

# MAINE STATE LEGISLATURE

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

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**Legislative Document**

**No. 927**

S. P. 326

In Senate, February 18, 1953

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

CHESTER T. WINSLOW, Secretary

Presented by Senator Squire of Kennebec.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-THREE

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**AN ACT Amending the Charter of the Waterville Sewerage District.**

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

**Sec. 1. P. & S. L., 1949, c. 211, § 3, amended.** Section 3 of chapter 211 of the private and special laws of 1949 is hereby amended to read as follows:

**Sec. 3. Procedure in exercise of right of eminent domain.** The commissioners hereinafter provided for said district may exercise the right of eminent domain vested in said district for the purposes of this act after hearing, notice of the time and place of the said hearing having been given by publication in the Waterville Morning Sentinel ~~for 2 weeks~~ **once a week for 2 successive weeks** previous to the time appointed for said hearing, and the clerk of said district shall keep a record of their proceedings, and their determination and decision, which shall set forth a description of the land or easement taken, and the owners, if known, and the amount of damages awarded therefor. **In lieu of the notice for publication hereinbefore defined, said notice may be served in hand by an officer duly qualified to serve civil process in this state on the record owner or owners of the premises involved, the same to be served at least 14 days prior to the time appointed for said hearing.** Upon the signing of said record of said commissioners,

and the filing of the same in the registry of deeds for the county of Kennebec, said commissioners may enter upon such land and take possession of the same or an easement therein, as the case may be, for the purposes of this act. Any person aggrieved by the decision of said commissioners, as it relates to the damages for land or easements therein so taken, shall have the same rights of appeal as are provided in the case of the laying out of ~~towns~~ town ways.'

**Sec. 2. P. & S. L., 1949, c. 211, § 5, amended.** Section 5 of chapter 211 of the private and special laws of 1949 is hereby amended to read as follows:

'**Sec. 5. Abutting owners have right to enter.** Said district, at all times after it shall commence receiving pay for the facilities supplied by it, shall be bound to permit the owners of all 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 said Waterville Sewerage District and payments of the prices, **assessments** and rental established therefor.'

**Sec. 3. P. & S. L., 1949, c. 211, §§ 5-C, 5-D, 5-E, 5-F and 5-G, additional.** Chapter 211 of the private and special laws of 1949 is hereby amended by adding thereto 5 new sections, to be numbered 5-C, 5-D, 5-E, 5-F and 5-G, to read as follows:

'**Sec. 5-C. Assessment against lot benefited.** When the district has constructed and completed a public drain or common sewer, the commissioners shall determine what lots or parcels of land are benefited by such drain or sewer, and shall estimate and assess upon such lots and parcels of land, and against the owner thereof, or person in possession, whether said person to whom the assessment is so made shall be the owner, tenant, lessee or agent, and whether the same is occupied or not, such sum not exceeding such benefit as they may deem just and equitable towards defraying the expenses of constructing and completing such drain or sewer, together with such sewage disposal units and appurtenances as may be necessary, the whole of such assessments not to exceed  $\frac{2}{3}$  of the cost of such drain or sewer and sewage disposal units. The commissioners shall file with the clerk of the district the location of such drain or sewer and sewage disposal unit, with a profile description of the same, and a statement of the amount assessed upon each lot or parcel of land so assessed, a description of each lot or parcel, and the name of the owner of such lots or parcels of land or person against whom said assessment shall be made, and the clerk of such district shall record the same in a book kept for that

purpose, and within 10 days after filing such notice, each person so assessed shall be notified of such assessment by having an authentic copy of said assessment, with an order of notice signed by the clerk of said district, stating the time and place for a hearing upon the subject matter of said assessments, given to each person so assessed or left at his usual place of abode in said district; if he has no place of abode in said district, then such notice shall be given or left at the abode of his tenant or lessee if he has one in said district; if he has no such tenant or lessee in said district, then by posting the same notice in some conspicuous place in the vicinity of the lot or parcel of land so assessed, at least 30 days before said hearing, or such notice may be given by publishing the same once a week for 3 successive weeks in any newspaper published in said district, the 1st publication to be at least 30 days before said hearing; a return made upon a copy of such notice by any constable in said city or the production of the paper containing such notice shall be conclusive evidence that said notice has been given, and upon such hearing the commissioners shall have power to revise, increase or diminish any of such assessments, and all such revisions, increase or diminution shall be in writing and recorded by such clerk.

