

MAINE STATE LEGISLATURE

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

Legislative Document

No. 243

S. P. 136

In Senate, January 30, 1951

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

CHESTER T. WINSLOW, Secretary

Presented by Senator Marshall of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

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

Whereas, under the provisions of chapter 175 of the private and special laws of 1947 a sewer district was created in the town of York; and

Whereas, within two years from the effective date of said act, to wit: August 13, 1947, said corporation failed to organize and commence actual business under its said charter; and

Whereas, under the provisions of subsection XXIX of section 21 of chapter 9 of the revised statutes, said act of incorporation has become null and void; and

Whereas, it is desired to recreate a sewer district in said town of York; now, therefor,

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

Sec. 1. Territorial limits. The territory, and the inhabitants therein, 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 York Water District, is hereby made and declared to be a public sewerage district and a body politic and corporate under the name of "York Sewer District" and shall be a system of public sewerage

constructed, maintained and operated for the public health and welfare, and for the benefit of said inhabitants and of the property therein served by said sewerage facility, in the manner, with the rights, duties and immunities hereinafter in this act set forth.

Sec. 2. Authority to construct and maintain. Within said territory said York Sewer District is hereby authorized to lay pipes, drains, sewers and conduits, and to take up, repair and maintain the same or to contract for the same to be done, in and along the public ways, private ways, and public grounds, and through lands of any person or corporation as hereinafter provided, to and into tidal waters or filtration plants or to or into any drain or sewer now or hereafter built which empties into tidal waters or into any filtration plant, the discharge therefrom to be at such points consistent with the requirements of public health as shall be found convenient and reasonable for said district and the flow of existing water courses; also to construct and maintain filtration plants, pumping stations, basins, reservoirs, flush tanks and such other appliances for collecting, holding, purifying, distributing and disposing of sewage matter and surface or waste waters as may be necessary and proper; and in general, do any or all things incidental to accomplish the purposes of this act.

Sec. 3. Trustees; election to office; tenure of office; vacancies; first meeting of organization of board; annual report. All of the affairs of said district shall be managed by a board of 5 trustees, residents therein, who shall be chosen as hereinafter provided.

As soon as may be after the acceptance of this act, as hereinafter provided, the municipal officers of the town of York shall appoint 5 trustees of said district to hold office as follows: One to serve until the next annual meeting of said district, following the acceptance of this act; one to serve until the 2nd annual meeting of said district thereafter; one to serve until the 3rd annual meeting of said district thereafter; one to serve until the 4th annual meeting of said district thereafter and one to serve until the 5th annual meeting of said district thereafter. At each annual meeting of said district, beginning with the annual meeting after the acceptance of this act, 1 trustee shall be elected by the district, as hereinafter provided, to serve until the annual meeting of the district occurring 5 years thereafter. Following each annual meeting of said district, the trustees shall choose a chairman, a clerk and a treasurer to serve until the next annual meeting of said district and until their successors are elected and qualified. Whenever any trustee ceases to be a resident of said district, he vacates the office of trustee. Vacancies in the office of trustee shall be filled for the unexpired term at a special meeting of the district, unless said vacancy shall occur

within 3 months prior to the next annual meeting of said district, at which annual meeting such vacancy shall be filled.

As soon as convenient after their appointment, the 1st board of 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 other 4 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 election from their own number of a chairman and a clerk. They shall choose a treasurer, adopt a corporate seal and bylaws and perform any other acts within the powers delegated to them by law. They may choose and fix the compensation of any other necessary officers and agents who shall serve at their pleasure. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost thereof to be paid by the district. Members of the board of trustees shall be eligible to any office under the board. The trustees, as such, shall serve without compensation; but the treasurer may be allowed such compensation as the trustees shall determine.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member who shall serve as clerk or clerk pro tem. They shall make and publish an annual report, including a report of the treasurer.

Sec. 4. Right of eminent domain conferred. Said York Sewer District is hereby expressly granted the right of eminent domain, and for the purposes of this act is authorized to take and hold, either by exercising its right of eminent domain, or by purchase, lease or otherwise, as for public uses any land, easements or interests therein, and any sewers or sewer rights necessary for constructing, establishing, maintaining and operating sewers, reservoirs, flush tanks, manholes, catch basins, filtration plants, pumping stations and other appliances and property, used or usable, for collecting, holding, purifying and disposal of sewage matter and waste waters.

