

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE LAW LIBRARY

Transmitted by Director of Legislative Research pursuant to joint order.

NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 1219

H. P. 856

House of Representatives, March 12, 1957.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Beyer of Cape Elizabeth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT to Create the Cape Elizabeth Sewer District.

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

Sec. 1. Incorporation. The territory, and the inhabitants therein, of the town of Cape Elizabeth in the county of Cumberland, shall constitute a public sewerage district and a body politic and corporate under the name of "Cape Elizabeth Sewer District." The purpose of said district, subject to the provisions of section 10 hereof, shall be to take over, control, operate and manage the sewers now owned by the town of Cape Elizabeth with all appurtenances thereto; to extend, increase, enlarge and improve said sewers; to extend the present system or systems so as to furnish sewerage facilities to parts of the town not now served with such facilities; to provide for removal and treatment of sewage when, as and if such treatment becomes necessary; and generally to construct, maintain, operate and provide a system of sewerage, sewage disposal and sewage treatment for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district.

Sec. 2. Authority to construct and maintain. Within said territory and the territory of any adjoining municipality said Cape Elizabeth Sewer District is hereby authorized to lay pipes, drains, sewers and conduits, and to take up, repair and maintain the same or to contract for the same to be done, in, along and through any public or private ways and public grounds, and in, along and through lands of any person or corporation as hereafter provided, to and into tidal waters, rivers, watercourses or treatment works or to or into any drain or sewer now or hereafter built which empties into tidal waters, rivers, watercourses or treatment works, the discharge therefrom to be at such points con-

sistent with the requirements of public health as shall be found convenient and reasonable for said district and the flow of existing watercourses; to construct and maintain treatment works, pumping stations, basins, reservoirs, flush tanks and such other appliances for collecting, holding, purifying, distributing and disposing of sewage matter and industrial waste and, subject to the provisions of section 10 hereof, of surface and waste water, all as may be necessary or proper; and in general, do any or all other things necessary or incidental to accomplish the purposes of this act.

Sec. 3. Authority to acquire and hold property; right of eminent domain conferred. Upon acceptance of this act as hereafter provided, and subject to the provisions of section 10 hereof, title to all public sewers in the town of Cape Elizabeth shall forthwith pass to and be vested in said district, and said district thereafter shall maintain and operate the same. The said district is hereby authorized and empowered to acquire and hold real and personal property necessary or convenient for the purposes of this act, and is hereby expressly granted the right of eminent domain, and for the purposes of this act is authorized to take and hold, either by exercising its right of eminent domain, or by purchase, lease or otherwise, as for public uses any land, real estate, easements or interests therein, and any sewers, drains or conduits and any sewer or drainage rights necessary for constructing, establishing, maintaining and operating sewers, drains, reservoirs, flush tanks, manholes, catch basins, treatment works, pumping stations and other appliances and property used or useful for collecting, holding, purifying, distributing and disposing of sewage matter and industrial waste and surface and waste waters.

Sec. 4. Procedure under eminent domain. In exercising from time to time the right of eminent domain hereby conferred upon it, said district by its board of trustees, shall file in the office of the county commissioners of Cumberland county and cause to be recorded in the registry of deeds in said county plans of the location of all lands, real estate, easements or interests therein, and sewers, drains or conduits and any sewer or drainage rights to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective and uncertain, it may, at any time, correct and perfect such location and file a new description thereof; and in such case the district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any acts which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of 10 days from such filing, whereupon possession may be had of all said lands, real estate, easements or interests therein and other property and rights as aforesaid to be taken, but title thereto shall not vest in said district until payment therefor.

Sec. 5. Assessment of damages by county commissioners; procedure on appeals. If any person sustaining damages by any taking as aforesaid shall not agree with said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Cumberland county, may have said damages assessed by them; the procedure and all subsequent proceedings and right of

appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

Sec. 6. Limitations on crossing a public utility. In case of 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 said district, the Public Utilities Commission shall determine the place, manner and conditions of such crossing; and all work on the property of such public utility shall be done under the supervision and to the satisfaction of such public utility, but at the expense of the district. 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 herein or by subsequent act of the Legislature.

