

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

Elizabeth, the Town of Gorham and the Town of Scarborough solely for the purpose of electing a trustee of the district; and

Whereas, in response to a request from the City of Portland, the Portland Water District desires to expand the authority granted in its charter to allow it to contract with entities, including municipal corporations, to provide storm drain services; 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 1907, c. 433, §2, sub-§B, 4th ¶, as amended by P&SL 1977, c. 48, §1, is further amended to read:

In addition to the operation of waste water and sewage system, the district is also authorized to contract with persons, firms and corporations, including municipal corporations, upon such terms as may be agreed to manage, operate, construct and maintain waste water and sewage collection and treatment systems, as well as storm drain facilities and systems, and, in addition, to contract with municipal and quasi-municipal corporations to acquire, own and finance municipal collection and treatment systems and storm drain facilities and systems.

Sec. 2. P&SL 1907, c. 433, §18, 2nd ¶, as repealed and replaced by P&SL 1993, c. 58, §1, is repealed and the following enacted in its place:

Trustees are elected for a term of 5 years at elections as described in this paragraph. Trustees elected from the City of Portland are elected at the City of Portland's regular municipal elections in May. Trustees elected from the City of South Portland, the City of Westbrook, the Town of Cape Elizabeth, the Town of Gorham and the Town of Scarborough are elected at elections on the first Tuesday after the first Monday of November. Trustees elected from the Town of Cumberland, the Town of Falmouth and the Town of Windham are elected on the mutually coincident municipal elections within those towns in June, but if there is not a mutually coincident municipal election date, then on the 2nd Tuesday of June. Costs for any trustee election held concurrently with a federal, state or municipal election are divided between the municipality and the district. When there is a division of costs, the district is responsible for the costs proportional to the total number of offices and referenda issues voted upon at the election. If an

election for a trustee results in a tie vote, the other trustees shall select the person who becomes a trustee.

Sec. 3. Transition. The terms of trustees of the board of the Portland Water District serving on the effective date of this Act and elected from the Town of Cape Elizabeth, the Town of Gorham, the Town of Scarborough, the City of South Portland and the City of Westbrook that expire in June of 1997, 1998, 1999 or 2000 are extended to the November election dates of the respective years as established by this Act.

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

Effective April 25, 1997.

CHAPTER 16

S.P. 238 - L.D. 807

An Act to Amend the Charter of the Winthrop Utilities District

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

Sec. 1. P&SL 1923, c. 98, §1, as amended by P&SL 1975, c. 44, §1, is repealed and the following enacted in its place:

Sec. 1. Territorial limits; name; purposes. The inhabitants and territory within the Town of Winthrop in Kennebec County constitute a quasi-municipal corporation under the name of "Winthrop Utilities District," referred to in this Act as the "district," for the purpose of supplying the inhabitants of the district with potable water and sewage treatment and sewage disposal services for domestic, sanitary, commercial, agricultural and municipal purposes.

Sec. 2. P&SL 1923, c. 98, §2, as repealed and replaced by P&SL 1955, c. 182, §2, is repealed and the following enacted in its place:

Sec. 2. Powers of district. For the purposes of its incorporation, the district may take, collect, store, flow, use, divert, distribute and convey to the district or any part of the district, including, without limitation, Narrows Pond, so-called, in Winthrop, and from Maranacook Lake in the Town of Winthrop and the Town of Readfield water from any natural or artificial source approved by the Department of Human Services within the area of the Town of Winthrop and the Town of Readfield and from any other source from which the district may take water. It may also locate, construct and maintain aqueducts, pipes, conduits, dams, wells, reservoirs, standpipes, hydrants, pumping stations and other necessary

structures and equipment and do anything necessary to furnish water and sewage treatment and collection facilities for public purposes and for the public health, comfort and convenience or may contract to do any and all of these things.

All incidental powers, rights and privileges necessary to accomplish the main objectives set forth in this Act are granted to the district.

