

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

PART B

Sec. B-1. Transfer to the Department of Transportation. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the State Controller shall transfer an amount up to 100% from the balance remaining in the Highway Fund in excess of \$25,500,000, but not exceeding \$2,000,000 at the end of fiscal year 1998-99 after the deduction of all allocations, financial commitments, other designated funds or any other transfer authorized by statute to the Highway Fund account within the Department of Transportation's Highway and Bridge Improvement Program. The Commissioner of Transportation is authorized to allot these funds, by financial order, upon approval of the Governor and the State Budget Officer, within the Highway and Bridge Improvement Program's Highway Fund account. Within 30 days of acceptance of the financial order, the Commissioner of Transportation shall provide to the members of the Joint Standing Committee on Transportation a report detailing the financial status of the Highway and Bridge Improvement Program.

PART C

Sec. C-1. Allocation. The following funds are allocated from Other Special Revenue funds for the fiscal year ending June 30, 1999 to carry out the purposes of this Part.

1998-99**TRANSPORTATION,
DEPARTMENT OF****Highway Maintenance**

Capital Expenditures	\$300,000
Provides for the allocation of funds to properly record the municipal share of revenue and expenditures in the construction of Collector Road Development Award projects.	

PART D

Sec. D-1. Implementation of modified accrual account; fuel taxes. Notwithstanding the Maine Revised Statutes, Title 5, chapter 151-B, the Commissioner of Administrative and Financial Services shall recognize \$15,000,000 in additional fuel tax revenue in the Highway Fund in fiscal year 1998-99 as a result of administratively implementing the modified accrual method of accounting for this revenue source.

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

Effective May 10, 1999.

CHAPTER 13**S.P. 632 - L.D. 1797****An Act to Amend the Charter of the
Waterville Sewerage District**

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

Sec. 1. P&SL 1949, c. 211, §3, sub-§1, ¶B, sub-¶(2), as enacted by PL 1985, c. 99, §2, is amended to read:

(2) By certified mail, return receipt requested, to ~~his~~ the last known address.

Sec. 2. P&SL 1949, c. 211, §3, sub-§3, as enacted by PL 1985, c. 99, §2, is amended by amending the first paragraph to read:

3. Hearing. The commissioners shall hold a public hearing on the advisability of the proposed exercise of the right of eminent domain. Notice of the hearing ~~shall~~ must be made by publication in the ~~Central Maine Morning Sentinel~~ local newspaper and ~~shall~~ must be given once a week for 2 consecutive weeks, the last publication to be at least 2 weeks prior to the time appointed in the hearing. The hearing notice ~~shall~~ must include:

Sec. 3. P&SL 1949, c. 211, §5-D, first ¶, as repealed and replaced by P&SL 1987, c. 22, §2, is amended to read:

Sec. 5-D. Assessment against lot benefited. When the district has constructed and completed a public drain or common sewer, the commissioners shall determine what lots or parcels of land are benefited by such drain or sewer, and shall estimate and assess upon such lots and parcels of land, and against the owner ~~thereof of the lots or parcels of land,~~ or person in possession, whether the person to whom the assessment is ~~so~~ made ~~shall be~~ is the owner, tenant, lessee or agent or against the heirs or devisees of a deceased owner without designating any of them by name, and whether the same is occupied or not, such sum not exceeding the benefit as they may ~~deem~~ determine just and equitable towards defraying the expenses of constructing and completing the drain or sewer, together with sewage disposal units and appurtenances as may be necessary, the whole of the assessments not to exceed 2/3 of the cost of the drain or sewer and sewage disposal units. The commission-

ers shall file with the clerk of the district a plan showing the location of the drain or sewer and sewage disposal units, and their assessment roll containing a statement of the amount assessed upon each lot or parcel of land so assessed, a description of each lot or parcel, and the name of the person against whom the assessment is made, and the clerk of the district shall record the same in a book kept for that purpose, and each person so assessed ~~shall~~ must be notified of the assessment by having an authentic copy of the assessment roll, with an order of notice signed by the clerk of the district, stating the time and place for a hearing upon the subject matter of the assessments, given to each person ~~so~~ assessed or left at ~~his~~ the person's usual place of abode at least 10 days before the hearing, or by mailing the same to each person so assessed by ~~registered~~ certified mail addressed to ~~his~~ the person's last known address and by publishing the same once in any newspaper published in the district, the mailing and publication to be at least 10 days before the hearing; a return made upon a copy of such notice by a sheriff or ~~his~~ a deputy or the production of the paper containing the notice or the certificate of the clerk of mailing and publication ~~shall be~~ is conclusive evidence that the notice has been given and upon that hearing, the commissioners ~~shall~~ have power to revise, increase or diminish any of the assessments, and any revision, increase or diminution ~~shall~~ must be in writing and recorded by the clerk.