Sec. 7. Rights of abutters or others to enter. Any person may enter his private sewer into any sewer of the district while the same is under construction and before completion of said sewer at the point of entry, and before an entrance charge is established, on obtaining a permit in writing from the trustees; but after the sewer is completed to the point of entry and an entrance charge established on that location, no person shall enter his private sewer into such sewer until he has paid the entrance charge and obtained a permit in writing from the trustees as aforesaid. All such permits shall be recorded by the clerk of the district in its records before the same are issued.

Sec. 8. Contracts with municipalities authorized. The said district is authorized to contract with persons, corporations, districts and other municipalities, both inside and outside the boundaries of the district, including the town of Cape Elizabeth, to provide for disposal of sewage and commercial and industrial waste through the district's system and through the system of any such person, corporation, district or other municipality; and said town of Cape Elizabeth is authorized to contract with said district for the collection, distribution and disposal of sewage, surface water and other waste matter, and for said purposes, said town may raise money as for other municipal charges.

Sec. 9. Excavation or repair work, closing of ways. Whenever said district shall enter, dig up or excavate any public way or other land for the purpose of laying its sewers, drains or pipes, constructing manholes or catch basins or their appurtenances, or maintaining the same, or for any other purpose, the work shall be expeditiously done with the least possible interruption, and on completion of the work the district shall restore said way or land to the condition it was in prior to such work, or to a condition equally as good.

Whenever the character of the work is such as to endanger travel on any public way, the municipal officers of the town of Cape Elizabeth may order a temporary closing of such way, and of any intersecting way, upon request of said district, and the way shall remain closed to public travel until said municipal officers deem it is restored to a condition safe for traffic.

Sec. 10. Surface water facilities; joint facilities; separation of same. Any other provision of this act to the contrary notwithstanding, the said district shall be under no duty or obligation to construct, maintain, improve, extend or provide drains, pipes, catch basins or any other facilities for storm or surface water drainage, and all drains, pipes, catch basins or other facilities owned by said town of Cape Elizabeth and used exclusively for storm or surface water drainage shall remain the property of said town, and no such drain, pipe, catch basin or other facility shall be transferred to the district to be thereafter maintained and operated by the district without the joint approval of the selectmen of said town of Cape Elizabeth and the trustees of said district. Any sewer or drain owned by said town of Cape Elizabeth at the time of acceptance of this act and used for both sanitary sewage disposal and storm and surface water drainage shall pass to and be vested in said district, and said district shall be entitled to charge said town for the use of the same for storm or surface water drainage at such rates as the trustees may determine; provided, however, that no additional catch basins or other facilities draining into any such combined sewer or drain shall be constructed without the approval of said trustees. If and when the district shall construct and provide a sewer or drain which permits separation of sanitary sewage previously disposed of through any such combined sewer or drain, the said district, by vote of the trustees thereof, shall transfer and convey back to said town of Cape Elizabeth the facilities for storm and surface water drainage.

Sec. 11. 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, for inspection of plumbing and sewage fixtures, to ascertain the quality and quantity of sewage discharged and the manner of discharge, and to enforce the provisions of this chapter and the rules and regulations prescribed by the trustees hereunder.

Sec. 12. Buildings to connect with sewer if available. Every building in the district intended for human habitation or occupancy on property abutting on a street or way 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 person against whom taxes on the premises are assessed in the most direct manner possible, within 90 days after receiving request therefor from the district, or within such further time as the trustees of the district may grant, and, if feasible with a separate connection for each house or building; provided, however, that existing buildings which are already served by a satisfactory private sewer system which meets and continues to meet in the judgment of the trustees the applicable requirements of the state plumbing code and all applicable laws and ordinances shall not be required to connect with the public sewer.

Sec. 13. Sanitary provisions and penalty for violations. Any person who shall place, discharge or leave any offensive or injurious matter or material on or in the conduits, catch basins or receptacles of said district contrary to its regulations, or shall willfully injure any conduit, pipe, reservoir, flush tank, catch basin, 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 any of said acts or willful injury aforesaid and any person who violates the provisions of sections 11 or 12 hereof, shall be punished by a fine not exceeding \$200 or by imprisonment not exceeding 1 year, or by both.

