

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

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. 1446

H. P. 1017

House of Representatives, January 19, 1960.

Committee on Public Utilities suggested.

HARVEY R. PEASE, Clerk

Presented by Mr. Ervin of Houlton.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY

AN ACT to Create the Houlton 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 Houlton in the County of Aroostook, shall constitute a public sewerage district and a body politic and corporate under the name of "Houlton Sewer District." The purpose of the district shall be to construct, maintain, operate and lease treatment works and other facilities for the collection, treatment and disposal of sewage for public purposes and for the health, welfare, comfort and convenience of the inhabitants of said district and to extend, increase, enlarge and improve said facilities.

Sec. 2. Authority to construct and maintain. Within said territory said Houlton Sewer District is hereby authorized to construct, maintain, operate and lease treatment works, pumping stations, basins, reservoirs, flush tanks and other facilities and appliances for holding, purifying, distributing and disposing of sewage matter, including a main or mains from the sewer lines of Houlton Water Company to any such treatment works, all as may be necessary or proper, and in general to 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. 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 sewer or drainage rights necessary for constructing, maintaining and operating treatment works, pumping stations, basins, reservoirs, flush tanks and other facilities and appliances for holding, purifying, distributing and disposing of sewage matter, including a main or mains from the sewer lines of Houlton Water Company to any such treatment works.

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 Aroostook County and cause to be recorded in the registry of deeds in said county in Houlton, Maine, plans of the location of all lands, real estate, easements or interests therein 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 or 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 the 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, but title thereto shall not vest in said district until payment therefor.

Sec. 5. Assessment of damages by county commissioners; procedure on appeal. 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 Aroostook 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 by the county commissioners.

Sec. 6. Limitation 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 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 public service corporation or district used or acquired for future use by the owners thereof in the performance of a public duty unless expressly authorized herein or by subsequent acts of the Legislature.

Sec. 7. Lease and contract with Houlton Water Company authorized. The said district is authorized and empowered to lease to Houlton Water Company,

a corporation created by the private and special laws of 1880, chapter 227, its successors and assigns, all treatment works, pumping stations, basins, reservoirs, flush tanks and other facilities and appliances constructed or erected by the district, including any main or mains from the sewer lines of Houlton Water Company to any such treatment works, and to enter into a contract or contracts with said Houlton Water Company, its said successors and assigns, in respect of the treatment and disposal of sewage; and said Houlton Water Company, its successors and assigns, is hereby authorized and empowered to lease all such property from said district and to enter into a contract or contracts with said district in respect of the treatment and disposal of sewage; all such leases and contracts to be for such rents and consideration and to contain such terms and provisions as may be approved or authorized by the directors of said Houlton Water Company and by the trustees of said district.

Sec. 8. Trustees and officers. All affairs of said district shall be managed by a board of 3 trustees, residents therein, who shall be chosen as hereinafter provided. As soon as may be after acceptance of this act as hereinafter provided, the municipal officers of the Town of Houlton shall appoint 3 trustees of said district to hold office as follows: One to serve for a term of one year, one to serve for a term of 2 years and one to serve for a term of 3 years. Their respective terms shall be stated and designated in their appointments. Thereafter, at the expiration of the term of each trustee, a new trustee shall be appointed by said municipal officers of the Town of Houlton for a term of 3 years.

All trustees, if residents of said district, shall be eligible for re-election or reappointment as herein provided. When any trustee ceases to be a resident of said district he vacates his office as trustee. Any vacancy upon the board of trustees occurring because of resignation, disqualification by change of residence, death or any other cause shall be filled by appointment by the municipal officers of the Town of Houlton of a new trustee to serve for the unexpired portion of the term of the vacant office. No municipal officer of the Town of Houlton shall serve as trustee of said district.

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 2 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 may perform any other acts within the powers delegated to them by law.

The trustees shall meet annually for the purpose of electing from their own members 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 surety as the trustees shall approve, the cost thereof

to be paid by the district. The trustees shall be eligible to hold any other office or position with the district, but shall serve without compensation as trustees or in such other capacity; except that the treasurer may receive 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 a part of, the town report of the Town of Houlton.

Sec. 9. Property tax exempt. The property, both real and personal, rights and franchises of said district shall be exempt from taxation.

Sec. 10. 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 this act, including organizational and other necessary expenses and liabilities, whether incurred by the district or the Town of Houlton or the Houlton Water Company (the district being directed to reimburse said Town of Houlton and Houlton Water Company for any such expenses incurred or paid by them) and in acquiring property, paying damages, constructing, maintaining and operating sewage treatment works and other facilities as herein provided and making renewals, additions, extensions and improvements to the same, and to cover interest payments during the period of construction, said Houlton 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 \$600,000. The 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 25 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 "Houlton 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 the Revised Statutes of 1954, chapter 90-A, section 23, as amended, 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 any 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 carry out the purposes of this act.

Sec. 11. Regulations authorized; incidental powers and rights. The trustees may adopt such rules and regulations as may be necessary or convenient to carry out the purposes of this act, and all incidental powers, rights and privileges necessary to the accomplishment of the purposes of this act as herein set forth are hereby granted to said district.

