

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-second Legislature

OF THE

STATE OF MAINE

1925

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Private and Special Laws

OF THE

STATE OF MAINE

As Passed by the Eighty-Second
Legislature

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Chapter 81.

An Act to Incorporate the South Portland Sewerage District.

Emergency preamble. Whereas, there are certain thickly built up portions of the city of South Portland which, at the present time, are unprovided with public sewerage facilities of any sort, and

Whereas, owing to the presence of numerous cesspools and other similar structures, the health of the inhabitants of such districts is endangered, and

Whereas, it is necessary to provide such sewerage facilities before the time that this act would become effective, and

Whereas, by reason of the foregoing facts, an emergency exists, as is contemplated by the constitution of this state, and the passage of this act is immediately necessary for the preservation of public peace, health and safety, now therefore,

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

Sec. 1. Territorial limits; name; purposes. That part of the territory of the city of South Portland, in the county of Cumberland, embraced within the following limits, to wit: wards one, two, three, four, five, six, and seven, (except that part of ward seven that lies within the following bounds, to wit: Beginning at a point formed by the intersection of the Cummings Road, so-called, in said ward seven, with the line of the town of Scarboro; thence northwesterly by said Scarboro town line to the line of the city of Westbrook; thence northeasterly by said Westbrook city line to the Cummings Road aforesaid; thence southerly by said Cummings Road to the point begun at) and the inhabitants within said territory, shall constitute a body politic and corporate, under the name of South Portland Sewerage District, for the purpose of providing a system of sewerage and drainage for public purposes and for the health, comfort and convenience of the inhabitants of said district.

Sec. 2. Authorized to accept title from city of all its sewers; liabilities and assets of city not to be assumed; right of eminent domain conferred; property tax exempt. Said district is hereby authorized and empowered to accept, by action of its trustees hereinafter mentioned, from the city of South Portland, and said city of South Portland is hereby authorized to convey, by deed signed by the mayor, duly authorized by vote of the council, to said district, any and all right, title and interest which said city may have in and to the drains and sewers now located within the limits of said district, but any amounts now owed by said city of South Portland upon said sewers and drains, or any interest now or hereafter due on any

amounts owed by said city, shall be paid by said city of South Portland, and any assessments or amounts, now or hereafter due said city, by reason or on account of any sewer or drain heretofore built by said city, shall be paid to said city. Said district is further authorized and empowered to take and hold by purchase, lease or the exercise of the right of eminent domain, which right of eminent domain is expressly granted to said district, or otherwise, personal property, land or real estate, or easements therein, necessary for forming basins or outlets, for laying pipes and maintaining the same, and for laying and maintaining conduits for carrying and collecting, discharging and disposing of sewerage matters and waters, and for all other objects and purposes necessary, convenient and proper for the purposes of this act.

The property of said district, wherever located, shall be exempt from taxation.

Sec. 3. Authorized to lay pipes, conduits, etc.; plans subject to approval of public utilities commission. Said district may lay pipes and conduits, take up, repair, and maintain the same, or may contract for the same to be done, in and through the streets of the city of South Portland, within said district, and in and through ways and highways, public or private, located in said district, and through land of any corporation, firm, or individual, as hereinafter provided, and under any railroad in manner prescribed by law, to and into Fore River, or Portland Harbor, or any part thereof, adjacent to the territory of said district, or to and into any drain or sewer now or hereafter built which empties into said Fore River or Portland Harbor, or any part thereof, the discharge therefrom to be at such point or points in said Fore River or Portland Harbor as shall be most convenient and reasonable for said district, and convey through the same sewerage, surface water and the natural flow of existing water courses, and secure and maintain basins, reservoirs and outlets; may construct, maintain, renew, and repair flush tanks, manholes, catch-basins and such other appliances for collecting, holding, distributing and disposing of sewerage matters and waters as may be necessary and proper; and in general to do any and all other acts or things necessary, convenient and proper for the purposes of this act. Provided, however, that said district shall not construct any system of drainage or sewerage, without first having submitted its plans to the public utilities commission and obtained its approval therefor, under power vested in said commission by chapter ninety-eight of the public laws of nineteen hundred and seventeen. It is further provided that the trustees of said district shall have access to any and all profiles and plans relating to sewers within the limits of said district which have been made by, or are in the possession of, said city.

