officer vetoes such resolution and returns the same to the legislative body with his reasons for such veto, said resolution may be acted upon at any subsequent meeting of the legislative body and if at that time it is passed by a $\frac{2}{3}$ vote of all the members elected to, the legislative body and then in office such resolution shall be in full force and effect in accordance with the provisions of sections 89-A to 89-Q, in-

clusive. Such resolution when adopted as herein provided shall be published once in a newspaper of general circulation in the city.

Sec. 89-H. Petition for election. If within 15 days of the publication of a resolution authorizing the provision of sewerage facilities and the issuance of bonds therefor under the provisions of sections 89-A to 89-Q, inclusive, by the legislative body of a city, a petition signed by 20% of the qualified voters of such city shall have been filed with the clerk of such city opposing the provision of such sewerage facilities and the issuance of such bonds, then such sewerage facilities shall not be provided and no bonds shall be issued therefor under the provisions of sections 89-A to 89-Q, inclusive, without the assent of a majority of the qualified voters of such city voting upon a proposition for the provision of the sewerage facilities and the issuance of such bonds at an election held as prescribed by law for elections on propositions.

Sec. 89-I. Authorization and issuance of bonds by district. The construction of sewerage facilities and the issuance of bonds therefor by a district shall be authorized by a resolution of the legislative body of such district at any regular or special meeting of such body called for that purpose, passed by a majority of all members of such body, elected or appointed and then in office, taken by ayes and nays, and approved in writing by the president or other officer being the presiding officer of the legislative body of the district. Such meeting may be warned by the legislative body of the district in the manner provided for by existing law.

Sec. 89-J. Power to secure bonds payable solely from revenue. When authorizing the issuance of revenue bonds under the provisions of sections 89-A to 89-Q, inclusive, the legislative body shall have power;

I. To pledge all or any part of the revenues received by the municipality from such sewerage facilities then existing or thereafter to be constructed to the punctual payment of revenue bonds issued for such sewerage facilities, and interest thereon, and to covenant against thereafter pledging any such revenues to any other bonds or any other obligations of the municipality for any other purpose;

II. To covenant as to rents, rates or other charges to be charged in connection with the sewerage facilities for which such bonds are to be issued and as to the use and disposal to be made thereof;

III. To covenant as to its books of account and as to the inspection and audit thereof and as to the accounting methods in connection with the sewerage facilities;

IV. To covenant to set aside or pay over reserves and sinking funds for such bonds and as to disposition thereof;

V. To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, conditions or obligations;

VI. To vest in a trustee or trustees the right to enforce any covenant made to secure or to pay said bonds, provide for the powers and duties of such trustee or trustees, to limit liability thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any portion of them may enforce any such covenant;

VII. To make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the legislative body of the municipality tend to make the bonds more marketable, notwithstanding that such covenant, act or thing may not be enumerated herein; it being the intention hereof to give a municipality power to do all things in the issuance of bonds and for their security.

Sec. 89-K. Bond provisions. The bonds issued by any municipality under the provisions of sections 89-A to 89-Q, inclusive shall not constitute an indebtedness of such municipality within the meaning of any constitutional or statutory limitations. It shall be plainly stated on the face of each bond that it shall not be deemed to constitute a debt of the municipality or a pledge of the faith and credit of the municipality but that it shall be payable solely from revenues and that the municipality is not obligated to pay it except from said revenues and that the issuance of the bond shall not directly or indirectly or contingently obligate the municipality to levy or to pledge any taxes whatever therefor or to make any appropriation for its payment except from such revenues. The bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding the estimated life of the project but in no event beyond 40 years from their respective dates, may bear interest at such rate or rates, not exceeding 5% per year, payable semi-annually, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without premiums, and may be declared or become due before the maturity date thereof, as may be provided by resolution or resolutions of the legislative body of the municipality. The legislative body may provide for the subordination of the security of any bonds issued hereunder and the payment of principal and interest thereon, to the