Sec. 12. Existing statutes not affected; rights conferred subject to provision 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 rights and duties herein mentioned shall be exercised and performed in accordance with any applicable provisions of the Revised Statutes of 1954, chapter 44 and chapter 79, and any acts amendatory thereof or additional thereto.

Sec. 13. Assessments of taxes authorized to meet indebtedness; how collected; procedure. The trustees of the Houlton Sewer District, after making due allowance for anticipated rents and revenues from leases of its properties and from other contracts, shall determine what sum is required each year for the sinking fund, or if the bonds, notes or other obligations authorized by this act shall be issued to mature serially, what sum is required each year to meet the bonds, notes or other obligations falling due and maturing that year, and what sum is required each year to meet the interest on said bonds, notes or other obligations, and what sum is required each year to meet other necessary expenses of the district, and, if the anticipated rents and revenues shall be insufficient to provide for the payment of such sums, shall each year, before the first day of April, issue their warrant in the same form as the warrant of the Treasurer of State for taxes, with proper changes, to the assessors of the Town of Houlton, requiring that they assess an amount which, after giving effect to receipt of such rents and revenues, is adequate to provide for the payment of such sums, upon the taxable polls and estates within said district and commit their assessment to the constable or collector of said Town of Houlton, who shall have all and the same authority and power to collect said taxes as is vested in him by law to collect state, county and municipal taxes. On or before the 31st day of December of the year in which said tax is so levied, the treasurer of said town shall pay the amount of the tax so assessed to the treasurer of said district. In case of the failure on the part of the treasurer of the town to pay said sum, or in case of his failure to pay any part of the tax so levied on or before the 31st day of December of the year in which said tax is levied,

the treasurer of said district may issue his warrant for the amount of said tax or so much thereof as shall remain unpaid to the sheriff of Aroostook County, requiring him to levy by distress and sale upon real and personal property of any of the inhabitants of said district, and the sheriff or any of his deputies shall execute said warrant except as is otherwise provided herein. The same authority as is vested in county officials for the collection of county taxes under the Revised Statutes of 1954, as amended, is hereby vested in the trustees of said district in relation to the collecting of taxes within said district.

Sec. 14. Provision for termination of the board of trustees. At such time as all sewage treatment works, pumping stations, basins, reservoirs, flush tanks, mains and other facilities and appliances for the holding, purifying, distributing and disposing of sewage matter shall have been constructed and erected, the board of trustees of the district shall have paid and discharged all of its principal obligations and the property of said district shall be free and clear of all indebtedness, the board of trustees of said district shall automatically cease to function and all of the duties, management, care and maintenance of the aforesaid properties shall revert to the Town of Houlton and the then chairman and treasurer of the district shall cause to be executed, signed and delivered a good and sufficient deed of all of the properties of said district to the Town of Houlton. All money, if any, remaining in the treasury of the district at the time it ceases to function shall be paid to the treasurer of the Town of Houlton. The Town of Houlton is hereby authorized and empowered to lease all of said properties, if the same shall have reverted to the Town of Houlton as aforesaid, to the Houlton Water Company on such terms and for such considerations as the municipal officers of said Town of Houlton may determine and, in the discretion of said municipal officers, the rent for said properties paid by Houlton Water Company may be as little as \$1 per year.

Sec. 15. Authority to receive property from Town of Houlton. The Houlton Sewer District is hereby authorized to receive from the Town of Houlton and the Town of Houlton is hereby authorized to transfer and convey to said district any real property now or hereafter owned or held by the Town of Houlton. Before transferring and conveying any of said property or turning over any of said assets, the municipal officers of the Town of Houlton shall be authorized to do so by a vote of the majority of the legal voters of said town present and voting at any regular or special town meeting, the call for which shall have given notice of the proposed action.

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 the annual town meeting of the Town of Houlton in the year 1961, or at a special election or elections to be called by the municipal officers of the Town of Houlton, any such special election to be held not later than 18 months 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 municipal officers 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 municipal

officers shall be in session on the secular day next preceding any such special election. The town clerk of said Town of Houlton 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 Houlton Sewer District, enacted by the First Special Session of the 99th Legislature, be accepted?" The voters shall indicate by a cross or check mark placed upon the 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 said annual town meeting, or at any such special election, provided that the total number of votes cast for and against acceptance of this act equals or exceeds 20% of the total votes for all candidates for Governor cast in said town at the next previous gubernatorial election. If, at the first such election, whether it be at said annual town meeting or a special election as aforesaid, the total number of votes cast for and against acceptance of this act is less than 20% of the total votes for all candidates for Governor cast in said town at the next previous gubernatorial election, the municipal officers may call not more than one more such election, either at said annual town meeting or a special election as aforesaid, to be held within the time prescribed above.

The result of such elections shall be declared by the municipal officers of the Town of Houlton, and due certificate thereof filed by the town clerk with the Secretary of State.

STATEMENT OF FACTS

Since 1955 the sewers of the Houlton Water Company have been depositing solid sewage into the Meduxnekeag River. There is some indication that the Water Improvement Commission will prohibit such depositing. The Houlton Water Company does not have sufficient funds for the construction of a primary sewage treatment plant. The purpose of the bill is to establish a sewer district, which will issue bonds and accept federal and state funds sufficient for the construction costs of a sewage disposal plant.