Sec. 5. Procedure under eminent domain. In exercising from time to time the right of eminent domain, said district, by its 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 thereon or sewers 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 10 days from such filing, whereupon possession may be had of all said lands or interests therein or property or rights to be taken, but title thereto shall not vest in said district until payment therefor.

Sec. 6. 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. 7. Limitations on crossing a public utility. 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 said 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. Provided, however, nothing herein contained shall be construed as authorizing said district to take by right of eminent domain any of the property or facilities of any other public service corporation or district used or acquired for future use by the owner thereof in the performance of a public duty unless expressly authorized herein or by subsequent act of the legislature.

Sec. 8. Rights and obligations of abutters or others to enter. Any person may enter his private drain into any sewer of the district while the same is under construction and before completion, and before assessments for an entrance charge are made, on obtaining a permit in writing from the trustees; but after the sewer is completed and said assessments made, no person shall enter his private drain into such sewer until he has paid his assessment and obtained a permit in writing from the trustees as aforesaid. All such permits shall be recorded by the clerk of the district in its records before the same are issued.

The owner, or persons in possession, or against whom taxes are assessed, of all buildings or premises intended for human habitation, occupancy or use, abutting on a street in which there is a sewer maintained by this district, or if such buildings stand on premises which are benefited and to which sewer service is available, shall connect said sewer in the most direct manner possible within 90 days after receiving notice thereof from the sewer district, or within such further time as its trustees may grant.

Sec. 9. Contracts with municipalities authorized. Said district is authorized to contract with persons and corporations, including the town of York and the village corporations therein; and said town and village corporations are authorized to contract with said district for the collection, distribution and disposal of sewage, surface water or other waste matter, and for said purposes, said town and village corporations may raise money as for other municipal charges.

Sec. 10. Excavation or repair work; closing of ways. Whenever said district shall enter, dig up or excavate any public way or other land for the purpose of laying its sewers or pipes, constructing manholes or catch basins or their appurtenances, or maintaining the same, or for any other purpose, the work shall be expeditiously done with the least possible interruption, and on completion of the work, the district shall restore said way or land to the condition it was in prior to such work, or to a condition equally as good.

Whenever the character of the work is such as to endanger travel on any public way, the municipal officers of the town of York may order a temporary closing of such way, and of any intersecting way, upon request of said district, and the way shall remain closed to public travel until said municipal officers deem it is restored to a condition safe for traffic.

Sec. 11. Sanitary provisions and penalty for violation. Any person who shall place or leave any offensive or injurious matter or material on or in the conduits, catch basins or receptacles of said district contrary to its 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 said district for the purposes of this act shall be liable to pay twice the amount of the damages to said district, to be recovered in any proper action; and such person on conviction of either of said acts of wilful injury aforesaid, shall be punished by a fine not exceeding \$200 and by imprisonment not exceeding 1 year.

Sec. 12. Annual meeting 1st Saturday of April; qualifications of voters of district. The annual meeting of the district shall be held in the district

on the 1st Saturday of April 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. Notice thereof, signed by the chairman or clerk of the board, shall be conspicuously posted in 2 public places within the district, not less than 7 days before the meeting. Special meetings may be called by the board in like manner at any time, and notice of special meetings shall state the business to be transacted thereat. If for any reason an annual meeting is not held on the above date, a meeting in lieu thereof may be called in like manner to be held within 3 months from said date. Eleven persons qualified to vote in such meetings shall constitute a quorum.

All persons resident in said district and qualified to vote for governor under the laws of this state shall be entitled to vote in any meeting of the district, including the meeting for acceptance of this charter.

Sec. 13. Trustees granted certain powers of selectmen. After the meeting for acceptance of this charter, the trustees shall have the same powers and perform the same duties as otherwise are exercised and performed by the selectmen of towns in correcting and preparing lists of the persons qualified to vote in said district, and for that purpose they shall be in session at the office of the said sewer district between the hours of 10 o'clock in the forenoon and 12 o'clock noon of the secular day next before the date of every meeting; and 2 hours next before the opening of the meeting; and notice thereof shall be given in the call for the meeting. All meetings of the district shall be presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings.

