

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1312

H. P. 923

House of Representatives, March 19, 1957.

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

HARVEY R. PEASE, Clerk

Presented by Mr. Farmer of Wiscasset.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT to Establish the Wiscasset Sewerage District.

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

Sec. 1. Territorial limits; corporate name and purposes. The territory of the town of Wiscasset in the county of Lincoln, and the inhabitants within the same, in order to accomplish the purposes of this act, shall be and hereby are constituted a body politic and corporate under the name of the "Wiscasset Sewerage District," hereinafter called the district, for the purpose of providing and maintaining within the district a sewer system, drains and sewerage disposal plants, when, as and if such sewer system, drains and sewerage disposal plants become necessary, for public purposes and for the health, comfort and convenience of the inhabitants of said district, and said district is hereby vested with all the powers, rights, privileges and immunities incident to similar corporations, or necessary for the accomplishment of these purposes.

Sec. 2. Powers. The district is hereby authorized for the purposes aforesaid to take over and hold the sewers and other assets of the existing sewerage system of the town of Wiscasset, and to acquire and hold by purchase, lease, the exercise of the right of eminent domain as hereinafter provided, or otherwise, land, real estate, rights, easements or interests therein, located within the district or elsewhere, and personal property. It also is empowered, through its trustees, to make contracts with persons or corporations and the town of Wiscasset for the collection, discharge and disposal of sewage and other waste matter.

Sec. 3. Power to lay and maintain sewers. The district is hereby authorized to lay in and through streets and highways, under any water course, way or public or private railroad, in the manner prescribed by law, within and outside the

district, and to remove and replace such pipes, aqueducts and fixtures as may be necessary for the objects above set forth, and whenever the district shall lay, remove or replace any pipes, aqueducts or fixtures in any street or highway, it shall cause the work to be done with as little obstruction as possible to the public travel, and shall at its own expense without unnecessary delay cause the earth and pavement to be replaced in proper condition.

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 condition 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.

Sec. 4. 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 trustees, 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 shall be taken for the reasonable purposes of the district and for the safe, economical and efficient furnishing of 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.

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 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. 5. Officers. The affairs of the district shall be managed by a board of trustees composed of 3 members, who shall be residents therein, and who shall be elected at the annual election. The first board shall be selected by the municipal officers, one shall be chosen for 1 year, one for 2 years and one for 3 years; and thereafter one trustee shall be elected each year at the annual election to serve for the term of 3 years. As soon as convenient after the members of the board have been chosen, they shall hold a meeting to elect a chairman, treasurer and other needed officers and agents for the purpose, conduct and management of its affairs. In case a vacancy occurs, the remaining trustees may choose another member to serve until the next annual election, at which time election of a trustee for the unexpired term shall also be had. The compensation of each trustee shall be \$50 per year. The trustees may make reasonable rules, regulations and by-laws.

Trustee serving as treasurer shall furnish bond in such sum and with such sureties as they may approve.

Sec. 6. Bonds and notes—authority to borrow money. For accomplishing the purposes of this act and for such other expenses as may be necessary for the carrying out of said purposes, said district may vote to authorize its trustees to issue its notes and bonds in one series or in separate series from time to time, and to refund and to make subsequent renewals of the same, in whole or in part, to an amount not exceeding the sum of \$25,000 outstanding at any one time. Said notes and bonds shall be legal obligations 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; 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 "Wiscasset Sewerage District Bond" or "Wiscasset Sewerage District Note," as the case may be, and shall bear interest at such rates as the trustees shall determine. If said bonds or notes be issued from time to time, each authorized issue shall constitute a separate loan. Each loan shall be payable at such time or times as the trustees 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 trustees of said district, and if coupon bonds be issued, each coupon shall bear the facsimile signature of the treasurer.

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

Sec. 7. 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 trustees 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 sewer 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 trustees on favorable terms, said trustees 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 trustees.

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

Sec. 8. Rates; application of revenue. All individuals, firms and corporations, whether public, private or municipal, shall pay to the treasurer of said district the rates established by the trustees for the services used or made available to them. The rates may include rates for the district's readiness to serve charged against owners, or persons in possession, or against whom the taxes are assessed, of all buildings or premises intended for human habitation or occupancy or use, whether the same are occupied or not, which abut on a street or location through which said district has constructed a sewer line, or the property line of which is within 100 feet of a sewer line constructed by said district, although said premises are not actually connected therewith. Rates shall be uniform within the district, and the rates, rules and regulations of the district shall be subject to the approval of the Public Utilities Commission. The rates shall be so established as to provide revenue for the following purposes:

I. To pay the current running expenses for operating and maintaining the sewerage system, including provision for depreciation.

