

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)

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

Legislative Document

No. 266

H. P. 279

House of Representatives, February 3, 1953.

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

HARVEY R. PEASE, Clerk.

Presented by Mrs. Downing of North Kennebunkport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT Creating the Old Orchard Beach Sewerage District.

Emergency preamble. Whereas, certain areas of the town of Old Orchard Beach, in the county of York, being on low, swampy ground, are in immediate need of public sewerage facilities; and

Whereas, the bathing waters adjacent to Old Orchard Beach, are contaminated and polluted with sewage to a dangerous extent; and

Whereas, the welfare and livelihood of the citizens of the town of Old Orchard Beach depend to a great extent upon the healthful condition of the town and its bathing beach; and

Whereas, it is impossible for the necessary construction to alleviate these conditions to be undertaken without the authority of this charter; and

Whereas, it is imperative to start the necessary construction as soon as possible; and

Whereas, in the judgment of the legislature, these facts create an emergency within the meaning of the constitution of Maine 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. Territorial limits; corporate name and purposes. The territory of the town of Old Orchard Beach, in the county of York, and the inhabi-

tants within the same, and the area comprising the ocean bed of Saco bay adjoining said Old Orchard Beach, extending 3,500 feet below and beyond high-water mark, in order to accomplish the purposes of this act, shall be and hereby are constituted a body politic and corporate under the name of the Old Orchard Beach Sewerage District, hereinafter called the district, for the purpose of providing and maintaining within the district a sewer system, drains and sewerage disposal plants, when, as, and if such sewer system, drains and sewerage disposal plants become necessary, for public purposes and for the health, comfort and convenience of the inhabitants of said district, and for insuring the purity of the bathing waters of Saco bay adjacent to said Old Orchard Beach, 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. 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 Old Orchard Beach, and to acquire and hold by purchase, lease, 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 sewerage and other water-borne waste matter.

Sec. 3. Assumption of liabilities. Said district shall assume and pay any and all indebtedness or liability existing on the part of said town of Old Orchard Beach for sewerage construction, repairs and maintenance as of the date when said district shall become active and assume control of the sewerage system of said town.

Sec. 4. Power to lay and maintain sewers. 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 to be replaced in proper condition. Any pavement removed shall be replaced in proper condition by the highway department of the town, at the expense of the district.

The district shall have the same priorities over other utilities such as

water, gas, electricity and telephone, as the sewer department of the town now has. In case of any crossing of any public utility such as a railroad or other utility owning a private right-of-way, 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 the district, the state 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.

Sec. 5. Officers. The affairs of the district shall be managed by a board of trustees composed of 5 members, who shall be residents therein, and who shall be elected at the annual town meeting as hereinafter provided. The first board shall be selected by the municipal officers; 2 shall be chosen for 1 year, 2 for 2 years and 1 for 3 years; and thereafter vacancies shall be filled each year at the annual town meeting to serve for the term of 3 years. As soon as convenient, after the board of trustees have been chosen, they shall hold a meeting to elect a chairman and other needed officers and appoint agents for the conduct and management of its affairs. When the town of Old Orchard Beach has a town manager, such town manager shall also be manager of the district. In case a vacancy occurs on the board of trustees, the remaining trustees may choose another member to serve until the next annual town meeting, at which time all unexpired terms shall be filled by election. The trustees may make reasonable rules, regulations and by-laws. The trustee serving as treasurer shall furnish bond in such sum and with such sureties as the trustees may approve. The compensation of the trustees and trustee serving as treasurer shall be a nominal sum to be set by the voters of the district at the annual meeting of the district.

Sec. 6. Meetings. The annual meeting of the district shall be held on the 1st Saturday of April in each year, at such time and place as the trustees deem suitable. Notice of meetings shall be posted conspicuously in at least 2 public places in the district at least 7 days before the meeting. Said notice shall specify the business to be acted upon. Special meetings may be called by the same notice as for annual meetings at any time the trustees deem necessary; and shall be called if a petition for the same, and specifying the business to be acted upon, is presented to the trustees, and signed by 10% of the voters of the district. The voting list of the town of Old Orchard Beach shall be considered to be the voting list of the district. The trustees shall refer to the district meeting all matters pertaining to new construction.