Sec. 3. P&SL 1923, c. 98, §3, as repealed and replaced by P&SL 1955, c. 182, §3, is repealed and the following enacted in its place:

Sec. 3. Rights of eminent domain. For the purposes of its incorporation, the district may take and hold for public uses real estate and personal estate and any interest in real estate and personal estate necessary or convenient for those purposes by purchase, lease or otherwise and may exercise the right of eminent domain as provided in this Act to acquire for those purposes any land or interest in land or water rights necessary for erecting and maintaining dams, plants and works for flowage, power, pumping, supplying water through its mains; for reservoirs, preserving the purity of the water and watershed; for laying and maintaining aqueducts and other structures; for taking, distributing, discharging and disposing of water; or taking, handling, treating, collecting and disposing of sewage; and for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands.

This section may not be construed as authorizing the district to take by right of eminent domain any of the property or facilities of any other public utility used or acquired for future use by the owner of that property or those facilities in the performance of a public duty unless expressly authorized to do so by this section or by subsequent act of the Legislature.

For the purposes outlined in this section, the district may do any and all things necessary in providing a water supply and a system of sewage treatment and collection and drainage for public purposes and for the public health, comfort and convenience.

Sec. 4. P&SL 1923, c. 98, §4 is repealed and the following enacted in its place:

Sec. 4. Authorized to lay mains, pipes, conduits and other water conveyances through public ways and across private lands. The district may lay in and through the streets, roads, ways, highways and bridges in the Town of Winthrop and across private lands in the Town of Winthrop and maintain, repair and replace pipes, mains, conduits, aqueducts and fixtures and appurtenances necessary and convenient for its corporate purposes and whenever the district lays any pipes, mains, conduits, aqueducts and fixtures or appurtenances in any street,

road, way or highway, the district shall do so with as little obstruction as practicable to the public travel and at its own expense, without unnecessary delay, shall replace in proper condition the earth and pavement removed by the district.

Sec. 5. P&SL 1923, c. 98, §5, as repealed and replaced by P&SL 1955, c. 182, §4, is repealed and the following enacted in its place:

Sec. 5. Authorized to erect dams and reservoirs; to cross navigable waters; to supply water to utilities. For the purposes of its incorporation, the district may erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes. The district may lay, construct and maintain its pipes and fixtures in, over and under navigable waters and build and maintain structures for the pipes and fixtures, subject to the laws of the United States. The district may supply water to any public utility now supplying water in Kennebec County, subject to the consent of the Public Utilities Commission.

Sec. 6. P&SL 1923, c. 98, §§6, 7 and 8 are repealed and the following enacted in their place:

Sec. 6. Procedure in exercising of eminent domain. In exercising, from time to time, any right of eminent domain in the taking of land, interests in the land or water rights, the district shall file in the office of the county commissioners of Kennebec County and record in the Kennebec County Registry of Deeds plans of the location of all property to be taken, with an appropriate description of the property and the names of the owners, if known. Notice of the filing must be sent by mail to the owners at the address appearing on the tax records of the municipality in which the land is located. When for any reason the district fails to acquire the property it is authorized to take and which is described in that location, or if the location recorded is defective or uncertain, it may, at any time, correct and perfect that location and file a new description, and in that case the district is liable for damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district is not liable for any acts that would have been justified if the original taking had been lawful. Entry may not be made on any private lands, except to make surveys, until the expiration of 10 days from the filing in the office of the county commissioners, at which time possession may be had of all lands, interests in the lands or water rights, but title does not vest in the district until payment has been made.

Sec. 7. Adjustment of damages; procedure as in laying out of highways. If any person sustaining damages by any taking pursuant to the right of eminent domain does not agree with the district

upon the sum to be paid for the taking, either party, upon petition to the county commissioners of Kennebec County, may have the damages assessed by the commissioners. The procedure and all subsequent proceedings and right of appeal are under the same restrictions, conditions and limitations as are prescribed by law for damages caused by the laying out of highways.

