

MAINE STATE LEGISLATURE

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

Legislative Document

No. 550

H. P. 499

House of Representatives, February 8, 1955

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

HARVEY R. PEASE, Clerk

Presented by Mr. Cianchette of Pittsfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT Creating the Pittsfield Utilities District.

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

Sec. 1. Pittsfield Utilities District, incorporated. The inhabitants of and territory within the town of Pittsfield are hereby created a body politic and corporate under the name of Pittsfield Utilities District for the purposes and with the powers hereinafter set forth. The purposes of said district shall be (1) to take over, control, manage and operate the water system now owned by the town of Pittsfield with all appurtenances thereof and thereto, to extend, increase, enlarge and improve the same, to rebuild the same either in whole or in part, and to supply the own of Pittsfield and the inhabitants of said town, or any part of said town, with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires; (2) to take over, control, manage and operate the drains and sewers now owned by the town of Pittsfield, with all appurtenances thereof and thereto; to extend, increase, enlarge and improve said drains and sewers; to extend the present system or systems and to rebuild the same, in whole or in part, so as to furnish sewerage facilities to portions of the town served and not served with such facilities; to provide for surface drainage as well as removal of sewage and to provide for treatment of sewage in whole or in part before discharging the same into rivers or streams when, as and if such treatment becomes necessary or advisable; and generally to provide and operate a system or systems of sewerage and storm water drainage for public purposes and for the health, comfort and convenience of the inhabitants of said district.

Sec. 2. Authority to acquire and hold property; right of eminent domain conferred. Upon acceptance of this act as hereinafter provided, title to the entire

water system and all appurtenances thereof and thereto and all other facilities and property used by said town for the purpose of supplying water in the town of Pittsfield shall pass to and vest in said district, and said district shall maintain and operate the same. And upon acceptance of this act as hereinafter provided, title to all public drains and sewers in the town of Pittsfield shall pass to and vest in said district, and said district shall maintain and operate the same.

For the purpose of providing a water system for the supplying of water as aforesaid, and for the purpose of providing a system of sewers, drains and drainage for the comfort, convenience and health of the inhabitants of said district, the said district is hereby authorized and empowered to acquire and hold real estate, easements, and personal property necessary and convenient for the purposes aforesaid, subject to all duties and obligations of the town of Pittsfield with respect thereto, which duties and obligations are to be assumed by said district. The district is hereby authorized to take and hold, as for public uses, by purchase, eminent domain or otherwise, any land or interest therein, or water or water rights necessary for an adequate supply of pure water and for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining aqueducts and other structures, for taking, distributing, discharging and disposing of water and for rights of way or roadways to its sources of supply, reservoirs, mains, aqueducts, structures and lands, and also all things necessary for supplying water as aforesaid. The said district is hereby further authorized to take and hold by purchase, lease or the exercise of eminent domain, as hereinafter provided, or otherwise, any land or real estate or easement therein necessary for the sinking and maintenance of wells, water purification and filtration plants, forming basins, reservoirs and outlets; for erection of buildings for pumping works and sewage treatment and for laying pipes and maintaining same, and for laying and maintaining conduits for carrying and collecting, discharging and disposing of sewage matter and rain water and for all other objects necessary, convenient and proper for the purposes of this act, and all of such property wherever the same shall be located shall be exempt from taxation.

Nothing contained herein shall abridge or limit the obligations, rights or duties of the town of Pittsfield or its municipal officers with respect to construction, maintenance or control of ditches, drains and culverts constructed under the provisions of section 151 of chapter 96 of the revised statutes of 1954; provided, however, the district may, at the request of said town, and with the consent of the district, acting by its commissioners, assume the construction, maintenance, repair and control of such underground drains built and constructed under said section 151, as may be the subject of said consent.

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 thereto herein or by subsequent act of the Legislature.

Sec. 3. May use certain waters as water supply. The said district for the purposes of its incorporation is hereby authorized to take, hold, divert, use and distribute water from any lake, pond, river or stream lying in whole or in part

in the towns of Pittsfield, Hartland and Palmyra, and from any surface or underground brook, spring, well, vein or other underground source of water in said towns or either of them; provided, however, nothing herein contained shall authorize such use of water from any source of supply now used by any quasi-municipal corporation or water company for the purpose of furnishing water to the public, without the consent of such quasi-municipal corporation or other corporation.

Sec. 4. Authorized to lay mains, pipes, conduits, through public ways and across private lands. Said district is hereby authorized to lay in and through the streets, roads, ways and highways of the town of Pittsfield and other towns, if any, served by it, and across private lands therein, 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, mains, aqueducts or conduits in any street, roadway 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 replaced in proper condition.