Sec. 7. Bonds and notes. For accomplishing the purposes of this act, the district is hereby authorized and empowered through its trustees, to issue serial bonds or notes and other evidence of indebtedness to an amount sufficient to procure funds 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 the same as they fall due. The total indebtedness of the district at no time shall exceed the amount of 1/10 of the state valuation of the town of Old Orchard Beach. Said bonds, notes 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 or notes shall be a legal investment for savings banks. The trustees may borrow on the notes of the district such such as may be necessary to meet the current expenses of the district in anticipation of the collection of rates.

Sec. 8. Rates. Rates shall be so established as to provide revenue for the following purposes :

- (1) To provide each year a sum sufficient to retire the obligations of the district falling due during that year;
- (2) To provide for the payment of interest on the indebtedness of the district;
- (3) To pay the current operating and maintenance expenses of the district.

An annual service charge shall be paid for the above purposes to the treasurer of the district on or before the 1st day of August in each year by all persons owning premises served by the district. Said annual service charge shall be assessed by the trustees of the district against each property served by the district, and committed to the treasurer for collection. Rates for service charges, entrance fees, etc. shall be uniform within the district. The entrance fee shall be \$25 for each new sewer line entering into the district sewer mains. The rate for the service charge shall be as follows :

Residences, cottages, hotels—\$20 each, with an additional charge for each room over 5 in number of \$2 per room ;

Camps or cabins—\$20 for the first unit, with an additional charge for each room over 5 in number of \$2 per room ;

Restaurants, dance halls, amusements, arcades, concessions, stores, garages and other commercial enterprises—\$20 each, with an additional charge of 2c per square foot for each foot over 1,000 square feet of floor area.

The service charges may be changed by the trustees of the district at any time when a larger or smaller sum shall be needed for the purposes of the district.

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 sewerage upon conformity to the rules and regulations of the district, and payment of the rates, prices and rentals established therefor. The owners, or persons in possession, or against whom taxes are assessed of all buildings or premises intended for human habitation or occupancy, or use, which are within 100 feet of a public sewer, shall connect with said sewer in the most reasonably direct manner possible within 90 days of receiving notice thereof from the 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 Old Orchard Beach Sewerage District which shall take precedence of all other claims on said real estate and interest 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 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 same manner as provided in sections 97 and 98 of chapter 81 of the revised statutes of 1944 and amendments thereto; the treasurer of the district shall have the same powers as a collector of taxes under the abovementioned sections.

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

Sec. 12. Saving clause. If any part of this act shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the act.

Sec. 13. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this act shall take effect when approved, but only for the purpose of permitting its submission to the legal voters of the territory embraced within the limits of said district, present and voting,

at a special meeting called and held for the purpose or at an annual town meeting of the town of Old Orchard Beach. Such special meeting or annual town meeting shall be held not later than April 1, 1954. In the event a special meeting is called for the purpose, it shall be called, advertised, and conducted according to the law relating to municipal elections; provided however that the board of registration in said town of Old Orchard Beach shall not be required to prepare for posting, nor the town clerk to post, a new list of voters. The town clerk shall prepare the required ballots on which he shall reduce the subject matter of this act to the following question: "Shall the Act creating the Old Orchard Beach Sewerage District be accepted?" and the voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same. This act shall take effect for all the purposes hereof immediately upon its acceptance by a majority vote of the legal voters voting at said meeting; but if, and only if, the total number of votes cast for and against the acceptance of this act in said meeting equals or exceeds 20% of the total vote for all candidates for governor cast in said town at the previous gubernatorial election. The result of the vote shall be declared by the municipal officers and due certificate filed by the town clerk with the secretary of state.