Sec. 4. P&SL 1949, c. 211, §§5-F and 5-G, as repealed and replaced by P&SL 1987, c. 22, §4, are amended to read:

Sec. 5-F. Assessments; liens; sheriff's sale. All assessments and supplemental assessments made under the provisions of section 5-D ~~shall~~ create a lien upon each and every lot or parcel of land so assessed and the buildings upon the same, which lien ~~shall take~~ takes effect when the commissioners file with the clerk the assessment roll and ~~shall continue~~ continues one year thereafter or for one year after the termination of any appeal; and, within 10 days after the date of hearing on the assessment, the clerk shall make out a list of all the assessments, the amount of each, and the name of the person against whom the same is assessed, and ~~he~~ shall certify the list and deliver it to the treasurer of the district; if the assessments are not paid within 3 months from the date ~~thereof~~ of the assessment, the treasurer may bring an action of debt for the collection of the assessment in the name of the district against the person against whom the assessment is made or the owner of the real estate. The action ~~shall be begun~~ must begin by writ of attachment commanding the officer serving it to specially attach the real estate upon which the lien is claimed, which ~~shall~~ must be served as other writs of attachment to enforce liens on real estate. The declaration in the action ~~shall~~ must contain a statement of the assessment, a description of the real estate against which the

assessment is made, and an allegation that a lien is claimed on the real estate to secure the payment of the assessment. If ~~no~~ service is not made upon the defendant or if it ~~shall appear~~ appears that any other persons are interested in the real estate, the court shall order such further notice of the action as appears proper, and shall allow the other persons to become parties ~~thereto~~ to the action. If it ~~shall appear~~ appears upon trial of the action that the assessment was legally made against the real estate, and is unpaid, and that there is an existing lien on the real estate for the payment of the assessment, judgment ~~shall~~ must be rendered for the assessment, interest and costs of suit against the defendants and against the real estate upon which the assessment was made, and execution issued ~~thereon~~ to be enforced by sale of the real estate in the manner provided for a sale or execution of real estate attached on original writs. ~~Provided that in~~ In making the sale, the officer shall follow the procedure in selling and conveying and there ~~shall~~ must be the same rights of redemption as are provided in the Maine Revised Statutes of 1944, chapter 81, section 94, Title 36, section 943.

Sec. 5-G. Additional method of collection of assessments. If assessments under the provisions of section 5-D are not paid, and the district does not proceed to collect the assessments by a sheriff's sale of the real estate upon which the assessments are made under section 5-F, or does not collect or is in any manner delayed or defeated in collecting the assessments by a sheriff's sale of the real estate under section 5-F, then the district, in the name of the district, may maintain an action against the party so assessed for the amount of the assessment, or the owner of the real estate as for money paid, laid out and expended, in any court competent to try the same, and in the suit may recover the amount of the assessment with 10% interest on the same from the date of the assessments and costs.

Sec. 5. P&SL 1949, c. 211, §5-I, 2nd, 3rd, 4th, 5th and 8th ¶¶, as enacted by P&SL 1987, c. 22, §6, are amended to read:

The treasurer may, after the expiration of 8 3 months and within one year after the date of the assessment roll or termination of any appeal, give to the person against whom the assessment is made, or leave at ~~his~~ the person's last and usual place of abode, or send by ~~registered~~ certified mail to ~~his~~ the person's last known address, a notice in writing signed by the treasurer stating the amount of the assessment, describing the real estate on which the assessment is made, alleging that a lien is claimed on the real estate to secure the payment of the assessment and demanding the payment of the assessment within 10 days after service or mailing of the notice. In the case of supplemental assessments, the treasurer may give the notice after the expiration of 8 3 months and within

one year after the date of the supplemental assessment roll or termination of any appeal ~~therefrom~~ from the supplemental assessment roll. If an owner or occupant of real estate against whom any assessment is made ~~shall die~~ dies before the demand is made ~~on him~~, the demand may be made upon the executor or administrator of ~~his~~ the person's estate or upon any of ~~his~~ the person's heirs or devisees.