Sec. 5. Procedure in exercising right of eminent domain. In exercising, from time to time, any right of eminent domain conferred upon it by law, whether under this act or otherwise, the district by its commissioners shall file written application with the Public Utilities Commission requesting its approval of the proposed taking. Such application shall describe the property or rights to be taken, the purpose of the taking, and shall name all parties who may be interested therein; the Commission thereupon shall appoint a time for a hearing near the premises, and shall require such notice as the Commission may direct to be given to the persons interested at least 14 days before the date of the hearing; the Commission then shall view the premises, hear the parties, and shall determine how much, if any, of the property described in the petition should be taken for the reasonable purposes of the district and for the safe, economical and efficient furnishing of an adequate water supply and adequate sewerage and drainage facilities; and in authorizing any taking the Commission may attach such reasonable terms, limitations and restrictions as justice may require. If the Commission shall find that any of the property described in the application is necessary for the aforesaid purposes of the district, it shall make a certificate containing a definite description of the property to be taken, and of any terms, restrictions and limitations in connection therewith, and shall furnish to the district a true copy thereof, attested by the Clerk of the Commission; and when such copy of the certificate is filed with the clerk of courts in the county where the property lies, the property shall be deemed and treated as taken; provided, however, that when property is held by a tenant for life and the reversion is contingent as to the persons in whom it may vest at the termination of the life estate, such fact shall be stated in the application and the Commission, in addition to the notice to the tenant for life, shall require notice by publication, in such manner as it may deem proper, to all others interested. Entry may be made on any private land prior to the filing of any such application for the purpose of making surveys, the district being responsible for any damage resulting from such entry, and possession may be had of the property described in the certificate of the Commission forthwith upon the filing and recording of such certificate as

hereinbefore provided, but title to such property shall not vest in the district until payment therefor has been made.

Sec. 6. Adjustment of damages. If any person sustaining damages by any taking as aforesaid shall not agree with the said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Somerset county may have said damages assessed by them; the procedure and all subsequent proceedings and the rights of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be prescribed in the case of damages caused by laying out of highways.

Sec. 7. Right to lay pipes for sewers and drains and other particular rights respecting sewers and drains enumerated. Said district may lay pipes and construct conduits in manner aforesaid in and through said district and convey through the same sewage, surface water and the natural flowage of existing water courses, and secure and maintain basins, reservoirs and outlets; may build and maintain pumping stations and buildings convenient for same; may construct and maintain treatment plants, flush tanks, manholes, storm water inlets and such usual appliances for collecting, holding, distributing and disposing of sewage and storm water; may supply water for such flush tanks and for flushing said system of sewers and for any other purposes for which said district may deem the same desirable, and install all pipes and necessary structures and appliances to this end; may establish through and by its commissioners regulations for the use of sewers, including regulations compelling property owners to connect with and discharge all sewage, including domestic and industrial liquid waste, into the sewer system connected with and discharging into the sewage disposal plant of the district, if and when the same be constructed, and compel compliance with said regulations by bill in equity. Jurisdiction is hereby conferred upon the Supreme Judicial and Superior Courts in Equity to receive such bills in equity and to hear, determine and enforce the same and to make all necessary and appropriate orders and decrees respecting the same in accordance with the general practice of equity jurisprudence in this State. And the said commissioners are hereby further authorized to fix and collect the prices to be paid for entering the sewers and drains, and also subject to the approval of the Public Utilities Commission to fix the service charges for the use thereof, including the use of the system or any portion or portions thereof by the town of Pittsfield for disposal of surface waters or otherwise; and said district is hereby authorized, for the purposes aforesaid, to lay down, in and through the streets, highways and land of said district, and take up, replace and repair all such conduits, pipes and fixtures as may be necessary or desirable for the objects of its incorporation; to carry and lay conduits and pipes under any water course, way, public or private, or railroad, in the manner prescribed herein and to cross any water pipe, gas pipe, electric conduit, drain or sewer, or, if necessary, to change its direction in such a manner as not to obstruct its use by the construction of any of the works of said district, either during such construction or after the same has been completed, or while the same shall be undergoing repairs or extensions are being made; and said district shall be liable to the town of Pittsfield, public utilities and private persons for any and all costs, damages and expenses which each may suffer or be put to by reason of the default, neglect, negligence or carelessness of said district or any of its officers, servants or agents in creating,

maintaining, repairing or extending said sewerage system. The commissioners of said district may purchase all maps, plans and files relating to sewers and drainage which are in the possession of the town of Pittsfield. 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 such district, the public utilities commission shall determine the place, manner and conditions of such crossings; 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.

Where the character of the work of said district is such as to endanger travel on any street or way, said town of Pittsfield shall direct the temporary closing of such streets or ways, and of intersecting streets or ways, upon request of said district, and such streets or ways shall remain closed to public traffic until the work of said district is completed and the surfaces of said streets or ways are restored to a proper condition, as hereinbefore set forth.

Sec. 8. 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 district with respect thereto and payment of the prices and rental established therefor.