extent deemed feasible and desirable by such legislative body, to other bonds or obligations of the municipality issued to finance the sewerage facilities or that may be outstanding when the bonds thus subordinated are issued and delivered. Bonds issued under the provisions of sections 89-A to 89-Q, inclusive, by a town shall be signed by the legislative body or a majority thereof and countersigned by the treasurer, and the coupons, if any, attached thereto may bear the facsimile signature of the treasurer. Bonds issued under the provisions of sections 89-A to 89-Q, inclusive, by a city shall be signed by the mayor or other officer being the chief executive of the city and countersigned by the treasurer of the city, and the coupons, if any, attached thereto may bear the facsimile signature of the treasurer. The seal of the municipality, if the municipality has a seal, shall be impressed upon each such bond. Bonds issued under the provisions of sections 89-A to 89-Q, inclusive, bearing the signatures of officers in office on the date of signing thereof shall be valid and binding obligations, notwithstanding that before delivery thereof, any or all of the persons whose signatures appear thereon shall have ceased to be officers of the municipality issuing the same. The bonds may be sold at public or private sale in such blocks and for such price or prices as the legislative body shall by resolution determine, provided that the bonds shall not be sold for less than par. The bonds may be sold by the municipality to the United States of America at private sale. The bonds, or any part thereof, may be purchased by the municipality at a price not exceeding the principal amount thereof plus accrued interest thereon, and all bonds so purchased shall be cancelled. The bonds shall be fully negotiable within the meaning of and for all the purposes of chapter 174.

Every municipality is authorized to issue refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds, including interest thereon, if any, in arrears or about to become due. The relevant provisions of sections 89-A to 89-Q, inclusive, pertaining to revenue bonds shall be equally applicable to the authorization and issuance of refunding revenue bonds, including their terms and security, the resolution or resolutions, the rents, rates or other charges, and other aspects of the bonds.

Sec. 89-L. Interim certificates. Pending the preparation, execution or delivery of the definitive bonds for the purpose of financing the provision of the sewerage facilities, interim certificates or other temporary obligations may be issued by the municipality to the purchaser of such bonds. Such interim certificates or other temporary obligations shall be in such form and

contain such terms, conditions and provisions as the legislative body of the municipality issuing the same may determine.

Sec. 89-M. Debt limitation. Bonds issued under the provisions of sections 89-A to 89-Q, inclusive, do not constitute a debt of the municipality or district within the meaning of any statutory or constitutional debt limit provision and may be issued notwithstanding and without regard to any statutory or constitutional limitations or restriction on the amount or percentage of indebtedness or outstanding obligations of any municipality or district.

Sec. 89-N. Remedies of any holder or holders of bonds. Any holder or holders of bonds, including a trustee or trustees for holders of such bonds, shall have the right, in addition to all other rights:

- I. To bring suit upon the bonds;
- II. By mandamus or other suit, action or proceedings in any court of competent jurisdiction, to enforce his or their rights against the municipality, in the legislative body of the municipality, and any officer, agent or employee of the municipality to require said municipality, legislative body and its officers, agents and employees, to fix and collect rents, rates and other charges adequate to carry out any agreement as to, or pledge of, such revenues derived from the operation of the sewerage facilities and to require the municipality and the legislative body of the municipality and any officer, agent or employee of the municipality to carry out any other covenants and agreements and to perform its and their duties under the provisions of sections 89-A to 89-Q, inclusive;
- III. By action to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders.

Sec. 89-O. Additional remedies conferred by resolution. Any municipality shall have power by resolution of its legislative body to confer upon any holder, or holders of a specified amount or percentage of bonds payable solely from the revenues of the sewerage facilities, including a trustee or trustees for such holders, the right, in addition to all other rights, should there occur an "event of default" as defined in such resolution or as may be defined in any agreement with the holder or holders of such bonds or the trustee or trustees therefor:

- I. By suit, action or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of the sewerage facilities or any part or parts thereof. If such receiver be appointed, he may enter and take possession of such sewerage facilities or any part or parts thereof

and operate and maintain same, and fix, collect and receive all rents, rates and other charges thereafter arising therefrom in the same manner as the municipality itself might do, and shall dispose of any such moneys in a separate account or accounts and apply the same in accordance with the obligations of the municipality as the court shall direct;

II. By suit, action or proceeding in any court of competent jurisdiction to require the legislative body of the municipality to account as if it were the trustee of an express trust.

Sec. 89-P. Effect of recitals in bonds. Any resolution authorizing the issuance of bonds pursuant to the provisions of sections 89-A to 89-Q, inclusive, may provide that the bonds shall contain a recital that such bonds were issued pursuant to said sections, which recital shall be conclusive evidence of their validity and the regularity of their issuance.

Sec. 89-Q. Purpose of §§ 89-A-89-Q. It is the purpose of sections 89-A to 89-Q, inclusive, to enable municipalities to protect the public health and welfare by preventing or abating pollution of water and to these ends every municipality shall have power to do all things necessary or convenient to carry out such purpose, in addition to the powers conferred in said sections. The provisions of sections 89-A to 89-Q, inclusive, are remedial in nature and the powers hereby granted shall be liberally construed.'