

# 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. 1519**

S. P. 579

In Senate, April 24, 1953

Reported by Senator Reid of Kennebec from Committee on Judiciary and printed under Joint Rules No. 10.

CHESTER T. WINSLOW, Secretary.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-THREE

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**AN ACT to Confer Additional Powers Upon Municipalities in the State of  
Maine in Relation to the Supply and Distribution of Water and the Col-  
lection, Treatment and Disposal of Sewage, Including Industrial Wastes.**

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

**R. S., c. 80, §§ 126-A - 126-N, additional.** Chapter 80 of the revised statutes is hereby amended by adding thereto 14 new sections, to be numbered 126-A to 126-N, inclusive, to read as follows :

**'Water. Sewage.**

**Sec. 126-A. Definitions.** As used in sections 126-A to 126-N, inclusive, the following words and terms shall have the following meanings; unless the context shall indicate another or different meaning or intent :

The word "municipality" shall mean any city or town in the state, whether incorporated by special act of the legislature or under the general laws of the state.

The term "governing body" shall mean the city council of a city or the board of selectmen of a town or any other board or body of a city or town vested with similar powers.

The term "water system" shall mean and include all plants, systems, facilities or properties used or useful or having the present capacity for future

use in connection with the supply or distribution of water, and any integral part thereof, including but not limited to water supply systems, water distribution systems, reservoirs, wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves and all necessary appurtenances and equipment and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the governing body for the operation thereof.

The word "sewage" shall mean the water-carried wastes created in and carried or to be carried away from residences, hotels, schools, hospitals, industrial establishments, commercial establishments or any other private or public building together with such surface or ground water or household and industrial wastes as may be present.

The term "sewage disposal system" shall mean and shall include any plant, system, facility or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, including industrial wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resources, or any integral part thereof, including but not limited to treatment plants, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment, and all property, rights, easements and franchises relating thereto and deemed necessary or convenient by the governing body for the operation thereof.

The word "sewers" shall include mains, pipes, and laterals for the reception of sewage and carrying such sewage to an outfall or some part of a sewage disposal system, including pumping stations where deemed necessary by the governing body.

The term "sewer system" shall embrace both sewers and sewage disposal systems and all property, rights, easements and franchises relating thereto.

The word "improvements" shall mean such repairs, replacements, additions, extensions and betterments of and to a water system or a sewer system as are deemed necessary by the governing body to place or to maintain such system in proper condition for its safe, efficient and economic operation or to meet requirements for service in areas which may be served by the governing body and for which no existing service is being rendered.

The word "cost" as applied to a water system or a sewer system shall include the purchase price of any such system, the cost of construction, the cost of all labor and materials, machinery and equipment, the cost of im-

provements, the cost of all lands, property, rights, easements and franchises acquired, financing charges, interest prior to and during construction and, if deemed advisable by the governing body, for one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized. Any obligation or expenses incurred by the governing body in connection with any of the foregoing items of cost may be regarded as a part of such cost and reimbursed to the governing body out of the proceeds of revenue bonds issued under the provisions of sections 126-A to 126-N, inclusive.

Sec. 126-B. General grant of powers. The governing body of any municipality in the state is hereby authorized and empowered:

I. to acquire, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain and operate any water system or part thereof or any sewer system or part thereof or any combination thereof within or without or partly within and partly without the corporate limits of the municipality;

II. to issue revenue bonds of the municipality as hereinafter provided to pay the cost of such acquisition, construction, reconstruction, improvement, extension, enlargement or equipment;

III. to issue revenue refunding bonds of the municipality as hereinafter provided to refund any revenue bonds then outstanding which shall have been issued under the provisions of sections 126-A to 126-N, inclusive;

IV. to combine the water system and the sewer system as a single system for the purpose of operation and financing;

V. to fix and revise from time to time and to collect rates, fees and other charges for the use of or for the services and facilities furnished by any system operated by the municipality;

VI. to acquire in the name of the municipality by gift, purchase or the exercise of the right of eminent domain lands or rights in land or water rights in connection therewith, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any water system or sewer system, and to hold and dispose of all real and personal property under its control;

VII. to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under the provisions of sections 126-A to 126-N, inclusive, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys, and such employees and agents as may, in the judgment of the governing body be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of sections 126-A to 126-N, inclusive;

VIII. to exercise jurisdiction, control and supervision over any water system or sewer system owned, operated or maintained by the municipality and to make and enforce such rules and regulations for the maintenance and operation of any such system as may, in the judgment of the governing body, be necessary or desirable for the efficient operation of any such system and for accomplishing the purposes of sections 126-A to 126-N, inclusive;