Sec. 5-D. Right of appeal. Any person, aggrieved by the decision of said commissioners as it relates to the assessment for sewer construction, shall have the same rights of appeal as are provided in the case of laying out of town ways.

Sec. 5-E. Assessments; lien; sheriff's sale. All assessments made under the provisions of section 5-C shall create a lien upon each and every lot or parcel of land so assessed and the buildings upon the same, which lien shall take effect when the commissioners file with the clerk the completed assessment and shall continue 1 year thereafter; and within 10 days after the date of hearing on said assessment the clerk shall make out a list of all such assessments, the amount of each, and the name of the person against whom the same is assessed, and he shall certify the list and deliver it to the treasurer of said district; if said assessments are not paid within 3 months from the date thereof, the treasurer may bring an action of debt for the collection of said assessment in the name of the district against the person against whom said assessment is made. Such action shall be begun by writ of attachment commanding the officer serving it to specially attach the real estate upon which the lien is claimed, which shall be served as other writs of attachment to enforce liens on real estate. The declaration in such action shall contain a statement of such assessment, a description of the real estate against which the assessment is made,

and an allegation that a lien is claimed on said real estate to secure the payment of the assessment. If no service is made upon the defendant or if it shall appear that any other persons are interested in such real estate, the court shall order such further notice of such action as appears proper, and shall allow such other persons to become parties thereto. If it shall appear upon trial of such action that such assessment was legally made against said real estate, and is unpaid, and that there is an existing lien on said real estate for the payment of such assessment, judgment shall be rendered for such assessment, interest and costs of suit against the defendants and against the real estate upon which the assessment was made, and execution issued thereon to be enforced by sale of such real estate in the manner provided for a sale or execution of real estate attached on original writs. Provided that in making said sale the officer shall follow the procedure in selling and conveying and there shall be the same rights of redemption as are provided in section 94 of chapter 81 of the revised statutes of 1944.

Sec. 5-F. Additional method of collection of assessments. If assessments under the provisions of section 5-C are not paid, and said district does not proceed to collect paid assessments by a sheriff's sale of the real estate upon which such assessments are made under section 5-E, or does not collect or is in any manner delayed or defeated in collecting such assessments by a sheriff's sale of said real estate under section 5-E, then the said district, in the name of said district, may maintain an action against the party so assessed for the amount of said assessment, as for money paid, laid out and expended, in any court competent to try the same, and in such suit may recover the amount of such assessment with 10% interest on the same from the date of said assessments and costs.

Sec. 5-G. Assessments paid by other than owner, how recovered. When any such assessment under the provisions of section 5-C shall be paid by any person against whom such assessment has been made, who is not the owner of such lot or parcel of land, then the person so paying the same shall have a lien upon such lot or parcel of land with the buildings thereon for the amount of said assessment so paid by said person, and incidental charges, which lien shall continue for 1 year and which lien may be enforced in an action of assumpsit as for money paid, laid out and expended, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots under the provisions of chapter 164 of the revised statutes of 1944.'

Sec. 4. P. & S. L., 1949, c. 211, § 6, amended. Section 6 of chapter 211 of the private and special laws of 1949, as amended by section 2 of chap-

ter 62 of the private and special laws of 1951, is hereby further amended to read as follows:

**Sec. 6. Sanitary provisions and penalty for violation.** Any person who **violates the provisions of this section or any section hereof, or who shall place or discharge any offensive or injurious matter or material on or into 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, inlet, 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 or by imprisonment not exceeding 6 months or by both such fine and imprisonment.**'

**Sec. 5. P. & S. L., 1949, c. 211, §§ 6-A and 6-B, additional.** Chapter 211 of the private and special laws of 1949, as amended, is hereby further amended by adding thereto 2 new sections, to be numbered 6-A and 6-B, to read as follows:

**'Sec. 6-A. Free access to premises.** The officers or agents of the district shall have free access to all premises served by its sewers, at all reasonable hours to permit the inspection of plumbing and sewerage fixtures, to ascertain the amount of sewage discharged and the manner of discharge and to enforce the provisions of this charter and the rules and regulations which may be prescribed hereunder.

**Sec. 6-B. Buildings to connect with sewer if available.** Every building in the district intended for human habitation or occupancy on premises abutting on a street in which there is a public sewer or any such building within 100 feet of a public sewer shall have a house drainage system which shall be caused to be connected with the sewer by the owner or agent of the premises in the most direct manner possible, and, if feasible, with a separate connection for each house or building.'

