

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. 767

H. P. 1209

House of Representatives, February 16, 1951

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

HARVEY R. PEASE, Clerk

Presented by Mr. Hawkes of Saco.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT to Incorporate the Saco Sewerage District.

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

Sec. 1. Territorial limits; name; purposes. That part of the city of Saco, and the inhabitants therein, which is bounded and described as follows: Commencing at a point on the Saco river opposite westerly end of Irving street to a point on the Boom road as northwesterly boundary of land owned by Harriett O. McKeen, thence to the intersection of New County road and Shadagee road and Garfield street, thence to the intersection of the Shadagee road and North street; thence to the intersection of Portland road and Goosefare brook; thence to the intersection of Ross road and Goosefare brook, thence to the intersection of Ocean Park road and Goosefare brook, thence to the intersection of Old Orchard road and Goosefare brook, thence to intersection of Lower Beach street and Camp Ellis creek, thence to Saco river, thence by Saco and Biddeford boundary line to point of beginning; is hereby created a body politic and corporated under the name of the Saco Sewerage District, hereinafter called the district, for the purpose of providing and maintaining within the district a sewer system, drains and sewage disposal plants when, as and if such disposal plants become necessary, for public purposes and for the health,

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

Sec. 2. Its powers; procedure in crossing public utilities. 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 city of Saco, 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. It may discharge sewage into the Saco river at a point most reasonable and convenient for said district.

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 the 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 thereto herein or by subsequent act of the legislature.

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 interests 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. Authorized to lay mains, pipes, conduits, etc. through public ways and across private lands. The said district is hereby authorized to lay in and through the streets, roads, way and highways and across pri-

vate lands and to maintain, repair and replace, all such pipes, mains, conduits, aqueducts, and fixtures as may be necessary and convenient for its corporate purposes, and whenever said district shall lay any pipes, or aqueducts in any street, road, way or highway it shall cause the same to be done with as little obstruction as practicable to the public travel, and shall at its own expense without unnecessary delay cause the earth and pavement removed by it to be placed in proper condition.

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, man-hole, 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 city of Saco 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 first 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 election for the government of the city of Saco, 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, 1 member shall be chosen at each annual city election to serve for a term of 3 years ending on the 3rd Monday of March of the 3rd year or until a successor has been chosen. Any qualified voter of the Saco Sewerage District may become a candidate for the office of trustee and have his name appear on the Saco Sewerage District ballot by signing and presenting a petition to the city clerk signed by 25 qualified voters of the district as provided in the Maine election laws. 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 two 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 board shall publish an annual report including a report of the treasurer. The trustees shall have the power of correcting and preparing a list of the persons qualified to vote in the district. The annual meeting of the district shall be held in the district on January 31st of each year at such hour and place as may be designated by trustees. Notice signed by chairman or clerk shall be conspicuously posted in 2 public places with the district 7 days before meeting. Special meetings may be called by the board in like manner at any time. 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 annual rentals for the use thereof.

Sec. 7. Bonds and notes. For accomplishing the purposes of this act, the district is hereby authorized and empowered through its trustees to issue notes, bonds and other evidence of indebtedness to amount sufficient to procure funds, not exceeding \$200,000, to pay the expenses incurred in acquiring and constructing its plant or plants, properties and franchises for further extension, additions or improvements of the same, whether done at one time or from time to time, and to refund same as they fall due. Said notes, bonds and other evidences of indebtedness shall be a legal obligation of said district, which is hereby declared to be a quasi-municipal corporation within the meaning of section 132 of chapter 49 of the revised statutes of 1944, and all the provisions of said section and acts amendatory thereof shall be applicable thereto. Said bonds shall be a legal investment for savings banks. The trustees may also borrow on the notes of the district such sums as may be necessary to meet the current expenses of the district in anticipation of the collection of rates.

Sec. 8. Rates; application of revenues. All individuals, firms and corporations, whether public, private or municipal, shall pay to the treasurer

of said district the rates established by the trustees for the services used or made 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 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 thereunto. Rates shall be uniform within the district, and the rates, rules and regulations of the district shall be subject to the approval of the public utilities commission. The rates shall be so established as to provide revenue for the following purposes:

I. To pay the current running expenses for operating and maintaining the sewerage system, including provision for depreciation.

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

III. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness of the district, which sum shall be turned into a sinking fund for the final extinguishment of the debt. The money so set aside shall be devoted to the retirement of the obligations of the district, or invested in securities lawful for savings banks. Provided, however, that the trustees may, in their discretion, and in lieu of the establishment of a sinking fund, issue bonds of the district, so that not less than 1% of the bonds issued shall mature and be retired annually.

IV. If any surplus remains after the year's operation, this surplus may be added to the sinking fund.

Sec. 9. Rights of abutters to enter sewer. The district at all times shall be bound to permit the owners of premises abutting upon its lines of 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. The owner, or persons in possession, or against whom taxes are assessed, of all buildings or premises intended for human habitation or occupancy abutting on a street in which there is a public sewer or if the property line of the premises containing said building is within 100 feet of a public sewer, shall connect with said sewer in the most direct manner possible within 90 days of receiving notice thereof from the sewerage district.

Sec. 10. Lien for payment of rates. There shall be a lien to secure the payment of sewer rates legally assessed on real estate within the city of Saco which shall take precedence of all other claims on said real estate and interests 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 sewerage 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 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 said rate, in the case of a person resident in the city where the rate is assessed, give to the person against whom said rate is assessed, or leave at his last and usual place of abode, a notice in writing signed by said officer 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 of such notice. After the expiration of said 10 days and within 10 days thereafter, in the case of a resident, and in all other cases within 1 year from the date of commitment of said rate to said officer, said officer shall record in the registry of deeds of the county where said real estate is situated a certificate signed by said 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 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. In all cases such officer shall file in the office of the said sewerage district a true copy of said certificate and also at the time of recording as aforesaid the said 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 said 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 said real estate to the said sewerage district in which the real estate is situated, hav-

ing priority over all other mortgages, liens, attachments and encumbrances of any nature except liens, attachments and claims for taxes, and shall give to the sewerage district all the rights usually incident to a mortgagee.

If said mortgage, together with interest 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 sewerage district shall discharge said mortgage in the same manner as is now provided for discharge of real estate mortgages.

Sec. 11. Tax exemption. The property of the district shall be exempt from taxation.

Sec. 12. 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. 13. Effective date; local referendum provided for; form of ballot; return to secretary of state. This act shall take effect 90 days after the adjournment of the legislature only for the purpose of permitting its submission to the legal voters of the city of Saco voting at the next regular state or city election held in the city of Saco. Such election shall be called, advertised and conducted according to the law relating to municipal elections. The city clerk shall reduce the subject matter of this act to the following question: "Shall the act to incorporate the Saco Sewerage District, passed by the 95th legislature, 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 at said election shall be declared by the municipal officers of the city of Saco and due certificate filed by the city clerk with the secretary of state. This act shall take effect for all the purposes thereof immediately upon its acceptance by a majority vote of the legal voters voting at said election; provided that the total number of votes cast for and against the acceptance of this act at said election equals or exceeds 20% of the total vote for all candidates for governor cast in said city at the next preceding gubernatorial election.