IX. to enter on any lands, water or premises located within or without the municipality to make surveys, borings, soundings or examinations for the purposes of sections 126-A to 126-N, inclusive;

X. to enter upon, use, occupy and dig up any street, alley, road, highway or other public places necessary to be entered upon, used or occupied in connection with the acquisition, construction, reconstruction, improvement, maintenance or operation of any water system or sewer system;

XI. to enter into contracts with the government of the United States or any agency or instrumentality thereof, or with any other municipality, district, private corporation, co-partnership, association or individual providing for or relating to the treatment and disposal of sewage or providing for or relating to any water system or the purchase or sale of water;

XII. to accept from any authorized agency of the federal government loans or grants for the planning, construction or acquisition of any water system or sewer system or part thereof and to enter into agreements with such agency respecting any such loan or grants, and to receive and accept aid and contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants and contributions may be made; and

**XIII.** to do all acts and things necessary or convenient to carry out the powers expressly granted in sections 126-A to 126-N, inclusive.

**Sec. 126-C.** Issuance of revenue bonds. The governing body of any municipality in the state is hereby authorized to provide by resolution, municipality for the purpose of paying the cost of acquiring, constructing, reconstructing, improving, extending, enlarging or equipping any water system or sewer system or any combination thereof; provided, however, that no bonds of a town shall be issued until their issuance shall first have been approved by the vote of a majority of the inhabitants of such town voting on the question of such issuance at an annual or special town meeting. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates and shall bear interest at such rate or rates not exceeding 5% per annum, as may be determined by the governing body, and may be made redeemable before maturity, at the option of the municipality, at such price or prices and under such terms and conditions as may be fixed by the governing body prior to the issuance of the bonds. The governing body shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of sections 126-A to 126-N, inclusive, or any recitals in any bonds issued under the provisions of sections 126-A to 126-N, inclusive, all such bonds shall be deemed to be negotiable instruments under the laws of this state. The bonds may be issued in coupon or registered form or both, as the governing body may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The governing body may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interest of the municipality, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than 5% per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values excluding however, from such computation the amount of any premium to be paid on

redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized, and shall be disbursed in such manner and under such restrictions, if any, as the governing body may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the governing body may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the governing body may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The governing body may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of sections 126-A to 126-N, inclusive, without obtaining the consent of any commission, board, bureau or agency of the state or of the municipality, and without any other proceeding or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by sections 126-A to 126-N, inclusive.

Revenue bonds issued under the provisions of sections 126-A to 126-N, inclusive, shall not be deemed to constitute a debt of the municipality or a pledge of the faith and credit of the municipality, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds.

Sec. 126-D. Revenues. The governing body shall fix the schedule of rates, fees and other charges for the use of and for the services furnished

or to be furnished by any water system, sewer system or sewage disposal system or parts thereof. After the system or systems shall have been in operation the governing body may revise such schedule of rates, fees and charges from time to time. Such rates, fees and charges shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the municipality or of the state and the municipality shall charge and collect the rates, fees and charges so fixed or revised. Such rates, fees and charges shall be so fixed and revised as to provide funds sufficient at all times to pay the cost of maintaining, repairing and operating such system or systems or parts thereof, including reserves for such purposes, and to pay the principal of and the interest on all revenue bonds issued by the governing body under the provisions of sections 126-A to 126-N, inclusive, as the same shall become due and payable, and reserves therefor.

Such rates, fees and charges shall be just and equitable, and may be based or computed either upon the quantity of water used or upon the number and size of water or sewer connections or upon the number and kind of plumbing fixtures in use in the premises connected with the water system or the sewer system or upon the number or average number of persons residing or working in or otherwise connected with such premises or upon the type or character of such premises or upon any other factor affecting the use of the facilities furnished or upon any combination of the foregoing factors.

Any charges for sewer services, including services to manufacturing and industrial plants, obtaining all or a part of their water supply from sources other than the water system of the municipality may be determined by gauging or metering or in any other manner approved by the governing body.

In cases where the character of the sewage from any manufacturing or industrial plant, building or premises is such that it imposes an unreasonable burden upon the sewer system, an additional charge may be made therefor, or the governing body may, if it deems it advisable, compel such manufacturing or industrial plant, building or premises, to treat such sewage in such manner as shall be specified by the governing body before discharging such sewage into sewers owned or maintained by the municipality.