R. S., c. 22, secs. 5 to 25, made applicable; trustees and other officers to

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have same powers as municipal officers; other powers of trustees. In respect to the manner of constructing drains and sewers in said district, the assessment of abutting owners for the cost of the same and the collection of said assessments, the issuing of permits and in respect to all other matters covered by the sections herein referred to, the trustees of said district shall be governed by the provisions of sections five to twenty-five inclusive of chapter twenty-two of the revised statutes, and the district is hereby granted the same power and authority in said premises as have the municipal officers of cities and towns in like cases, and the words "town clerk," in said sections, shall be construed to mean the clerk of said district, and the inhabitants of said district shall have the same rights and privileges, and be subject to the same regulations and restrictions, as are now granted to and imposed upon individuals under said sections. In the application of said sections five to twenty-five, the trustees of the said district shall perform all the acts and duties, and be subject to all responsibilities of municipal officers, as is provided by said sections. Said trustees shall have the power to determine when and where in said district sewerage facilities are most needed, and how said sewers shall be built; where, when, and what repairs, renewals, and extensions are necessary, and how the same shall be built, and their decision in such matters, except as is otherwise provided in the sections above referred to, shall be final. It is provided, however, that the municipal officers of said city may make written recommendation to the trustees of said district regarding sewerage necessities in said district.

Trustees authorized to employ engineers and laborers and to make contracts. In prosecuting the work contemplated by this act, said trustees may engage the services of engineers and laborers; may purchase all necessary material and supplies, and construct said drains and sewers under their own supervision, or they may, if they deem it advantageous, contract with some responsible person, firm, or corporation, for the construction of said drains and sewers, but said district shall in no case be released from liability, as set forth in article five of this act, by reason of having contracted with any person, firm, or corporation, as provided above, for the construction of any sewer, drain or other structure.

Trustees not to be interested in contracts of district. And it is further provided that no person, while he is a trustee of said district, shall be interested, either directly or indirectly, in any contract or agreement for the construction of any sewer, drain or other structure, in said district, entered into by said district. This provision, however, shall not prevent said district from entering upon, or taking land, or any easement therein, of any officer of said district, while he is such an officer, and awarding damages

therefor, if, in the opinion of said trustees, such entering or taking is necessary for the purposes of said district.

Sec. 4. Procedure in exercise of right of eminent domain. The trustees of said district may exercise the right of eminent domain vested in said district for the purposes of this act after hearing, notice of the time and place of said hearing having been given, by publication in two daily papers published in the city of Portland, for two weeks previous to the time appointed for said hearing, and the clerk of said district shall keep a record of their proceedings, and their determination and decision, which shall set forth a description of the land or easement taken, and the owners, if known, and the amount of damages awarded therefor, and upon the signing of said record by said trustees, and the filing of the same in the registry of deeds for the county of Cumberland, said trustees may enter upon such land and take possession of the same, or an easement therein, as the case may be, for the purposes of this act. Any person aggrieved by the decision of said trustees, so far as it relates to the damages for land or easements therein so taken, shall have the same rights of appeal as are provided in the case of the laying out of town ways.