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 of the district, which sum shall be turned into a sinking fund for the final extinguishment of the debt. The money so set aside shall be devoted to the retirement of the obligations of the district, or invested in securities lawful for savings banks. Provided, however, that the trustees may, in their discretion, and in lieu of the establishment of a sinking fund, issue bonds of the district so that not less than 1% of the bonds issued shall mature and be retired annually.

IV. If any surplus remains after the year's operation, this surplus may be added to the sinking fund.

Sec. 9. Rights of abutters to enter sewer. The district at all times shall be bound to permit the owners of 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 the district and payment of the rates prices and rentals established therefor. The owner, or persons in possession, or against whom taxes are assessed of all buildings or premises intended for human habitation or occupancy or use, abutting on a street in which there is a public sewer or if the property line of the premises containing said building is within 100 feet of a public sewer, shall connect with said sewer in the most direct manner possible within 6 months of receiving notice thereof from the sewerage district.

Sec. 10. Lien for payment of rates. There shall be a lien to secure the payment of sewer rates legally assessed on real estate within the town of Wiscasset, which shall take precedence over all other claims on said real estate and interest, excepting only claims for taxes. Real estate, for the purpose of this act, shall bear the same definition as given in section 4 of chapter 91-A of the Revised Statutes of 1954, as amended. The treasurer of the sewerage district shall have the authority and power to collect said sewer rates, and all rates shall be committed to him. In addition to other methods previously established by law for the collection of said rates, the lien herein created may be enforced in the following manner: provided, however, that in making the assessment for sewer services there shall be a description of the real estate served by the several sewers of the district, sufficiently accurate to identify the real estate against which any of the several rates may be charged. The treasurer, when a rate has been committed to him for collection, may, after the expiration of 8 months and within 1 year after date of commitment to him of said rate, in the case of a person resident in the town where the rate is assessed, give to the person against whom rate is assessed or leave at his last and usual place of abode, a notice in writing signed by said officer stating the amount of such rate, describing the real estate on which the rate is assessed, alleging that a lien is claimed on said real estate to secure the payment of the rate and demanding the payment of said rate within 10 days after the service of such notice. After the expiration of said 10 days and within 10 days thereafter, in the case of a resident, and in all other cases within 1 year from the date of commitment of said rate to said officer, said officer shall record in the registry of deeds of the county where said real estate is situated, a certificate signed by said officer setting forth the amount of such rate, a description of the real estate on which the rate is assessed and an allegation that a lien is claimed on said real estate to secure the payment of said rate, that a demand for payment of said rate has been made in accordance with the provisions of this act and that said rate remains unpaid. In all cases such officer shall file in the office of the said sewerage district a true copy of said certificate and also at the time of recording as aforesaid, the said officer shall mail by registered letter to each record holder of a mortgage on said real estate, addressed to him at his last and usual place of abode, a true copy of said certificate. The fee to be charged to the ratepayer for such notice and filing shall not exceed \$1 and the fee to be charged by the register of deeds for such filing shall not exceed 50c.

The filing of the aforesaid certificate, in the registry of deeds as aforesaid, shall be deemed to create and shall create a mortgage on said real estate to the

said sewerage district in which the real estate is situated having priority over all other mortgages, liens, attachments and encumbrances of any nature except liens, attachments and claims for taxes, and shall give to the sewerage district all the rights usually incident to a mortgagee, except that the mortgagee shall not have any right of possession of said real estate until the right of redemption herein provided for shall have expired.

If said 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 said mortgage shall be deemed to have been foreclosed and the right of redemption to have expired.

The filing of said certificate in said registry of deeds shall be sufficient notice of the existence of the mortgage herein provided for.

In the event that said rate, interest and costs shall be paid within the period of redemption herein provided for, the treasurer of said sewerage district shall discharge said mortgage in the same manner as is now provided for discharge of real estate mortgages.

Sec. 11. Tax exemption. The property of the district shall be exempt from taxation.

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 territory embraced within the limits of said district, present and voting at a special meeting called and held for the purpose or at an annual town meeting of the town of Wiscasset. Such special meeting or annual town meeting shall be held not later than April 1, 1958. In the event a special meeting is called for the purpose, it shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the board of registration in said town of Wiscasset shall not be required to prepare for posting, nor the town clerk to post, a new list of voters, and for the purpose of registration of voters, said board shall be in session the 3 secular days next preceding such special meeting, the first 2 days thereof to be devoted to registration of voters and the last day to enable the board to verify the correctness of said lists and to complete and close up their records of said sessions. The town clerk shall prepare the required ballots, on which he shall reduce the subject matter of this act to the following question: "Shall the Act to Establish the Wiscasset Sewerage District, passed by the 98th Legislature, 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 meeting; provided the total number of votes cast for and against the acceptance of this act in said meeting equals or exceeds 20% of the total vote for all candidates for Governor cast in said town at the next previous gubernatorial election.

The result of the vote shall be declared by the municipal officers of the town of Wiscasset and due certificate filed by the town clerk with the Secretary of State.