Sec. 14. Authorized to acquire sewage system of town; right of eminent domain conferred. Said sewer district is hereby authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain, which right is hereby expressly delegated to said district for said purpose, the entire plant and property of the sewage system, or any part thereof, now in said district and owned by the town of York or any village corporation therein; and the town of York or any village corporation therein is hereby authorized and empowered to sell to said district its said sewage plant and system or any part thereof, provided the voters in said town or village corporation shall, at a town or village corporation meeting legally called, notified and held, vote to do so.

Sec. 15. Property tax exempt. The property, rights and franchises of said district shall be forever exempt from taxation.

Sec. 16. Authorized to issue bonds and notes; to borrow money. For accomplishing the purposes of this act, said district, by resolution of its

board of trustees, is hereby authorized to borrow money temporarily and to issue therefor its negotiable notes, and for the purpose of refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this act, including organizational and other necessary expenses and liabilities; and in acquiring properties, paying damages, laying sewers, drains and conduits, constructing, maintaining and operating a sewage plant or system and making renewals, extensions, additions, extensions and improvements to the same, and to cover interest payments during the period of construction, said York Sewer District, by resolution of its board of trustees, is also hereby authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in 1 series, or in separate series, in an amount or amounts at such rates of interest and on such terms and conditions as the trustees shall determine; provided, however, that the total outstanding indebtedness of said district shall at no time exceed the sum of \$400,000. Said bonds, notes and other evidences of indebtedness shall be legal obligations of said district and a direct obligation on the taxable property within the district; shall bear the seal of the district and shall be signed by its treasurer and countersigned by the chairman of its board of trustees; and any interest coupons attached thereto shall bear the facsimile of the signature of its treasurer. Said district may refund and reissue, from time to time, in one or in separate series, its bonds and other evidences of indebtedness, and each authorized issue shall constitute a separate loan. All bonds issued by said district shall be a legal investment for savings banks in the state of Maine and shall be tax exempt.

Sec. 17. Rates and tolls; application of revenues. All persons and corporations, whether public, private or municipal, shall pay to the treasurer of said district the entrance charges, rates, tolls, rents and other lawful charges established by the trustees for the sewer or drainage service used, or to which such beneficial service is available with respect to their lots or parcels of land; and in determining real estate interests, "real estate" as defined in section 3 of chapter 81 of the revised statutes may be applied by the trustees.

Rates, tolls rents and entrance charges shall be uniform within the territory supplied by the district whenever the installation and maintenance of sewers or their 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 sections 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 expenses for operating and maintaining a sewage 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 1% nor more than 5% of the entire indebtedness created by said sewer 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 sewer district, or invested in such securities as saving banks in this state are allowed to hold ;

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

Sec. 18. Trustees determine benefits and revenue needed; assess sum needed; method of collection; fiscal year. Whenever the district has constructed, completed or acquired a sewer or drain, its trustees shall meet and determine what lots or parcels of land are benefited by such sewer or drain and shall estimate and assess, as hereinafter provided, upon the person or against whom taxes thereon shall be assessed, whether said person to whom the assessment is so made be the owner, tenant, lessee or agent and whether the same is occupied or not, such sum not exceeding such benefit as they deem just and equitable and is necessary toward providing the revenue required for the purposes set forth in the preceding section ; and on or before the 1st day of April in each year the trustees shall meet and estimate what sum is necessary to meet such required revenue, and other necessary expenses and obligations of the district for the fiscal year ending the 31 day of December ; and thereupon on, or before or as of said 1st day of April, said trustees, acting as assessors of said district, being thereunto hereby expressly authorized, shall annually assess upon any person or persons owning, occupying or using lots or premises benefited or served by the sewers, drains or sewer system of said district, a special tax as a charge for the use thereof in such amount as bears a reasonable relation to the cost to said district for the service rendered to said persons. The special tax so assessed shall constitute a lien upon each and every lot or

premises so benefited or served, shall have priority over any other claims except claims for taxes, and may be enforced and collected by the treasurer of said district as hereinafter provided.

If justice requires, said assessors may assess a supplemental tax to cover any part of a fiscal year in which an estate is not taxed hereunder, and such tax shall be committed and collected in the same manner as the annual taxes. The provisions of section 29 of chapter 81 of the revised statutes, so far as applicable, shall apply.