Sec. 9. Extensions. The district shall have the right to determine whether extensions to its system shall be made, subject to the authority of local and state health officials, the Water Improvement Commission and the Public Utilities Commission. It shall have the power to make assessments for the cost of such extensions and charges for the use thereof.

Sec. 10. Sanitary provisions and penalty for violation. Any person 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 and by imprisonment not exceeding 1 year.

Sec. 11. Grant of authority and incidental powers to the district. Said district is hereby expressly authorized to maintain and operate the water and sewer systems herein referred to for any and all of the purposes of said district as set forth in this charter or by the general laws of the State of Maine. All incidental powers, rights and privileges necessary to the accomplishment of the main objects herein set forth are granted to the corporation hereby created.

Sec. 12. District and town authorized to make contracts. Said district, through its commissioners, is authorized to contract with persons and corporations, including the town of Pittsfield, for the supply of water and for the fur-

nishing of sewerage and drainage facilities; and the said town of Pittsfield is authorized to contract with it for the supply of water for municipal purposes and for the use of its facilities for the discharge of sewage and for the drainage of surface and other waters, such contracts, however, to be subject to the approval of the Public Utilities Commission.

Sec. 13. Valid contracts of the town to be assumed by district. All valid contracts now existing between the town of Pittsfield and any persons or corporations for supplying water in the town of Pittsfield shall be assumed and carried out by said district. Said district shall assume all unpaid obligations of the town of Pittsfield incurred for the construction, operation and extension of the existing water works facilities and the sewer and drainage facilities transferred by this act from said town of Pittsfield to said district.

Sec. 14. Management. All the affairs of said district shall be managed by a board of 5 commissioners resident therein, who shall be appointed by the selectmen of the town of Pittsfield. In the 1st appointment of commissioners hereunder, 1 shall be selected for the term of 1 year, 1 for 2 years, 1 for 3 years, 1 for 4 years and 1 for 5 years. At the expiration of the term of each member, a new member of the board shall be appointed by said selectmen for a term of 5 years. In case of a vacancy arising from death or other cause, the selectmen may appoint a new member to fill out the unexpired term. As soon as convenient after the first members of the board have been appointed, they shall hold a meeting in the town building in the town of Pittsfield and organize by the election from the members of a chairman, clerk and treasurer, the latter shall furnish bond in such sum and form as the commissioners may fix, and by the election of such other officers and agents as they may deem necessary, which other officers and agents shall serve at the pleasure of said commissioners. In prosecuting the work contemplated by this act, said commissioners may engage the services of engineers and laborers; may purchase all necessary materials and supplies, and construct said drains and sewers and water works under their own supervision, or they may, if they deem it advantageous, contract with some responsible person, firm or corporation for the construction of said drains, sewers and water works, or any part or parts thereof, but said district shall in no case be released from liability by reason of having contracted with any person, firm or corporation, as provided above for the construction of any sewers, drains, water works or portions thereof, or other structures. They shall also adopt a corporate seal and all necessary by-laws and regulations. The commissioners shall meet monthly, and specially as may be necessary, and each shall receive compensation of \$5 for each regular or special meeting attended; provided, however, that the annual compensation for each shall not exceed \$100. They shall publish an annual report. It is further provided that no person, while he is a commissioner of said district, shall be interested either directly or indirectly, in any contract or agreement for the construction of any sewer, drain, water works, or a portion or portions thereof, or any other structure, in said district, entered into by said district. This provision, however, shall not prevent said district from entering upon, or taking land, or any easement therein, of any officer of said district, while he is such an officer, and awarding damages therefor, if, in the opinion of such commissioners, such entering or taking is necessary for the purposes of said district.

Sec. 15. 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, including but without limiting the generality of the foregoing grant the expenses incurred in the creation of the district, in reimbursing the town for outstanding water and sewer liabilities assumed by the district, in securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating water, sewerage and draining systems, and making extensions, additions and improvements to the same, including water filtration and purification plants and sewage disposal plants, said district, through its commissioners, without district vote, is authorized to borrow money temporarily, and to issue therefor the interest bearing negotiable notes of the district, and for the purpose of refunding the indebtedness so created or paying any necessary expenses and liabilities incurred under the provisions of this act, to issue its notes and bonds in 1 series or in separate series from time to time and to make subsequent renewals of the same in whole or in part to an amount not exceeding the sum of \$1,000,000 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 136 of chapter 53 of the revised statutes of 1954 and all the provisions of said section are applicable thereto; they 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 "**Pittsfield Utilities District Water Bond**" or "**Pittsfield Utilities District Water Note**" or "**Pittsfield Utilities District Sewer Bond**" or "**Pittsfield Utilities District Sewer Note,**" as the case may be, and as they be issued for money obtained to be used for water or sewerage purposes respectively. If said bonds or notes be issued from time to time, each authorized issue shall constitute a separate loan. Each loan may be payable in annual amounts of principal, beginning not more than 1 year from its date and made to run for such period as said 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, shall not exceed 5% of the principal upon such call.