**Sec. 6. P. & S. L., 1949, c. 211, § 7, amended.** Section 7 of chapter 211 of the private and special laws of 1949 is hereby amended by inserting after the 6th sentence thereof a new sentence to read as follows:

**'The term of any commissioner shall continue until his successor is appointed and qualified.'**

**Sec. 7. P. & S. L., 1949, c. 211, § 8, amended.** Section 8 of chapter 211

of the private and special laws of 1949 is hereby amended to read as follows:

**Sec. 8. Authority to borrow money.** For accomplishing the purposes of this act and for such other expenses as may be necessary for the carrying out of said purposes, said district, through its commissioners, without district vote, is authorized to issue its notes and bonds in 1 series or in separate series from time to time and **to refund and** to make subsequent renewals of the same in whole or in part to an amount not exceeding the sum of ~~\$1,000,000~~ **\$1,250,000 outstanding at any one time.** Said notes and bonds 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 are applicable thereto; shall be a legal investment for savings banks in the state of Maine; and shall be exempt from all present taxes. Each bond or note shall have inscribed on its face the words "Waterville Sewerage District Bond" or "Waterville Sewerage District Note," as the case may be, and shall bear interest at such rates as the commissioner shall determine. If said bonds or notes be issued from time to time, each authorized issue shall constitute a separate loan. Each loan ~~payable in annual amounts of principal, beginning not more than a year from its date and made to run for such period as said commissioners shall determine~~ shall be payable at such time or times as the commissioners shall determine.

All bonds or notes issued by said district shall bear the district seal, and shall be signed by the treasurer and countersigned by the chairman of the commissioners of said district, and if coupon bonds be issued, each coupon shall bear the facsimile signature of the treasurer.

All bonds issued by said district may be issued with or without provisions for calling the same for payment before maturity, and in case of such call provisions, the premium, if there be one, **may vary with maturities in any issue, but** shall not exceed 5% of the principal upon any such call.

**Sec. 8. P. & S. L., 1949, c. 211, § 10, amended.** Section 10 of chapter 211 of the private and special laws of 1949 is hereby amended by inserting after the 1st sentence a new sentence to read as follows:

**'Said rates may include a readiness to serve charge against owners or persons in possession or against whom 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 through which the district has a sewerage main, or which abut a location through which the district has a sewerage main through which service of said buildings or premises is**

feasible, provided in either instance the property line of said premises is within 100 feet of such sewerage main but whether or not said premises are actually connected thereto.'

**Sec. 9. P. & S. L., 1949, c. 211, § 10, sub-§ V, additional.** Section 10 of chapter 211 of the private and special laws of 1949 is hereby amended by adding thereto a new subsection, to be numbered V, to read as follows:

**'V. The commissioners, on written application stating the grounds therefor, may make such reasonable abatements as they think proper of any rates or assessments.'**

**Sec. 10. P. & S. L., 1949, c. 211, § 10-A, repealed and replaced.** Section 10-A of chapter 211 of the private and special laws of 1949, as enacted by section 4 of chapter 62 of the private and special laws of 1951, is hereby repealed and the following enacted in place thereof:

**'Sec. 10-A. Lien to secure payment of rates; procedure.** There shall be a lien on real estate served by the several sewers of the district to secure the payment of rates established and due under the provisions of section 10 which shall take precedence of all other claims on such real estate, excepting only claims for taxes. Real estate, for the purposes of this act, shall bear the same definition as given in section 3 of chapter 81 of the revised statutes of 1944.

The treasurer of the district shall have the authority and power to collect the rates, and he is empowered to exercise the authority hereinafter set forth in enforcing the collection of any rates due and payable to the district.

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. The treasurer, when a rate has become due and payable, may, after the expiration of 3 months and within 1 year after the date said rate becomes due and payable, 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 upon which the lien is claimed, 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, the treasurer shall record in the registry of deeds of Kennebec county a certificate signed by the officer set-



ting forth the amount of such rate, a description of the real estate on which the lien is claimed 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 section and that the rate remains unpaid. In the case of a non-resident the aforesaid notice of lien and demand for payment shall be given by registered mail or by publication in a newspaper published in the city of Waterville once a week for 2 successive weeks, and after the expiration of 10 days from the date of mailing said notice or after the expiration of 10 days from the last publication of said notice and within 10 days after said expiration periods, the treasurer shall record said certificate. At the time of the recording of the certificate in the registry of deeds as herein provided, in all cases such treasurer 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 ratepayer 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 encumbrances of any nature, except liens, attachments and claims for taxes, and shall give to the district all the rights usually incident to a mortgagee, 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 12 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.'