Sec. 14. Trustees and officers; tenure of office; election to office; organization; vacancies; compensation. All of the affairs of said district shall be managed by a board of 5 trustees, residents therein, who shall be chosen as hereinafter provided.

As soon as may be after acceptance of this act, the municipal officers of the town of Cape Elizabeth shall appoint 5 trustees of said district to hold office as follows: one to serve until the first annual meeting of said town following the acceptance of this act; one to serve until the 2nd annual meeting of said town following such acceptance; one to serve until the 3rd annual meeting of said town following such acceptance; one to serve until the 4th annual meeting of said town following such acceptance; and one to serve until the 5th annual meeting of said town following such acceptance. At each annual meeting of said town, beginning with the first annual meeting after acceptance of this act, one trustee shall be elected by ballot as hereafter provided to serve until the annual meeting of said town occurring 5 years thereafter and until his successor is elected and qualified. When any trustee ceases to be a resident of said district, he vacates his office as trustee. All trustees, if residents of said district, shall be eligible for re-election or re-appointment as hereafter provided.

The nomination of all candidates for trustee to be elected as provided by this act shall be by nomination papers signed in the aggregate for each candidate by not less than 25 nor more than 50 qualified voters resident in said district. Each voter signing a nomination paper shall make his signature in person, and each voter may subscribe to as many nominations as there are trustees to be elected in said district and no more. Such nomination papers, before being filed, shall be submitted to the town clerk of the town of Cape Elizabeth, who shall forthwith certify thereon that number of the signatures which are names of qualified voters resident in said district; one of the signers to each such separate paper shall swear to the truth thereon, and the certificate of such oath shall be annexed to or made upon the nomination papers. Such nomination papers shall be filed with the town clerk of the town of Cape Elizabeth not less than 14 days, exclusive of Sundays, previous to the day of such election. With such nomination papers shall also be filed the consent in writing of the person or persons nominated. All nomination papers, being filed and being in apparent conformity with the foregoing provisions, shall be deemed to be valid; and if not in apparent conformity they may be seasonably amended under oath. In case any candidate who has been duly nominated under the provisions hereof shall die before the day of election, or shall withdraw in writing, or shall remove his place of residence from said district, the vacancy may be supplied in the manner herein provided for such nominations, except that the time limit for filing such nomination papers shall not apply. The name so supplied for the vacancy shall, if the ballots have not been printed, be placed on the ballots instead of the original nomination; or if the ballots have been printed, new ballots containing the new nomination shall, if practical, be furnished, or slips containing the new nomination shall be printed under the direction of the town

clerk which shall be pasted upon said ballots and over the name of the candidate whose nomination has been vacated as aforesaid, and thereafter shall become part of said ballots as if originally printed thereon. The ballot in said district shall contain the names of all candidates so nominated in such district alphabetically arranged, printed in one column under the heading "For Trustee of the Cape Elizabeth Sewer District." Above such heading shall be printed "Vote for (the number to be elected to be inserted therein). Make a cross or a check mark to the right of the name(s) voted for." As many blank spaces shall be left after the names of the candidates as there are trustees to be elected in which the voter may by writing insert the name of any person or persons for whom he desires to vote. In preparing his ballot the voter shall mark a cross (X) or a check mark (✓) against and to the right of such names on said ballot as he desires to vote for not to exceed the number of trustees so to be elected in said district. At each annual meeting of said Town of Cape Elizabeth, balloting for trustee of said district shall take place concurrently with balloting for the municipal officers of said town, but separate ballots shall be provided for the balloting for trustee of the district as hereinbefore provided. The result of such election shall be declared by the selectmen of said town of Cape Elizabeth and due certificate thereof filed with the town clerk and the clerk of the district. The District shall reimburse the town for the expense of any district election.

As soon as convenient after their appointment, the first board of trustees shall hold a meeting at some convenient place in the district, to be called by any member thereof in writing, designating the time and place and delivered in hand to the other 4 members not less than 2 full days before the meeting; provided, however, that they may meet by agreement without such notice. At this original meeting the trustees shall organize by electing from their own members a chairman, a treasurer and a clerk and adopting a corporate seal. The trustees may adopt and establish by-laws, consistent with the laws of the State of Maine and necessary for their own convenience and the proper management of the affairs of the district, and perform any other acts within the powers delegated to them by law.