Sec. 5. Excavations and repair work; property to be left in good condition; liability for damages; closing of streets. Whenever said district shall enter, dig up, or excavate any street, way or highway, or other land, within said district, for the purpose of laying pipes or conduits, constructing manholes or catch-basins, or for the purpose of taking up, repairing, extending or maintaining any sewer, drain, manhole, catchbasin, or other structure, or for any other purpose, said street, highway, way, or other land, shall, at the completion of the work of said district, be returned to the condition said street, way, highway, or other land was in prior to the work of said district, or to a condition equally as good, and said district shall be liable to any person, firm or corporation injured or damaged by any fault of said district or its servants or agents, or by reason of any defect in any way, street or highway occasioned by the construction of any of the works of said district, either during such construction or after the same has been completed, or while the same shall be undergoing repairs, or extensions are being made; and said district shall be liable to the city of South Portland for any and all costs, damages and expenses which said city may suffer, or be put to, by reason of the default, neglect, negligence, or carelessness of said district or any of its officers, servants or agents, in creating, maintaining, repairing, or extending said sewerage system.

Where the character of the work of said district is such as to endanger travel on any street or way, said city of South Portland shall direct the

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temporary closing of such streets or ways, and of intersecting streets or ways, upon request of said district, and such streets or ways shall remain closed to public traffic until the work of said district is completed, and the surfaces of said streets or ways are restored to a proper condition, as hereinbefore set forth.

Sec. 6. Trustees; mayor of city to be a member and president of board. All the affairs of said district shall be managed, governed and controlled by a board of trustees, composed of four members, one of whom shall be the mayor of the city of South Portland, the term of whose office shall be co-terminous with the term of office as such mayor, and the qualification of said mayor to the office of mayor shall also qualify him as a trustee of said district. Said mayor shall act as president of said board, but shall have no voting power.

The three remaining trustees shall be chosen by the inhabitants of said district as is hereinafter provided, but no two of said trustees shall be elected from the same ward of said city.

Sec. 7. Trustees, how elected; nomination papers, how signed and filed. The trustees to be first elected shall be elected by a plurality vote of the legal voters of said district, voting at a special election to be called and held as is provided in section eleven of this act. All nominations of candidates so to be voted for shall be made by nomination papers signed in the aggregate for each candidate by no less than fifty qualified voters of said district. Each voter signing a nomination paper shall make his signature in person, and add to it his place of residence, and each voter may subscribe to as many nomination papers as there are trustees to be elected in said district, and no more. Such nomination papers shall, before being filed, be submitted to the city clerk of said city of South Portland, who shall forthwith certify thereon what number of the signatures are names of qualified voters in said district. One of the signers to each such separate paper shall swear to the truth thereof, and the certificate of such oath shall be annexed to, or made upon, the nomination papers. Such nomination papers shall be filed with said city clerk at least seven days, exclusive of Sundays, previous to the day of such election. With such nomination papers shall also be filed, in writing, the consent of the person or persons nominated.

Nomination papers may be amended. All nomination papers filed, which are 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.

Form of ballot. The ballot in said district for the election of trustees

shall contain the names of all candidates so nominated in said district, printed in one column, under the heading: "For Trustees of the South Portland Sewerage District," and at the first election, above such heading shall be printed: "Vote for Three. Make a Cross to the right of each name voted for," which shall be changed to conform to the necessities of each election thereafter, depending upon the number of trustees to be elected. 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 insert the name of any person for whom he desires to vote. In preparing his ballot, the voter shall mark a cross against and to the right of such names, on said ballots, as he desires to vote for, not to exceed the number of trustees so to be elected in said district. The result of such election shall be declared by the municipal officers of the city of South Portland, and due certificate thereof filed with the city clerk.

Organization of board of trustees; seal; choice of officers; city treasurer to be treasurer of district. As soon as convenient, after the members of said board have been so chosen, the trustees shall meet and organize, adopt a corporate seal, and choose a clerk and such other officers and agents as shall be needful for the proper management of the affairs of said district, but it is hereby provided that the treasurer of said city of South Portland shall be the treasurer of said district, whose term of office shall be co-terminous with the term of office as such city treasurer, and the qualification of said city treasurer to the office of city treasurer shall also qualify him as treasurer of said district.

Bond of treasurer. Before assuming the duties of his office, the treasurer of said district shall give bond to said district for the faithful performance of said duties, in such sum, and with such sureties as said trustees shall determine; the expenses of such bond to be paid by said district.