Sec. 8. Procedure if public utility must be crossed. If the district must cross the property of any other public utility, it shall request permission from the company owning and operating the public utility as to place, manner and conditions of the crossing. If consent to the crossing has not been given within 30 days, the Public Utilities Commission, upon petition by the district, shall determine the place, manner and conditions of the crossing, and all work on the property of the public utility must be done under the supervision and to the satisfaction of the public utility or as prescribed by the Public Utilities Commission, but at the expense of the district.

Sec. 7. P&SL 1923, c. 98, §9, as amended by P&SL 1975, c. 44, §2, is repealed and the following enacted in its place:

Sec. 9. Trustees; how elected; first board; meeting; officers. All of the affairs of the district must be managed by a board of trustees composed of 3 members, all of whom must be residents of the district. They are appointed by the municipal officers of the Town of Winthrop. As soon as convenient after the members of the board have been chosen, the trustees shall hold a meeting and organize by the election of a president, secretary, treasurer and all other officers and agents needed for the proper conduct and management of the affairs of the district. Trustees in office on the effective date of this Act may continue in office for the remainder of their terms. When the term of office of a trustee expires, that trustee's successor is appointed by the municipal officers of the Town of Winthrop to serve for the full term of 3 years and when any other vacancy arises that vacancy must be filled in the same manner for the unexpired term. All trustees are eligible for reappointment, but a municipal officer of the Town of Winthrop may not at any time be eligible to serve as a trustee. The term of office of each trustee begins April 1st of each year.

The trustees of the district receive compensation as recommended by the trustees and approved by a majority of the municipal officers of the Town of Winthrop, including compensation for any duties they perform as officers as well as their duties as trustees. The trustees may maintain an office and incur any necessary expenses. When a trustee ceases to be a resident of the district, the trustee vacates the board of trustees.

All decisions of the board of trustees must be by a majority of those present and voting. A quorum of the board of trustees is 2 trustees.

The treasurer shall furnish bond in such sum and with such sureties as the trustees may approve. The trustees shall publish an annual report that includes a report of the treasurer.

Trustees may also establish such bylaws as are necessary for their own convenience in the proper management of the district.

Sec. 8. P&SL 1923, c. 98, §§10, 11 and 12 are repealed.

Sec. 9. P&SL 1923, c. 98, §12-A is enacted to read:

Sec. 12-A. District and Winthrop authorized to make and assume contracts. The district, through its trustees, may contract with persons and corporations, including the Town of Winthrop, and the Town of Winthrop may contract with the district for the supply of water for municipal purposes for the use of sewerage and drainage facilities.

Sec. 10. P&SL 1923, c. 98, §13, as amended by P&SL 1985, c. 47, is repealed and the following enacted in its place:

Sec. 13. Authorized to receive government aid; borrow money; issue bonds and notes. For accomplishing the purposes of this Act and for such other expenses as may be necessary for the carrying out of these purposes, the district, through its trustees, without vote of the inhabitants, may receive state and federal aid grants, borrow money temporarily and issue for the money its negotiable notes for the purpose of renewing and refunding that indebtedness, for paying any necessary expenses and liabilities incurred under this Act, including organizational and other necessary expenses and liabilities, and in acquiring properties, paying damages, laying pipes, mains, aqueducts and conduits, constructing, maintaining and operating a water or sewage plant or system and making renewals, additions, extensions and improvements to the water or sewage plant or system and to cover interest payments during the period of construction. The district, through its trustees, without the vote of its inhabitants, may also issue, from time to time, in accordance with the Maine Revised Statutes, Title 35-A, chapter 63, bonds, notes or other evidences of indebtedness of the district in such amount or amounts bearing interest at such rate or rates, selling at par or at a discount or a premium and having such other terms and provisions as the trustees determine, except that loans running for one year or less do not require the Public Utilities Commission's approval.

The bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the trustees determine. Bonds, notes or evidences of indebtedness may be issued with or without provisions for calling the bonds, notes or evidences of indebtedness prior to maturity and, if callable, may be made callable at par or at such premium as the trustees determine. All bonds, notes or other evidences of indebtedness must have inscribed upon their face the words "Winthrop Utilities District," and be signed by the treasurer and countersigned by the president of the board of trustees of the district. If coupon bonds are issued, the interest coupon attached to the coupon bonds must bear the facsimile signature of the treasurer.

All bonds, notes and evidences of indebtedness issued by the district are legal obligations of the district within the meaning of the Maine Revised Statutes, Title 30-A, section 5701.

The district may refund and reissue, from time to time, in one or in separate series, its bonds, notes and other evidences of indebtedness, and each authorized issue constitutes a separate loan. All bonds, notes and evidences of indebtedness issued by the district are legal investments for savings banks in the State and are free from taxation.

Sec. 11. P&SL 1923, c. 98, §14 is amended to read:

Sec. 14. Property exempt from taxation.

The property of ~~said~~ the district ~~shall be~~ is exempt from all taxation in the ~~town~~ Town of Winthrop and in any other towns where any part of its plant may be located.

Sec. 12. P&SL 1923, c. 98, §15, as amended by PL 1975, c. 461, §5, is repealed and the following enacted in its place:

Sec. 15. Rates; application of revenue; sinking fund. The rates established pursuant to this section must be sufficient to provide revenue for the purposes of this Act and for all other purposes of the district, without the need for any financial assistance from the Town of Winthrop, other than the normal payment of water charges for services rendered and the loan or loans for initial funds as set forth in section 13. Individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer or other designated officer of the district the rates established by the board of trustees for the water used by them. The water rates must be established in accordance with the Maine Revised Statutes, Title 35-A, chapter 61, to provide for the purposes set forth therein. The sewer rates and assessments must be established and collected in accordance with Title 38, section 1202.

Sec. 13. P&SL 1923, c. 98, §15-A, as enacted by P&SL 1965, c. 126, is repealed.

Sec. 14. P&SL 1923, c. 98, §16, as amended by P&SL 1983, c. 12, is repealed.

Sec. 15. P&SL 1923, c. 98, §§16-A, 16-B and 16-C are enacted to read:

Sec. 16-A. Inspection of sewers. The officers or agents of the district have free access to all premises served by its sewers, at all reasonable hours, for inspection of plumbing and sewage fixtures, to ascertain the quality and quantity of sewage discharged and the manner of discharge and to enforce applicable provisions of this Act.

Sec. 16-B. Connection of private sewers. Every building in the district intended for human habitation or occupancy or with facilities for discharge or disposal of wastewater or commercial or industrial waste that is accessible to a sewer or drain of the district must have a sanitary sewer or drainage system connected in the most direct manner possible with the sewer or drain of the district by the owner or person against whom taxes on the premises are assessed within 90 days after receiving a request from the district or within such further time as the trustees of the district may grant and, if feasible, with a separate connection for each building. Existing buildings that are already served by a private sewer or drainage system are not required to be connected with any sewer or drain of the district as long as the private sewer or drainage system functions in a satisfactory and sanitary manner and does not violate any applicable law or ordinance or any applicable requirement of the state plumbing code as determined by the municipal plumbing inspector, the plumbing inspector's alternate or, in the event that both are trustees or employees of the district, the Department of Human Services, Division of Health Engineering. A building is considered accessible to a sewer or drain of the district for the purposes of this section if the building or any private sewer or drain directly or indirectly connected to the building or carrying wastewater or commercial or industrial waste from the building at any point is or comes within 125 feet of a sewer or drain of the district except that nothing in this section requires the owner of any building to acquire any real property or easement for the sole purpose of making the connection.

