

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.

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

Legislative Document

No. 1269

H. P. 900

House of Representatives, March 17, 1959

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

HARVEY R. PEASE, Clerk

Presented by Mr. Mathews of Berwick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

AN ACT to Create the Berwick Water and Sewerage District.

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

Sec. 1. Incorporation. All the territory of the Town of Berwick, in the County of York, and all the inhabitants and commercial and municipal establishments within said territory shall constitute a body politic and corporate under the name "Berwick Water and Sewerage District". The purpose of said district shall be to take over, control, operate, maintain, extend and improve the entire water system now owned by the Town of Berwick; to provide for the construction and operation and extension of a sewerage collection system and such treatment plant as is required for the health and well-being of the inhabitants of said district.

Sec. 2. Powers. The district is authorized for the purposes aforesaid to take over, control, manage and operate the water department now owned by the Town of Berwick with all appurtenances thereto; to extend, enlarge and improve said water system; and to do any and all things necessary in providing a system of sewerage and drainage for public purposes and for the health, comfort and convenience of the inhabitants of said district.

Sec. 3. Authority to acquire and hold property and the right and procedure of eminent domain conferred. The said district, for the purposes of its incorporation, is authorized to take and hold for public uses, by purchase, lease or the exercise of eminent domain or otherwise, any land or real estate or easement therein necessary, convenient and proper to accomplish the aforementioned powers and purposes of this act; and all such property, wherever the same shall be located, shall be exempt from taxation. 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 by subsequent act of the Legislature. Property shall be acquired by exercise of right of eminent domain when necessary as provided by the Revised Statutes of 1954, chapter 52, sections 23 to 27 and chapter 96, section 129.

Sec. 4. Power to lay and maintain pipe. The district is authorized to lay, through the streets, highways and land of the district, and take up, replace and repair all such pipe, conduit, flow control devices and other fixtures as may be necessary or desirable for the objects of its incorporation. Said district shall be liable to the Town of Berwick and private persons for any and all costs, damages and expenses which each may suffer by reason of the default, neglect, negligence or carelessness of said district or any of its officers or agents in creating, maintaining or extending said water or sewerage system.

When the character of the work of said district is such as to endanger travel on any street, way or highway, said Town of Berwick shall direct and accomplish the closing of such street, way or highway upon request of the district, and such street, way or highway shall remain closed to public use until the work of the district is completed and traveled surfaces are restored to a condition proper for public use.

Sec. 5. Abutting owners. 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 sewerage, upon conformity to the rules and regulations of said Berwick Water and Sewerage District and payments of the prices and rental established therefor.

Every building intended for human habitation or occupancy on premises abutting on a street, way or highway in which there is a public sewer, or within 100 feet of a public sewer, shall have a domestic sewerage collection system which shall be connected with the public 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.

Sec. 6. Management. All the affairs of the district shall be managed by a board of trustees composed of 3 members, who shall be residents, to be appointed by the board of selectmen within 30 days after the acceptance of this act by the inhabitants of the district as hereinafter provided. On the first appointment of the board of trustees, one shall be selected for one year, one for 2 years and one for 3 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 3 years. In case of a vacancy, the selectmen may appoint a new member to fill out the unexpired term. As soon as convenient after the board of trustees have been appointed, they shall hold a meeting to elect officers and establish such regulations and by-laws as are necessary for the proper management of the affairs of the district. A trustee serving as treasurer shall furnish bond in such sum and with such sureties as they may approve.

Sec. 7. Authorized to negotiate loans; issue notes and bonds; declared a quasi-municipal corporation; notes and bonds to be legal investment for savings banks. For accomplishing the purposes of this act and for such other expenses as may be necessary for proper and economical carrying out of said purposes, the district, through its trustees, without district vote, is authorized to issue notes and bonds in one 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 to exceed the sum of \$425,000. Said notes and bonds shall be a legal obligation of said district, which is declared to be a quasi-municipal corporation within the meaning of the Revised Statutes of 1954, chapter 53, section 137 and chapter 90-A, section 23, as enacted by the public laws of 1957, chapter 405, section 1; and all the provisions of said sections 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 "Berwick Water and Sewerage District Bond" or "Berwick Water and 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 may be payable in annual amounts of principal, beginning not more than one year from the date of issue, and made to run for such period as said trustees shall determine.

Sec. 8. Rates, tolls, rent, entrance charges; use of revenue. Only public, private or municipal corporations and persons served or directly benefited shall pay to the treasurer of said district the entrance charges, rates, rents and other lawful charges established by the trustees for the sewer or drainage service and the water used, or to which such beneficial service is available with respect to their lots or parcels of land; and in determining real estate interests, "real estate" as defined in the Revised Statutes of 1954, chapter 91-A, section 4, as enacted by the public laws of 1955, chapter 399, section 1, may be applied by the trustees.

Rates, rents, entrance charges and other lawful charges shall be uniform within the territory served by the district whenever the installation and maintenance of the sewer and water systems and their appurtenances and the cost of service is substantially uniform; but nothing in this act shall preclude the district from establishing a higher or lower rate rent or entrance charge than the regular rate, rent or entrance charge in sections where, for reasons of construction and maintenance or cost of service varies substantially from the average; but such higher or lower rates, rents or entrance charges shall be uniform throughout the sections where they apply.

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

- I. To pay current expenses for operating and maintaining a sewerage system and a water system;
- II. To provide for the payment of interest on the indebtedness created by such systems;
- 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 district, or 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 shall be turned into the sinking fund.

Sec. 9. Lien for payment of rates. There shall be a lien, to secure the payment of rates legally assessed, on real estate within the Town of Berwick which shall take precedence of 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 the Revised Statutes of 1954, chapter 91-A, section 4, as enacted by the public laws of 1955, chapter 399, section 1. The treasurer of the district shall have the authority and power to collect said 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. In making the assessment for services there shall be a description of the real estate served, 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 one 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 the 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 one 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 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 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 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.

Referendum; 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 qualified voters of the Town of Berwick at the next annual town meeting or at a special town meeting, an appropriate article being inserted in the warrant for said meeting. In the event that a special town meeting is called for the purpose, it shall be called, advertised and conducted according to the law relating to municipal elections; provided that the board of registration 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 on the secular day next preceding any such special meeting.

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 Create the Berwick Water and Sewerage District, passed by the 99th Legislature, be accepted?" 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; but only if the total number of votes cast for and against the acceptance of this act equals or exceeds 20% of the total vote cast in said town for all candidates for Governor at the next previous gubernatorial election.

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