Sec. 19. Profiles and description; notice of assessment; hearings. Said assessors shall file with the clerk of the district the location of each such sewer or drain with a profile description with the amount assessed on each lot or parcel of land so assessed and the name of the owner of each such lot or parcel, if known, and the clerk shall record the same in a book kept for that purpose, and each person so assessed shall be notified of such assessment by having an authenticated copy of said assessment, with an order or notice signed by the clerk stating a time and place for a hearing by the board of trustees on the subject matter of said assessment served him in hand, or left at his last and usual place of abode in said district; or sent by registered mail to his last known place of abode 10 days at least before the date fixed for said hearing; or such notice may be given by publishing it in a newspaper printed in the town of York, said publication to be made 10 days at least prior to said meeting. A return made of a copy of such notice by the clerk of the district, or any constable therein, or the production of the newspaper containing such notice, shall be sufficient evidence that said notice has been given; and upon such hearing said trustees, acting as said assessors, shall have power to revise, increase or diminish any such assessments. Such revision, increase or diminution shall be in writing and recorded by said clerk.

Sec. 20. Treasurer shall collect taxes. After a hearing has been given to the person or persons assessed, on or before the 13th day of June in each year, said trustees, in their capacity as assessors, shall transmit said tax assessments to the treasurer of said district in an appropriate warrant, under their hands, requiring him to collect the sum so assessed; and said treasurer shall have all the power and authority to collect as is vested by law in tax collectors of cities and towns.

Sec. 21. Appeal provided; procedure. Any person aggrieved by such assessment made against him may appeal to any justice of the superior court in term time or vacation, and said justice shall have jurisdiction to hear and determine the cause as law and equity may require, according to

the usage and practice of the court. Every appeal shall be filed in the office of the clerk of courts for the county of York within 10 days after the appellant has been given a hearing, as provided in section 19; and he shall also within 2 days after such filing give to the board of trustees written notice of his appeal.

Sec. 22. Construction of this act; bylaws and rules authorized. This act shall be construed as authorizing a charge by said district for the use of sewers, sewer systems or drains for disposal purposes in addition to other assessments now lawfully imposed by general law.

Said board of trustees may by bylaws define the person or persons to whom such special sewer tax or charge shall be assessed and may adopt such other bylaws, rules and regulations as may be necessary to carry out the provisions of this act.

Sec. 23. Incidental powers and rights. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this act, as hereinbefore set forth, are granted to said district; including the right of trustees to determine when and where sewerage facilities are most needed, and how said sewers shall be built.

Sec. 24. Existing statutes not affected; rights conferred subject to provisions of law. Nothing herein contained is intended to repeal or shall be construed as repealing the whole or any part of any existing statute, and all the rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of chapter 40 of the revised statutes of 1944 and all acts amendatory thereof or additional thereto.

Sec. 25. Local referendum. For the purpose of the calling and holding the special election herein authorized, this act shall take effect in 90 days after the final adjournment of the 95th legislature; and this act shall take complete effect, as hereinafter provided, when approved by a majority of the legal voters resident in said district, present and voting for or against this act, by ballot at an election to be specially called by the selectmen of said town of York and to be held for that purpose not later than 30 days following the completion of said 90-day period after the final adjournment of this legislature. Said 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 nor 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 of said town shall reduce the subject matter of this act to the following question:

“Shall the Act Creating a Sewer District in the Town of York, as enacted by the 95th legislature, be accepted?” And the voters shall indicate by a cross or check mark 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 said town clerk with the secretary of state, and if said result so filed shows that a majority of the voters is for approval of this act, it shall take complete effect; provided that the total vote cast for and against the acceptance of this act equals or exceeds 20% of the total vote for all candidates for governor cast at the next previous gubernatorial election. In the event of failure of approval by the necessary percentage of voters, subsequent elections to vote on said question, to be called, warned, conducted and the result declared in the manner hereinbefore provided, may be held on petition therefor on a day fixed in said petition when said petition is signed by at least 20 legal voters resident in said district, and a certificate of the result of any such election shall be filed by the said town clerk with the secretary of state, with the same effect as obtains with respect to the 1st election, as provided in this act.