Sec. 16-C. Injury to property of district. Any person who places, discharges or leaves any offensive or injurious matter or material on or in the conduits, catch basins or receptacles of the district or who knowingly injures any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet, engine, pump or other property held, owned or used by the district is

liable to pay twice the amount of the damages to the district, to be recovered in any proper action.

Sec. 16. Existing laws not affected; rights conferred subject to provisions of law. Except as expressly provided in this Act, nothing contained in this Act is intended to repeal or may be construed as repealing the whole or any part of any existing law, and all the rights and duties mentioned in this Act must be exercised and performed in accordance with all the applicable provisions of the Maine Revised Statutes, Title 35-A to the extent it affects the operations of the district. Nothing in this Act is intended to affect the existing contracts, bonds, notes or other obligations of the Winthrop Water District that by virtue of this Act is renamed the Winthrop Utilities District.

Sec. 17. Severability clause. If any section or part of a section of this Act is held invalid by a court of competent jurisdiction, the holding does not affect the remainder of this Act. Remaining portions of this Act stand, notwithstanding the unconstitutionality or invalidity of any section, sentence, clause or phrase.

See title page for effective date.

CHAPTER 17

H.P. 785 - L.D. 1073

An Act to Create the Tenants Harbor Standard Water District

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, there have been a number of private wells in the Village of Tenants Harbor within the Town of St. George that have been contaminated with hydrocarbons and this poses a serious threat to the health and well-being of the inhabitants of the area; and

Whereas, an adequate supply of pure water is essential to the health and well-being of the inhabitants of the Village of Tenants Harbor; 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. Territorial limits; corporate name. Pursuant to the Maine Revised Statutes, Title 35-A, section 6403, subsection 1, paragraph B and subject to section 6, that part of the Town of St. George described as follows: Beginning at a point at the intersection of the northern corner of Lot 42 of Map 2 of the Property Tax Maps of the Town of St. George, and the easterly edge of Sea Street, thence southeast along the northerly border of Lot 42 to the coast of the Atlantic Ocean, thence south and west along the coast to the intersection of the easterly edge of Route 131, thence westerly over Route 131 and along the waterway to the southwestern corner of Lot 135 of Map 2, thence westerly along the northern shore of the marsh bordering Lots 135, 134 and 132 of Map 2 and lots 3 and 11 of Map 27 to the intersection with the southerly edge of Watts Avenue, thence westerly across Watts Avenue, 275 feet west into Lot 66 of Map 13, thence northerly across Lots 66, 67 and 68 of Map 13, running 275 feet north of and parallel to Watts Avenue, Thence continuing southeasterly across Lots 13 and 14 of Map 27, 275 feet north of and parallel to Watts Avenue to the westerly border of Lot 16 of Map 27, thence northerly to the intersection of the northwest corner of Lot 16 and the southwest corner of Lot 22, thence easterly along the southerly border of Lot 22 to the northwesterly corner of Lot 88 of Map 2, thence southeasterly to the westerly border of Lot 88-1 of Map 2, thence to the northwest corner of Lot 88-1, thence easterly along the northerly border of Lot 88-1 to the intersection of the northeasterly corner of Lot 88-1, and the westerly edge of Route 131, thence across Route 131, thence northerly along the easterly edge of Route 131 to the northwest corner of Lot 70 of Map 2, thence easterly along the northern borders of Lots 70, 77-2 and 76 of Map 2, to the intersection of the northerly edge of Spruce Lane, thence along Spruce Lane southerly and easterly along the southerly edge of Spruce Lane bordering Lots 77, 56, and 57 of Map 2, to the intersection of the westerly edge of Sea Street, thence diagonally in a straight line to the point at the beginning; and its inhabitants constitute a standard district under the name "Tenants Harbor Standard Water District" and referred to in this Act as the "district."

Sec. 2. Powers; authority; duties. The district has all the powers and authority and is subject to all the requirements and restrictions provided in the Maine Revised Statutes, Title 35-A, chapter 64.