Within one week after each annual election, the trustees shall meet for the purpose of electing a chairman, treasurer and clerk to serve for the ensuing year and until their successors are elected and qualified. The trustees from time to time may choose and employ, and fix the compensation of, any other necessary officers and agents who shall serve at their pleasure. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost thereof to be paid by the district.

Members of the board of trustees shall be eligible to any office under the board. The trustees, as such, shall serve without compensation; but the treasurer may be allowed such compensation as the trustees shall determine.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member who shall serve as clerk or clerk pro tem. They shall make and publish an annual report, including a report of the treasurer, and such report may be included in, and published as part of, the town report.

Vacancies in the office of trustee from whatever cause shall be filled by appointment by the remaining trustees until the next annual election. If at any annual election there shall exist a vacancy in an unexpired term, a trustee shall be elected to fill such vacancy for such unexpired term, and the voters of the district shall cast their ballots as hereinbefore prescribed, voting for as many candidates as there are offices to be filled.

Sec. 15. Special meetings; qualifications of voters of district. Special meetings of the district may be called by the board of trustees at any time, and notice of special meetings, stating the place and time thereof and the business to be transacted thereat, shall be signed by the chairman or clerk of the board of trustees and shall be conspicuously posted in at least 2 public places within the district, not less than 7 days, exclusive of Sundays, before the meeting. Any such meeting may be adjourned from time to time by vote of the qualified voters present thereat, though less than a quorum, and without notice of the time and place of the adjourned session, other than announcement at the meeting. Twenty-five persons qualified to vote in such meetings shall constitute a quorum. All meetings of the district shall be presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings. All persons resident in said district and qualified to vote for Governor under the laws of this State shall be entitled to vote in any meeting of the district, including the meeting for acceptance of this charter.

Sec. 16. Property tax exempt. The property, both real and personal, rights and franchises of said district shall be forever exempt from taxation.

Sec. 17. Authorized to borrow money, to issue bonds and notes. For accomplishing the purposes of this act, said district, by resolutions of its Board of trustees, without district vote, is hereby authorized to borrow money temporarily and to issue therefor its negotiable notes, and for the purpose of renewing and refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this act, including organizational and other necessary expenses and liabilities whether incurred by the district or the town of Cape Elizabeth (the district being authorized to reimburse said town of Cape Elizabeth for any such expense incurred or paid by it), and in acquiring properties, paying damages, laying sewers, drains and conduits, constructing, maintaining and operating a sewage plant or system and making renewals, additions, extensions and improvements to the same and to cover interest payments during the period of construction, said Cape Elizabeth Sewer District, by resolutions of its board of trustees, without district vote, is also hereby authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in one series, or in separate series, in such amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine; provided, however, that the total indebtedness of said district at any one time outstanding shall not exceed the sum of \$500,000. Said bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the trustees may determine, but none of them shall run for a longer period than 40 years from the date of original issue thereof. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same prior to maturity, and if callable may be made callable at par or at such premium as

the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "Cape Elizabeth Sewer District," shall be signed by the treasurer and countersigned by the chairman of the board of trustees of the district, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile of the signature of the treasurer. All such bonds, notes and evidences of indebtedness so issued by the district shall be legal obligations of the 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 provisions of said section shall be applicable thereto. The said district may, from time to time, issue in one series or in separate series, its bonds, notes and other evidences of indebtedness, for the purpose of paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness, and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by said district shall be legal investments for savings banks in the State of Maine and shall be tax exempt. The said district is hereby authorized and empowered to enter into agreements with the State or Federal Government, or any agency of either, or any corporation, commission or board authorized by the State or Federal Government to grant or loan money to or otherwise assist in the financing of projects such as the district is authorized to carry out, and to accept grants and borrow money from any such government agency, corporation, commission or board as may be necessary or desirable to enforce the provisions of this act.

