

# MAINE STATE LEGISLATURE

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# NINETY-SEVENTH LEGISLATURE

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**Legislative Document**

**No. 629**

H. P. 623

House of Representatives, February 10, 1955.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Walsh of Brunswick.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-FIVE

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### AN ACT Relating to Financing by Brunswick Sewer District.

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**Emergency preamble.** Whereas, acts of the Legislature do not become effective for 90 days after the Legislature adjourns, and

Whereas, it is vitally necessary that additional sewers be provided to the inhabitants of the Town of Brunswick; and

Whereas, to provide such sewers it is imperative that the Brunswick Sewer District be empowered with the authority to provide another source of financing; and

Whereas, the following legislation is necessary for the health of the inhabitants of the Town of Brunswick; 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. P. & S. L., 1947, c. 77, §§ 9-A—9-E, additional.** Chapter 77 of the private and special laws of 1947, as amended by chapter 58 of the private and special laws of 1951, is hereby further amended by adding thereto 5 new sections to be numbered 9-A to 9-E, inclusive, to read as follows:

**'Sec. 9-A. Assessment against lot benefited.** When the district has constructed and completed a public drain or common sewer, the trustees shall de-

termine 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 trustees 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 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 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 trustees 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. 9-B. Right of appeal. Any person, aggrieved by the decision of said trustees 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. 9-C. Assessments; lien; sheriff's sale. All assessments made under the provisions of section 9-A shall create a lien upon each and every lot or parcel when the trustees file with the clerk the completed assessment and shall continue when the trustees file with the clerk the completed assessment and still 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 three 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 on 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 93 of chapter 92 of the revised statutes of 1954.

Sec. 9-D. Additional method of collection of assessments. If assessments under the provisions of section 9-A are not paid, and said district does not proceed to collect said assessments by a sheriff's sale of the real estate upon which such assessments are made under section 9-C, 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 9-C, 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. 9-E. Assessments paid by other than owner, how recovered. When any such assessment under the provisions of section 9-A 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 178 of the revised statutes of 1954.'

Sec. 2. P. & S. L., 1947, c. 77, §§ 10-A and 10-B, additional. Chapter 77 of the private and special laws of 1947, as amended by chapter 58 of the private and special laws of 1951, is hereby further amended by adding thereto 2 new sections, to be numbered 10-A and 10-B, to read as follows:

'Sec. 10-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. 10-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, except that existing buildings which are already served by a satisfactory private sewage disposal system which meets and continues to meet the requirements of section 122 (b) of the state plumbing code shall not be required to connect with the public sewer.'

**Sec. 3. P. & S. L., 1947, c. 77, § 8, sub-§ V, additional.** Section 8 of chapter 77 of the private and special laws of 1947 is hereby amended by adding thereto a new subsection, to be numbered V, to read as follows:

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

**Sec. 4. P. & S. L., 1947, c. 77, § 11, amended.** The first 2 paragraphs of section 11 of chapter 77 of the private and special laws of 1947 are hereby repealed and the following enacted in place thereof:

**'There shall be a lien on real estate served by the several sewers of the district to secure 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 92 of the revised statutes of 1954.**

**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.'**

**Emergency clause.** In view of the emergency cited in the preamble, this act shall take effect when approved.