

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

district. The district may acquire by the exercise of the right of eminent domain, a right expressly delegated to the district for that purpose, all or part of the plants, properties, franchises, rights and privileges except cash assets and accounts receivable owned by the Phillips Water Company, including all lands, waters, water rights, dam structures, reservoirs, pipes, machinery, fixtures, hydrants and tools and all apparatus and appliances used or usable in supplying water in the area of the district, and if and when so acquired, the district, in addition to the powers conferred by this Act, may exercise all rights, privileges and franchises of the Phillips Water Company.

In exercising the right of eminent domain under this section, the trustees shall file with the district clerk a condemnation order that includes a detailed description of the property interests to be taken, the name or names of the owner or owners of record so far as they can be reasonably determined and the amount of damages determined by the trustees to be just compensation for the property or interest taken. The trustees shall serve upon the owner or owners of record a copy of the condemnation order and a check in the amount of the damages awarded and record a certified copy of the condemnation order in the Franklin County Registry of Deeds. In the event of multiple ownership, the check may be served on any one of the owners. Title passes to the district upon service of the order of condemnation and check or upon recordation in accordance with this Act, whichever occurs first. Acceptance and negotiation of the check do not bar an appeal under this Act.

Any person aggrieved by the determination of the damages awarded to owners of property or interest in the property under this section may, within 60 days after service of the condemnation order and check, appeal to the Superior Court of Franklin County. The court shall determine damages by a verdict of its jury or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for just compensation, with interest when interest is due, and for costs in favor of the party entitled to costs. Appeal from the decision of the Superior Court may be had to the Law Court as in other civil actions.

Sec. 7. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act takes effect when approved only for the purpose of permitting its submission to the legal voters within the territory described in section 1 of this Act at an election called for that purpose and held by July 1, 1998. The election must be called by the municipal officers of the respective towns and must be held at the regular voting places. The election must be called, advertised and conducted according to the law relating to municipal elections. The registrars shall make a complete list of all the eligible voters of

the proposed district as described in this Act. The list prepared by the registrars governs the eligibility of a voter. Voters who are residing outside the territorial limits of the proposed district, as described in this Act, are not eligible voters and the registrars of voters shall exclude those voters from the registrars' list. For the purpose of registration of voters, the registrars of voters must be in session the secular day preceding the election. The subject matter of this Act is reduced to the following questions:

Question A. "Do you favor creating the Mt. Blue Standard Water District?"

Question B. "Do you favor allowing the Mt. Blue Standard Water District to purchase the assets of the Phillips Water Company?"

The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same.

The results must be declared by the municipal officers of the Town of Phillips and the Town of Avon and due certificates of the results filed by the clerks with the Secretary of State.

This Act takes effect for all purposes immediately upon its approval by a majority of the legal voters of each town voting at the election. Failure to achieve the necessary approval in any referendum does not prohibit subsequent referenda consistent with this section, provided the referenda are held prior to July 1, 1998.

Sec. 8. P&SL 1891, c. 170, as amended by PL 1965, c. 22, is repealed.

Effective pending referendum.

CHAPTER 32

H.P. 910 - L.D. 1253

An Act to Amend the Charter of the Winterport Sewerage District

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

Whereas, the Winterport Sewerage District immediately requires updated lien procedures in its charter; 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 preserva-

tion 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 1971, c. 143, §1 is amended to read:

Sec. 1. Incorporation. The territory and people comprising the Town of Winterport shall constitute a body politic and corporate under the name of the "Winterport Sewerage District" and referred to in this Act as "the district." The purpose of ~~said~~ the district ~~shall be~~ is to take over, control, manage and operate the sewers now owned by the Town of Winterport with all appurtenances thereto; to extend, increase, enlarge and improve ~~said drains and~~ sewers; to extend the present system so as to furnish sewerage facilities to portions of the town not now served with such facilities; to provide for ~~surface drainage as well as~~ removal of sewage and to provide for treatment of sewage in whole or in part before discharging it into rivers when, as and if such treatment becomes necessary; and generally to provide a system of sanitary sewerage ~~and storm water drainage~~ for public purposes and for the health and comfort and convenience of the inhabitants of ~~said~~ the district.

Sec. 2. P&SL 1971, c. 143, §2-A is enacted to read:

2-A. Transfer to title to drains to Town of Winterport. Title to all public drains, storm water drains, catch basins and other surface water or storm water facilities owned by the district is transferred to the Town of Winterport. Title to all sanitary and sewer drains and facilities of the district remains with the district. Notwithstanding any provisions in this charter to the contrary, the Town of Winterport is responsible for the construction, maintenance and operation of all public drains, storm water drains, catch basins and other surface water or storm water facilities within the district and the district is relieved of all such responsibility.