Sec. 18. Rates and tolls; application of revenues. All persons, firms and corporations, whether public, private or municipal, shall pay to the treasurer of said district the rates, tolls, rents, entrance charges and other lawful charges established by the trustees for the sewer or drainage service used or available with respect to their real estate, which rates shall include rates for the district's readiness to serve charged against owners of real estate, abutting on or accessible to, sewers or drains of the district, but not actually connected thereto, whether or not such real estate is improved.

Rates, tolls, rents and entrance charges shall be uniform within the district, whenever the cost to the district of installation and maintenance of sewers and their appurtenances and the cost of service is substantially uniform; but nothing in this act shall preclude the district from establishing a higher rate, toll, rent or entrance charge than the regular rates, tolls, rents and entrance charges in sections where, for any reason, the cost to the district of construction and maintenance, or the cost of service, exceeds the average, but such higher rates, tolls, rents and entrance charges shall be uniform throughout the sections where they apply.

The sewer rates, tolls, rents and entrance charges shall be so established as to provide revenue for the following purposes:

- I. To pay the current expenses for operating and maintaining the sewerage system;
- II. To provide for the payment of interest on the indebtedness created by the district;
- III. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by said District, which sum shall be

turned into a sinking fund and there kept to provide for the extinguishment of said indebtedness. Money set aside for the sinking fund shall be devoted to the retirement of the obligations of said sewer district, and invested in such securities as savings banks in this State are allowed to hold;

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

Sec. 19. Assessment against lot benefited. When the district has constructed and completed a common sewer, the trustees may, if they so determine, in order to defray a portion of the expense thereof, determine what lots or parcels of land are benefited by such sewer, and estimate and assess upon such lots and parcels of land, and against the owner thereof, or person in possession or against whom taxes thereon are assessed, 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 sewer, together with such sewage disposal units and appurtenances as may be necessary, the whole of such assessments not to exceed $\frac{1}{2}$ of the cost of such sewer and sewage disposal units. The trustees shall file with the clerk of the district the location of such 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 such filing, each person so assessed shall be notified of such assessment by having an authentic copy of said assessment, with an order or 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 said 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 of general circulation in said district, the first publication to be at least 30 days before said hearing. A return made upon a copy of such notice by any constable in said town of Cape Elizabeth 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, increases or diminutions shall be in writing and recorded by the clerk of the district.

Sec. 20. Right of appeal. Any person aggrieved by the decision of said trustees as it relates to any assessment for sewer construction shall have the same rights of appeal as are provided in the case of laying out of town ways.

Sec. 21. Assessments; lien; sheriff's sale. All assessments made under the provisions of section 19 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 trustees file with the clerk of the district the completed assessment, and shall continue for 1 year thereafter; and within 10 days after the date of hearing on said assessment, the clerk of the district 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 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 on 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 87 of chapter 91-A of the Revised Statutes of 1954, as amended.

Sec. 22. Additional method of collection of assessments. If assessments under the provisions of section 19 are not paid, and said district does not proceed to collect unpaid assessments by a sheriff's sale of the real estate upon which such assessments are made under section 21, 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 21, then the Treasurer, 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 of competent jurisdiction, and in such suit may recover the amount of such assessment with 10% interest on the same from the date of said assessment and costs.

Sec. 23. Assessments paid by other than owner, how recovered. When any assessment under the provisions of section 19 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. 24. Lien for payment of rates. There shall be a lien on real estate served or benefited by the sewers of the district to secure the payment of rates established and due under section 18 of this act 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 have the same definition as given in section 4 of chapter 91-A of the Revised Statutes of 1954, as amended.