Tie votes, how determined. In the event of a tie between two or more candidates, the matter shall be determined by lot, under the direction of the clerk of said city.

Terms of first trustees. At the first meeting, the trustees so elected shall determine by lot the term of office of each trustee, so elected, so that one of said elected trustees shall retire each year, and the term of office of the first trustee to end shall end at the date of the municipal election of said city of South Portland in nineteen hundred and twenty-six, and thereafter the term of office of a trustee so elected shall end, and his successor shall be chosen at the time of said municipal election, in manner aforesaid.

Terms and qualifications of trustees. The trustees so elected shall serve

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the full term of three years, but when any trustee ceases to be a resident of said district, he vacates the office of trustee. All such trustees shall be eligible to re-election.

Vacancies, how filled. In case any vacancy arises in the membership of said board of trustees, it shall be filled, for the unexpired term, by special election, to be called by the municipal officers of said city, and held as hereinbefore set forth.

Annual reports. At the close of each fiscal year, said trustees shall make a detailed report of their doings, of the financial and physical condition of said district, and all such other matters and things pertaining to said district as shall show the inhabitants thereof how said trustees are fulfilling the duties and obligations of their trust; said reports to be filed with the municipal officers of said city.

Salary of treasurer. It is hereby provided that the treasurer of said district shall be paid the sum of one hundred dollars per year for his services as such treasurer, but the trustees of said district shall serve without pay.

Sec. 8. Authorized to issue notes and bonds; form of bond; legal investment for savings banks. To procure funds for the purposes of this act, and for such other expenses as may be necessary for the carrying out of said purposes, the said district, without district vote, but by action of its board of trustees, is authorized to issue its notes and bonds in one series, or in separate series from time to time, to an amount not exceeding the sum of five hundred thousand dollars. Said bonds shall be a legal obligation of said district, shall be a legal investment for savings banks in the state of Maine, and shall be tax exempt. Each bond or note shall have inscribed on its face the words "SOUTH PORTLAND SEWERAGE DISTRICT BOND," or "SOUTH PORTLAND SEWERAGE DISTRICT NOTE," as the case may be, and shall bear interest at such rates as the trustees shall determine. If said bonds be issued from time to time each authorized issue shall constitute a separate loan. Each loan shall be payable in annual amounts of principal, beginning not more than one year from its date, or made to run for such period as said trustees shall determine, but no series shall run for a longer period than twenty-five years from its date.

All bonds or notes issued by said district shall bear the district seal, and shall be signed by the treasurer and countersigned by the president of said district, and if coupon bonds be issued, each coupon shall bear the facsimile signature of the president and treasurer.

Sec. 9. Sinking fund provided for; issue of refunding bonds authorized.

In case any of said bonds 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 term bonds when they become due, and not less than three per centum of the aggregate principal of the outstanding sinking fund bonds issued on account of or in behalf of said sewerage 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 purpose, and shall be invested in such securities as savings banks are allowed to hold.

All sums of money received or recovered by said trustees by reason of any assessment upon the persons or property of individuals in said district shall be added to said sinking fund, or used for the payment of notes or temporary loans.

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 re-issued.

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 district, but in no case shall new bonds run beyond twenty-five years from the date of the original issue.

Sec. 10. Authority for assessment of taxes; procedure for assessment and collection; incidental powers granted; city relieved from duty relating to sewers. The trustees of said district shall determine the sum to be paid annually in the sinking fund, or if any of the bonds authorized by this act shall be issued to mature annually, what amount is required each year to meet sinking fund requirements and the bonds falling due, and what sum is required each year to meet the interest on said bonds, and any other necessary expenses of said district, and shall each year, before the first day of April, issue their warrant, in the same form as the warrant of the state treasurer for taxes, with proper changes, to the assessors of the city of South Portland, requiring them to assess the sum so determined upon the taxable polls and estates within said district, and to commit their assessment to the constable or collector of said city of South Portland,

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who shall have all authority and powers to collect said taxes as is vested by law in him to collect state, county, and municipal taxes.

