

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

Sec. 4. Utilities committee authorized to report out a bill. The joint standing committee of the Legislature having jurisdiction over utility matters may report out a bill dealing with externalities to the First Regular Session or Second Regular Session of the 117th Legislature in response to the reports issued by the study group under section 3.

See title page for effective date.

CHAPTER 81

H.P. 1360 - L.D. 1839

An Act to Amend the Charter of the Berwick Sewer District

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, in order to protect adequately the public's health and welfare and to comply with federal requirements, the Berwick Sewer District needs immediately the power to assess administrative penalties against industrial users who violate the district's pretreatment standards; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. P&SL 1963, c. 154, §5, as amended by P&SL 1989, c. 103, is further amended to read:

Sec. 5. Offenses and penalties. Any person who ~~shall place, discharge or leave~~ places, discharges or leaves any offensive or injurious matter or material on or in the conduits, catch basins ~~or~~, receptacles or sewers of or used by said district contrary to its rules or regulations, or ~~shall~~ willfully ~~injure~~ injures 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~~ is liable to pay twice the amount of the damages to said district, to be recovered in any proper action; and any person on conviction of either of the acts of willful injury ~~aforsaid shall~~ mentioned in this section may be punished by a fine not exceeding \$1,000 per day for each day in violation of the standards and requirements and by imprisonment not exceeding one year, or by both.

~~Any~~ Pursuant to the Maine Revised Statutes, Title 38, section 1252, subsection 8 and federal law, any industrial user who violates the pretreatment standards and requirements of the district ~~shall be~~ is subject to a fine ~~of not exceeding~~ \$1,000 per day for each day the industrial user is in violation of such standards and requirements. ~~The~~ In addition or as an alternative, the district may seek injunctive relief to ensure compliance with the terms of its pretreatment standards and requirements and may seek an award of reasonable attorney's fees in actions brought under this section.

Notwithstanding other civil or criminal penalties provided by federal or state law, except penalties sought by the district pursuant to Title 38, section 1252, subsection 8, the district may assess administrative penalties not exceeding \$1,000 per day for each violation by an industrial user of any pretreatment standard or requirement adopted by the district and contained in the district's rules. In assessing any penalties under this paragraph, the board must conduct its proceedings in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. An aggrieved party may appeal the decision of the board of trustees in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the district assesses administrative penalties under this section, the district may not seek civil monetary penalties pursuant to Title 38, section 1252, subsection 8. Nothing in this paragraph prohibits the district from seeking injunctive relief pursuant to Title 38, section 1252, subsection 8 in addition to administrative penalties assessed under this paragraph.

Sec. 2. P&SL 1963, c. 154, §6-A is enacted to read:

Sec. 6-A. Inspections; rules and regulations; permits. The district shall prevent the discharge into the sewers of substances that might damage the district's sewage treatment facilities or interfere with their maintenance and operation, pass through to the receiving waters or endanger the health and safety of any district employee. The district's officers, employees and agents have free access at reasonable times to all premises served by the district's sewage treatment facilities in order to inspect the sewers, drains, sewage pumping stations, tanks or treatment works and to determine the amount and character of sewage, drainage or other wastes flowing from the sewers, drains, sewage pumping stations, tanks or treatment works and whether sewage, drainage or other wastes damage or impair, or are likely to damage or impair, the district's sewage treatment facilities, interfere with their maintenance or operation, pass through to the receiving waters or endanger the health and safety of any district employee.

The district through its board of trustees may, for the proper operation of its sewage treatment facilities, adopt rules and regulations that are binding on the Town of Berwick and its inhabitants, as to the amount and character of any sewage, drainage or other wastes placed, discharged or left in the conduits, catch basins, receptacles or sewers served by the district. These rules and regulations must include, without limitation, pretreatment standards and requirements for industrial users that are developed in accordance with and are no less stringent than those required by state and federal law and regulations.

The district may, in accordance with its rules and regulations, issue permits or other control mechanisms to industrial users of its sewage treatment facilities for the purpose of controlling the amount and character of the wastes discharged into its sewage treatment facilities and for the purpose of imposing upon industrial users other standards and requirements as provided by the district's rules and regulations and state and federal laws, rules and regulations.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 1, 1994.

CHAPTER 82

H.P. 1266 - L.D. 1693

An Act to Revise the Eastport Port Authority Charter

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

Sec. 1. P&SL 1977, c. 14, §1 is amended to read:

Sec. 1. Eastport Port Authority created. There is hereby created the Eastport Port Authority, which ~~shall have~~ has the authority to acquire, construct, operate, maintain, repair and replace piers, ~~terminal terminals, industrial parks, transportation and warehouse facilities, roads, railways and other facilities~~ terminal terminals, industrial parks, transportation and warehouse facilities, roads, railways and other facilities on the land and in the waters within the limits of the City of Eastport, and enter into contracts for administration, operations, management and consulting services within and beyond the boundaries of the City of Eastport.

There shall be a board of 7 directors who shall exercise the powers and duties of the authority.

The city manager of Eastport, the president of the Eastport city council and a ~~member of the East-~~

~~port chamber of commerce, as chosen by the chamber of commerce,~~ representative appointed by the Department of Transportation shall be directors as long as they hold their respective offices, and their successors shall be directors while they hold the respective offices. The other 4 directors ~~shall~~ must be residents of Eastport and ~~shall~~ must be elected by a majority of the legal voters voting at an election, for a term of 4 years, in the same manner and at the same time as Eastport city councilors, ~~provided except~~ that at the first election under this section, one director shall be ~~is~~ elected for one year, one for 2 years, one for 3 years and one for 4 years. Directors ~~shall~~ begin their terms of office ~~immediately following their election, January 1st and shall~~ serve until their successors have been ~~are~~ duly elected and qualified.

Vacancies of elected directors that may occur by death, resignation or otherwise ~~shall be~~ are filled by appointment of the city council, until a successor is elected at the next election of directors.

All directors shall be sworn to the faithful performance of their duties by the city clerk.

The members of the board of directors ~~shall~~ serve without compensation; but ~~shall~~ have the right to appoint assistants, agents, engineers, attorneys and other employees as they may ~~deem~~ consider necessary to carry out the purposes of this Act and shall determine their duties and compensation.

At each annual meeting, the directors shall elect from their membership a ~~chairman~~ chair, who ~~shall serve~~ serves until the next annual meeting or until ~~his~~ the chair's successor is chosen and is qualified. The time for the annual meeting may be established in the bylaws ~~promulgated~~ adopted by the directors.

The directors ~~shall be~~ are the administrative officers of the authority and may employ assistants as they may ~~deem~~ consider necessary to carry out this Act. They shall make plans ~~as seem best to them~~ to obtain title to the wharf or wharves, or locations for the wharf or wharves, and they ~~shall~~ have the authority to acquire, construct, operate, maintain ~~and~~ repair and replace piers, ~~terminal terminals, industrial parks and transportation~~ terminal terminals, industrial parks and transportation and warehouse facilities, roads, railways and other facilities on the land and in the waters within the limits of the City of Eastport, as will in their judgment improve and increase the harbor, docking and warehousing facilities in the City of Eastport and enter into contracts for administration, operations, management and consulting services within and beyond the boundaries of the City of Eastport. With the consent of the Eastport city council, or a vote of a majority ~~thereof~~ of the Eastport city council, the authority may take or acquire within the limits of the City of Eastport, real property by purchase or otherwise, by gift or grant, or by the