The treasurer of the district shall have full and complete authority and power to collect the rates, tolls, rents and other charges established under section 18 of this act and the same shall be committed to him. The treasurer may, after demand for payment, sue in the name of the district in an action of assumpsit for any rate, toll, rent or other charge remaining unpaid in any court of competent jurisdiction. In addition to other methods established by law for the collection of rates, tolls, rents and other charges, and without waiver of the right to sue for the same as aforesaid, the lien hereby created may be enforced in the following manner. The treasurer, when a rate, toll, rent or other charge has been committed to him for collection, may, after the expiration of 3 months and within 1 year after date when the same became due and payable, in the case of a person resident in the district, give, or cause to be given to such person, or leave or cause to be left, at his last and usual place of abode, a notice in writing signed by the treasurer stating the amount of such rate, toll, rent or other charge, describing the real estate upon which the lien is claimed, and stating that a lien is claimed on said real estate to secure the payment of said rate, toll, rent or other charge and demanding within 30 days after the service of such notice payment as aforesaid. In the case of a nonresident of the district, the aforesaid notice shall be given by registered mail addressed to his last known address or by publication in a newspaper of general circulation within the district once a week for 2 successive weeks, and shall demand payment within 30 days after the mailing thereof or the first publication of notice thereof as aforesaid. After the expiration of said period of 30 days and within 1 year thereafter, the treasurer may record in the registry of deeds of Cumberland county a certificate signed by the treasurer setting forth the amount of such rate, toll, rent or other charge, describing the real estate on which the lien is claimed, and stating that a lien is claimed on the real estate to secure payment of said rate, toll, rent or other charge and that a notice and demand for payment of the same has been given or made in accordance with the provisions of this section and stating further that such rate, toll, rent or other charge remains unpaid. At the time of the recording of any such certificate in the registry of deeds as heretofore provided, the treasurer shall file in the office of the district a true copy of such certificate and shall mail a true copy thereof by registered mail to each record holder of any mortgage on said real estate, addressed to such record holder at his last and usual place of abode. The fee to be charged by the district to the rate payer for such notice and filing shall not exceed \$1.50 and the fee to be charged to the district by the register of deeds for filing and recording shall not exceed \$1.

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 therein described to the district which shall have 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 possessed by mortgagees, except that the district as mortgagee shall not have any right to possession of said real estate until the right of redemption hereinafter provided for shall have expired. If the mortgage, together with interest and costs, shall not have been paid within 18 months after the date of filing of said 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 hereby provided for. In the event that said rate, toll, rent or other charge, with interest and costs as aforesaid, 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 provided for discharge of real estate mortgages.

Sec. 25. Construction of this act; by-laws and regulations authorized; incidental powers and rights. This act shall be construed as authorizing a charge by said district for the use of sewers, sewer systems and treatment works in addition to any other assessments now lawfully imposed by general law. The trustees may adopt such rules and regulations as may be necessary or convenient to carry out the provisions of this act. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this act as set forth herein are granted to said district; including the right of the trustees to determine when and where sewerage facilities are most needed, and when and how sewers shall be built.

Sec. 26. 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, and all the rights and duties herein mentioned shall be exercised and performed in accordance with any applicable provisions of chapter 44 of the Revised Statutes of 1954 and any acts amendatory thereof or additional thereto.

Sec. 27. Local referendum; effective date; certificate to Secretary of State. This act shall take effect 90 days after the adjournment of the Legislature, only for the purpose of permitting its submission to the legal voters of the district present and voting at a special election, or elections, to be called by the selectmen of the town of Cape Elizabeth, such special election, or elections, to be held not later than one year after adjournment of the Legislature. Any such special election shall be called, advertised and conducted according to the law relating to municipal elections in said town; provided, however, that the selectmen of said town shall not be required to prepare for posting nor the town clerk to post a new list of said voters, and for the purpose of registration of voters said selectmen shall be in session on the secular day next preceding said special election. The town clerk of said town of Cape Elizabeth shall prepare the required ballots, on which he shall reduce the subject matter of this act to the following question: "Shall the Act to Create the Cape Elizabeth Sewer District, enacted by the 98th Legislature, be accepted?" and the voters shall indicate by a cross or check mark placed upon their ballots against the words "Yes" or "No" their opinion of the same.

This act shall take complete effect for all purposes immediately upon its acceptance by a majority of the legal voters resident in said district voting thereon

at any such election, provided that the total number of votes cast for and against the acceptance of this act equals or exceeds 20% of the total vote for all candidates for Governor cast in said town at the next previous gubernatorial election. If at such first special election the total number of votes cast for and against acceptance of this act is less than 20% of the total vote for all candidates for Governor cast in said town at the next previous gubernatorial election, the selectmen may call not more than one more such special election to be held within the time prescribed above.

The result of such elections shall be declared by the selectmen of the town of Cape Elizabeth and due certificates thereof filed by the town clerk with the Secretary of State.