The governing body may combine any water system or sewer system owned and operated by it and may provide a single schedule of rates, fees and charges for the services and facilities furnished by such combined system. It may also provide for reduction in such schedule in cases where



water is furnished to premises which are not connected with the sewer system of the municipality.

Sec. 126-E. Collection of charges. Any resolution providing for the issuance of revenue bonds under the provisions of sections 126-A to 126-N, inclusive, or trust agreement securing such bonds may include any or all of the following provisions, and may require the governing body to adopt such resolutions or take such other lawful action as shall be necessary to effectuate such provisions and the governing body is hereby authorized to adopt such resolutions and to take such other action:

I. That the municipality may require the owner, tenant or occupant of each lot or parcel of land who is obligated to pay rates, fees or charges for the use of or for the services furnished by any water system or sewer system owned or operated by the municipality to make a reasonable deposit with the municipality in advance to insure the payment of such rates, fees or charges and to be subject to application to the payment thereof if and when delinquent.

II. That if the rates, fees or charges for the use of or for the services furnished by any water system or sewer system owned or operated by the municipality shall not be paid within 30 days after the same shall become due and payable, the municipality may at the expiration of such 30-day period disconnect the premises from the water system or otherwise suspend services, and the municipality may proceed to recover the amount of any such delinquency with interest in a civil action.

III. That if the rates, fees or charges for the use of or for the services furnished by any sewer system owned or operated by the municipality by or in connection with any premises not served by a water system owned or operated by the municipality shall not be paid within 30 days after the same shall become due and payable the owner, tenant or occupant of such premises shall cease to dispose of sewage or industrial rates originating from or on such premises by discharge thereof directly or indirectly into the sewer system of the municipality until such rates, fees or charges shall be paid; that if such owner, tenant or occupant shall not cease such disposal at the expiration of such 30-day period it shall be the duty of any public or private corporation, board, body or person supplying water to or selling water for use on such premises to cease supplying water to or selling water for use on such premises within 5 days after receipt of notice of such delinquency from the municipality; and that if such public or private corporation, board, body or person shall not, at the expiration of such 5-day period, cease supplying water to or

selling water for use on such premises, then the municipality may, unless it has theretofore contracted to the contrary shut off the supply of water to such premises.

Sec. 126-F. Application of revenues. The resolution authorizing the issuance of revenue bonds under the provisions of sections 126-A to 126-N, inclusive, of any trust agreement securing such bonds, may provide that all or a sufficient amount of the revenues derived from the water system and the sewer system of the municipality, after providing for the payment of the cost of maintenance, repair and operation and reserves therefor as may be provided in such resolution or trust agreement, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement and deposited to the credit of a sinking fund for the payment of the interest on and the principal of revenue bonds issued under the provisions of sections 126-A to 126-N, inclusive, as the same shall become due, and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of moneys to the credit of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust agreement securing such bonds and, except as may otherwise be provided in such resolution or trust agreement, such sinking fund shall be a fund for the benefit of all bonds without distinction or priority of one over another.

The municipality shall cause to be made at least once each year a comprehensive report of the operations of the water system and the sewer system, including all matters relating to rates, revenues, expenses of maintenance, repair and operation and of renewals and replacements, principal and interest requirements and the status of all funds. Copies of such annual reports shall be filed with the clerk of the municipality and shall be open to the inspection of all interested persons.

Sec. 126-G. Pledges and covenants; trust agreement. In the discretion of the governing body of any municipality, each or any issue of revenue bonds may be secured by a trust agreement by and between the municipality and a corporate trustee, which may be any trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received, but shall not convey or mortgage any water system or sewer system or any part thereof, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the municipality and the governing body in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation and

insurance of any such system or systems, the fixing and revising of rates, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such acquisition, construction, reconstruction or operation. Such resolution or trust agreement may set forth the rights and remedies of the bondholder and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the governing body may deem reasonable and proper for the security of the bondholders. Except as in sections 126-A to 126-N, inclusive, otherwise provided, the governing body may provide for the payment of the proceeds of the sale of the bonds and the revenues of any water system or sewer system or part thereof to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenue under the provisions of sections 126-A to 126-N, inclusive, shall be valid and binding from the time when such pledge is made; all such revenues so pledged and thereafter received by the municipality shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the municipality, irrespective of whether such parties have notice thereof.