Sec. 3. P&SL 1971, c. 143, §20 is repealed and the following enacted in its place:

Sec. 20. Lien to secure payment of rates; procedure. When a rate, toll, rent or other charge has been committed to the treasurer of the Winterport Sewerage District for collection, the treasurer may, after the expiration of 3 months and within one year after the date when the charge became due and payable, give to the owner of the real estate served, or leave at the owner's last and usual place of abode, or send by certified mail, return receipt requested, to the owner's last known address a written notice signed by the treasurer or bearing the treasurer's facsimile signature stating the amount of that rate, toll, rent or

other charge describing the real estate upon which the lien is claimed and stating that a lien is claimed to secure payment of the charge and demanding payment within 30 days after service or mailing of the notice plus \$1 for the treasurer for mailing the notice together with the certified mail, return receipt requested fee. The notice must contain a statement that the district is willing to arrange installment payments of the outstanding debt. For the purpose of this section, a mobile home is defined as real estate. After the expiration of the 30-day period and within one year, the treasurer shall record in the Waldo County Registry of Deeds a certificate signed by the treasurer setting forth the amount of the rate, toll, rent or other charge, the real estate on which the lien is claimed, stating that a lien is claimed to secure payment of the charge and that notice and demand for payment of the charge has been given or made in accordance with the provisions of this section and that the charge remains unpaid. At the time of the recording of a certificate in the Registry of Deeds, the treasurer shall file in the office of the district a true copy of the certificate and mail a true copy of the certificate by certified mail, return receipt requested, to each record holder of any mortgage on the real estate, addressed to the record holder at the record holder's last and usual place of abode.

The filing of the certificate in the Registry of Deeds is deemed to create a mortgage on the real estate described in the deed for the district that has priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and gives to the district all the rights usually possessed by mortgagees, except that the district as mortgagee does not have a right to possession of the real estate until the right of redemption provided for has expired. If the mortgage, together with interest and costs, is not paid within 18 months after the date of filing of the certificate in the Registry of Deeds, the mortgage is deemed foreclosed and the right of redemption expired. The filing of the certificate in the Registry of Deeds is sufficient notice of the existence of the mortgage. If the rate, toll, rent or other charge, with interest and costs, is paid within the period of redemption, the treasurer of the district shall discharge the mortgage in the same manner as provided for discharge of real estate mortgages.

The cost to be paid by the owner of the real estate served is the sum of the fees for receiving, recording and indexing the lien, or its discharge, as established by the Maine Revised Statutes, Title 33, section 751, plus \$13 and all certified mail, return receipt requested fees.

The district shall pay the treasurer \$1 for filing the lien certificate and the amount paid for certified mail, return receipt requested fees. The fees for

recording the lien certificate must be paid by the district to the Register of Deeds.

A discharge of the certificate given after the right of redemption has expired and has been recorded in the Registry of Deeds for more than one year terminates all title of the sewer district derived from that certificate or any other recorded certificate for which the right of redemption expired 10 years or more before the foreclosure date of this discharge lien, unless the sewer district has conveyed any interest based upon the title acquired from any of the affected liens.

Sec. 4. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act takes effect when approved only for the purpose of permitting its submission to the legal voters within the district at a special or regular town meeting or election held prior to January 1, 1998. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the town clerk to post a new list of voters. The registrar of voters must be in session on the secular day next preceding the election. The town clerk shall prepare the required ballots, on which the town clerk shall reduce the subject matter of this Act to the following question:

"Do you favor amending the charter of the Winterport Sewerage District to conform its lien procedures to those used by sanitary districts and to require the Town of Winterport to be responsible for the construction, maintenance and operation of all public drains, storm water drains and catch basins in the district?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the municipal officers of the Town of Winterport and due certificate of the results filed by the town clerk with the Secretary of State.

This Act takes effect immediately upon its acceptance by a majority of the legal voters voting at the election.

Effective pending referendum.

CHAPTER 33

H.P. 1210 - L.D. 1710

An Act to Provide for the 1997 and 1998 Allocations of the State Ceiling on Private Activity Bonds

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

Whereas, the Maine Revised Statutes, Title 10, section 363 and Private and Special Laws, 1996, chapter 61 make a partial allocation of the state ceiling on private activity bonds to some issuers for calendar year 1997, but leave a portion of the state ceiling unallocated and do not provide sufficient allocations for certain types of private activity bonds that may require an allocation before the effective date of this Act if not enacted on an emergency basis; and

Whereas, if these bond issues must be delayed due to lack of available allocation of state ceiling, the rates and terms under which these bonds may be issued may be adversely affected, resulting in increased costs to beneficiaries or even unavailability of financing for certain projects; 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. Allocation to the Treasurer of State. The \$10,000,000 of the state ceiling for calendar year 1997 previously allocated to the Treasurer of State is no longer allocated to the Treasurer of State. No portion of the state ceiling for calendar year 1998 is allocated to the Treasurer of State.

Sec. 2. Allocation to the Finance Authority of Maine. The \$25,000,000 of the state ceiling for calendar year 1997 previously allocated to the Finance Authority of Maine, plus an additional \$10,000,000, is allocated to the Finance Authority of Maine to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 6 for calendar year 1997. Twenty-five million dollars of the state ceiling for calendar year 1998 is allocated to the Finance Authority of Maine to be used or reallocated in accordance with Title 10, section 363, subsection 6.

Sec. 3. Allocation to the Maine Municipal Bond Bank. The \$10,000,000 of the state ceiling for calendar year 1997 previously allocated to the Maine Municipal Bond Bank remains allocated to the Maine Municipal Bond Bank to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 7 for calendar year 1997. Ten million dollars of the state ceiling for calendar year 1998 is allocated to the Maine Municipal Bond Bank