On or before the thirty-first day of December of the year in which said tax is so levied, the treasurer of said city 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 said city to pay said sum, or in case of his failure to pay any part thereof, on or before said thirty-first day of December of the year in which said tax is so levied, the treasurer of said district may issue his warrant for the amount of said tax, or so much thereof as shall then remain unpaid, to the sheriff of Cumberland county, requiring him to levy by distress and sale on real and personal property of any of the inhabitants of said district, and the sheriff, or either 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 provisions of the revised statutes, is hereby vested in the trustees of said district, in relation to the collection of taxes within said district. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this act, as hereinbefore set forth, are granted to the district hereby created, and it is hereby provided that section twenty-five of chapter two hundred and forty-two of the private and special laws of eighteen hundred and ninety-five shall be repealed upon the acceptance of this act.

The city of South Portland is hereby relieved of any and all duty to build, repair, or maintain drains or sewers within said district.

Sec. 11. Local referendum provided for; form of question. This act shall take effect when accepted and approved by a majority vote of the legal voters of the territory embraced within the limits of said district, voting at an election to be specially called and held for the purpose, and for the purpose of electing trustees, as provided in section seven, within sixty days after the approval of this act. Such special election shall be called, advertised and conducted according to the law relating to municipal elections, provided, however, that the board of registration of said city of South Portland shall not be required to prepare for posting, or the city clerk to post a new list of voters, and for the purpose of registration of voters said board shall be in session the three secular days next preceding such election, the first two days thereof to be devoted to the registration of voters, and the last day to enable the board to verify the corrections of said lists and to complete and close up their records of said sessions. The city clerk shall reduce the subject matter of this act to the following question: "Shall the act to incorporate the South Portland Sewerage District be accepted?" and the voters shall indicate by a cross placed over the

words "Yes" or "No" their opinion of the same. The result in said district shall be declared by the municipal officers of said city, and due certificate filed by the city clerk with the secretary of state.

Approved March 30, 1925.

Chapter 82.

An Act to Amend an Act Entitled An Act to Incorporate the Cupsuptic Stream Improvement Company.

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

Sec. 1. P. & S. L., 1907, c. 180, sec. 3; relating to authority to collect tolls, etc., of the Cupsuptic Stream Improvement Co., amended. Section three, of chapter one hundred and eighty, of the private and special laws of nineteen hundred and seven, is hereby amended by striking out all of said section and inserting in the place thereof the following section:

'**Sec. 3.** Basis of computing tolls changed from board measure to cord; rate fixed. Said company may demand and receive a toll of twelve and one-half cents per cord on all pulpwood and other lumber which may pass through or over said dams and improvements from any point below Big falls, so-called, in township four, range three; twenty-five cents per cord on all pulpwood and other lumber passing through or over said dams and improvements from any point on said stream between said Big falls, and the north line of township four, range four; thirty cents per cord on all pulpwood and other lumber passing through or over said dams and improvements from any point on said stream north of the northerly line of township four, range four. For the purpose of assessing said tolls one hundred and twenty-eight cubic feet shall constitute a cord of pulpwood and five hundred feet board measure shall be equivalent to a cord of pulpwood. Said company shall have a lien on all pulpwood and other lumber which may pass through or over any of its dams or improvements for the payment of said tolls and the costs and charges for enforcing the same, which shall continue for thirty days after such pulpwood and other lumber, or a majority part thereof, shall have arrived at their destination and after demand of payment made upon the owner or person in charge thereof. Said lien may be enforced by attachment in the same manner as the general lien is enforced upon logs and lumber, as provided in chapter ninety-six of the revised statutes. The pulpwood and logs of each particular mark shall be holden for the tolls of such mark.'

Sec. 2. P. & S. L., 1907, c. 180, sec. 5; relating to limitation of charter, amended. Section five of said chapter one hundred and eighty of the private and special laws of nineteen hundred and seven is hereby amended