Sec. 126-H. Sewer connections. On or after the placing in operation of a sewage disposal system the owner, tenant or occupant of each lot or parcel of land within the municipality which abuts upon a street or other public way containing a sewer which is connected with such sewage disposal system and upon which lot or parcel a building shall have been constructed for residential, commercial or industrial use, shall, as so required by the rules and regulations of the governing body or by resolution, connect such building with such sewer, and shall cease to use any other method for the disposal of sewage, sewage waste or other polluting matter. All such connections shall be made in accordance with rules and regulations which shall be adopted from time to time by the governing body, which rules and regulations may provide for a charge for making any such connection in such reasonable amount as the governing body may fix and establish.

Sec. 126-I. Trust funds. Notwithstanding the provisions of any other

law, all moneys received pursuant to the authority of sections 126-A to 126-N, inclusive, shall be deemed to be trust funds, to be held and applied solely as provided in sections 126-A to 126-N, inclusive. The resolution authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or bank, trust company or other fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as sections 126-A to 126-N, inclusive, and such resolution or trust agreement may provide.

Sec. 126-J. Remedies. Any holder of revenue bonds issued under the provisions of sections 126-A to 126-N, inclusive, or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by sections 126-A to 126-N, inclusive, or by such resolution or trust agreement to be performed by the municipality, the governing body or by any officer thereof, including the fixing, charging and collection of rates, fees and charges for the use of or for the services and facilities furnished by the water system or sewer system.

Sec. 126-H. Revenue refunding bonds. The governing body is hereby authorized to provide by resolution for the issuance of revenue refunding bonds of the municipality for the purpose of refunding any revenue bonds then outstanding which shall have been issued under the provisions of sections 126-A to 126-N, inclusive, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the governing body, for the additional purpose of constructing improvements, extensions or enlargements of the water system or sewer system in connection with which the bonds to be refunded shall have been issued. The governing body is further authorized to provide by resolution for the issuance of revenue bonds of the municipality for the combined purpose of refunding any revenue bonds or revenue refunding bonds then outstanding which shall have been issued under the provisions of sections 126-A to 126-N, inclusive, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and paying all or any part of the cost of acquiring or constructing any additional water

system or sewer system or part thereof, or any improvements, extensions or enlargements of any water system or sewer system. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligation of the municipality and the governing body with respect to the same, shall be governed by the foregoing provisions of sections 126-A - 126-N, inclusive, in so far as the same may be applicable.

Sec. 126-I. Authorizing resolution. Notwithstanding the provisions of any other law, either general, special or local, or the provisions of any charter or charter amendment theretofore adopted by such municipality, or the provisions of any ordinance, resolution, by-law, rule or regulation of such municipality, it shall not be necessary to publish any resolution adopted under the provisions of sections 126-A - 126-N, inclusive, either before or after its final passage and any such resolution may be adopted by the governing body at any regular or special meeting and shall take effect immediately upon its adoption. The governing body shall, however, cause to be published once in a newspaper published in the municipality, or if there is no newspaper published in the municipality then in a newspaper published in the state and having a general circulation in the municipality, a notice reciting that such resolution, setting forth its title, has been adopted by the governing body and that any action or proceeding to contest the validity of such resolution or any of its provisions must be commenced within 30 days after the publication of such notice. Any action or proceeding in any court to set aside such resolution or any of its provisions or to obtain any other relief upon the ground that such resolution is invalid must be commenced within 30 days after the publication of such notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of such resolution or any of its provisions shall be asserted, nor shall the validity of such resolution or any of its provisions be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period.

Sec. 126-J. Exemption from taxation. As proper water and sewer facilities are essential for the health of the inhabitants of the municipalities, and as the exercise of the powers conferred by sections 126-A to 126-N, inclusive, to effect such purposes constitute the performance of essential municipal functions, and as such water systems and sewer systems constitute public property and are used for municipal purposes, no municipality shall be required to pay any taxes or assessments upon any such system or any part thereof, whether located within or without the corporate limits of the municipality, or upon the income therefrom, and any bonds issued under

the provisions of sections 126-A to 126-N, inclusive, and their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

Sec. 126-K. Bonds eligible for investment. Bonds issued under the provisions of sections 126-A to 126-N, inclusive, are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies and their commercial departments, banking associations, investment companies, savings banks, executors, trustees and other fiduciaries, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature, may properly and legally invest funds, including pension and retirement funds or capital under their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds may be authorized by law.

Sec. 126-L. Alternative method. Sections 126-A to 126-N, inclusive, shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of sections 126-A to 126-N, inclusive, need not comply with the requirements of any other law applicable to the issuance of bonds.

Sec. 126-M. Liberal construction. The provisions of sections 126-A to 126-N, inclusive, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to effect the purposes thereof.

Sec. 126-N. Provisions of act severable. The provisions of sections 126-A to 126-N, inclusive, are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.'