Sec. 16. Sinking fund provided for; issue of refunding bonds authorized; distribution of surplus. In case any of said bonds or notes are made to run for a period of years, a sinking fund shall be established by the commissioners of said district for the purpose of redeeming said bonds or notes when they become due, and not less than 1% of the aggregate principal of the outstanding sinking fund bonds or notes issued on account of or in behalf of said district, as aforesaid, shall be turned into said sinking fund each year to provide for the final extinguishment of said district funded debt.

The money set aside for the sinking fund shall be devoted to the retirement of said notes and bonds, and shall be used for no other purposes, and shall be invested in such securities as savings banks are allowed to hold.

Whenever any bonds of said district become due, or can be purchased by said commissioners on favorable terms, said commissioners shall, if sufficient funds have accumulated in said sinking fund, redeem or purchase said bonds, and cancel them. In no case shall bonds so cancelled or redeemed be reissued.

In case the amount in said sinking fund shall not be sufficient to pay the total amount of the bonds falling due at any one time, authority to issue new bonds sufficient to redeem so many of said bonds as cannot be redeemed from the sinking fund is hereby granted to said commissioners.

Separate sinking funds as above set forth shall be established with respect to water bonds and sewer bonds.

Distribution of surplus shall be at the discretion of the Commissioners.

Sec. 17. Rates; application of revenue; sinking fund. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of said district the rates and assessments established by said commissioners to pay for the cost of the works and for the service used by them; and said rates shall not be discriminatory within the territory supplied by the district, and shall be subject to the approval of the public utilities commission. Said rates shall be so established as to provide revenue for the following purposes:

I. To pay the current expenses for operating and maintaining the water and sewerage systems respectively.

II. To provide for the payment of the interest on the indebtedness created or assumed by the district with respect to each of said systems.

III. With respect to each of said systems, to provide each year a sum equal to not less than 1% of the entire indebtedness created or assumed by the district, which sum shall be turned into the sinking fund to provide for the extinguishment of said indebtedness or used directly therefor. Provided, however, that the commissioners may, in their discretion, and in lieu of the establishment of a sinking fund, issue the bonds of the district so that not less than 1% of the amount of the bonds so issued shall mature and be retired each year.

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

Sec. 18. Execution of instruments. Any and all instruments to be executed by the district may, upon authorization by the Commissioners, be executed in its behalf by its president and treasurer who may impress its corporate seal and make any necessary acknowledgment thereof, except that upon interest coupons attached to any bonds to be issued the facsimile signature of the treasurer shall be sufficient.

Sec. 19. 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, except as may be re-

quired by specific provisions hereof, and all the rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of chapter 44 of the revised statutes of 1954, and all acts amendatory thereof or additional thereto.

Referendum for district; meeting, how called; effective date; certificate to Secretary of State. This act shall take effect 90 days after adjournment of the Legislature, only for the purpose of permitting its submission to the legal voters of the district, voting at an election specially called and held for the purpose by the municipal officers of the town of Pittsfield, to be held at the voting places in said town at the time hereinafter specified, the date of said election to be determined by the municipal officers, but the first such election to be not later than the annual meeting of the town of Pittsfield in the year 1956. The board of registration of the town of Pittsfield shall prepare and furnish separate check lists for such of the voters within said district as are then legal voters of said town of Pittsfield and reside therein, and all notices, warrants or other proceedings shall be varied accordingly so as to show that only such voters as reside in said district aforesaid are entitled to vote at such elections. Check lists shall be used at elections held for the adoption of this act, whether the same be at a special meeting of the voters of said district or at an annual meeting of the town of Pittsfield. Such special election, whether or not the same be on the date of an annual town meeting of the town of Pittsfield, shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, the board of registration shall not be required to prepare nor the town clerk to post a new list of voters; and for this purpose said board of registration shall be in session on the 3 secular days next preceding said election, the 1st and 2nd days thereof to be devoted to registration of voters and the last day to enable the board to verify the correction of said lists and to complete and close up its records of said session. The town clerk shall reduce the subject matter of this act to the following question: "Shall the act to incorporate the Pittsfield Utilities 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 of the legal voters voting at said election; but only if the total number of votes cast for and against the acceptance of this act at said special election equals or exceeds 20% of the total number of names on the check list of voters of said district provided for herein; but failure of approval of this charter by the necessary percentage of voters at such election or otherwise shall not prevent a 2nd election held at any annual town meeting of the town of Pittsfield held on or before the 1st day of April, 1957.

The result of such elections shall be declared by the municipal officers of the town of Pittsfield and due certificates thereof filed by the town clerk with the Secretary of State.