After the expiration of the 10 days and within 10 days thereafter, the treasurer shall record in the registry of deeds of the county where the real estate is situated, a tax lien certificate signed by the treasurer setting forth the amount of the assessment, a description of the real estate on which the assessment is made and allegation that a lien is claimed on the real estate to secure the payment of the assessment, that a demand for payment of the assessment has been made in accordance with the provisions of this section, and that the assessment remains unpaid. When the real estate of a deceased person has been assessed to ~~his~~ the person's heirs or devisees without designating any of them by name it ~~will be~~ is sufficient to record in the registry a lien certificate in the name of the heirs or the devisees of the decedent without designating them by name.

At the time of the recording of the lien certificate in the registry of deeds as provided in this section, in all cases the treasurer shall file in the office of the district a true copy of the lien certificate and shall send by ~~registered~~ certified mail to each record holder of a mortgage on the real estate, to ~~his~~ the person's last known address, a true copy of the lien certificate.

The costs to be paid by the person assessed ~~shall be \$3~~ is \$25 plus the recording fees and ~~registered~~ certified mail fees paid for sending the true copies of the lien certificate.

In the event that the assessment, interest and costs ~~shall be~~ are paid within 12 months after the filing of the lien certificate in the registry of deeds, the treasurer shall prepare and record a discharge of the mortgage in the same manner as is now provided for the discharge of real estate mortgages. All costs for preparation and recording of the discharge must be paid by the person assessed or the owner of the real estate.

Sec. 6. P&SL 1949, c. 211, §6, as amended by P&SL 1953, c. 92, §4, is further amended to read:

Sec. 6. Sanitary provisions and penalty for violation. Any A person who violates the provisions of this section or sections 6-A and 6-B, or who shall place places or discharge any discharges offensive or injurious matter or material on or into the conduits, catch-basins or receptacles of said the district contrary to its regulations, or shall wilfully injure any injures a conduit, pipe, reservoir, flush tank, catch-basin, inlet,

manhole, outlet, engine, pump or other property held, owned or used by said the district for the purposes of this act, shall be is liable to pay twice the amount of the damages to said the district, to be recovered in any a proper action; and such the person, on conviction of either of said the acts of willful injury aforesaid, shall must be punished by a fine not exceeding \$200 \$1,000 or by imprisonment not exceeding 6 months or by both such fine and imprisonment.

Sec. 7. P&SL 1949, c. 211, §6-B, as repealed and replaced by PL 1985, c. 99, §5, is amended to read:

Sec. 6-B. Buildings to connect with sewer if available. Every building in the district intended for human habitation or occupancy on premises abutting on a street in which there is a public sewer or any such building within ~~200~~ 300 feet of a public sewer ~~shall must~~ have a house drainage system ~~which shall be caused to be that is~~ connected with the sewer by the owner or agent of the premises in the most direct manner possible and, if feasible, with a separate connection for each house or building, except that existing buildings served by a private sewer system when the public sewer becomes available, are not required to connect 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 law or applicable ordinance or any applicable requirement of the State of Maine Plumbing Code, as determined by the municipal plumbing inspector; ~~his the plumbing inspector's~~ alternate; or, in the event that both are trustees or employees of the district, the Division of Health Engineering.

Sec. 8. P&SL 1949, c. 211, §7, first ¶, as amended by P&SL 1967, c. 41 and P&SL 1985, c. 99, §6, is repealed and the following enacted in its place:

Sec. 7. Management. All affairs of the district are managed by a board of 5 commissioners, resident of the district, who are appointed by the mayor of the City of Waterville, with the approval of a majority of the city council. In the first appointment of commissioners under this section, one must be selected for a term of one year, one for 2 years, one for 3 years, one for 4 years and one for 5 years. Two of the commissioners must be appointed from the minority political party. All subsequent appointments must be made as to continue 2 commissioners from the minority party. At the expiration of the term of each member, a new member, or the existing member, of the board must be appointed by the mayor, with the approval of a majority of the city council, for a term of 5 years. In case of a vacancy arising from death or other cause, the mayor may appoint, with the approval of a majority of the city council, a new member to fill out the unexpired term. The term of a commissioner

continues until a successor is appointed and qualified. As soon as convenient after the first members of the board have been appointed, they shall hold a meeting at the city rooms in the City of Waterville and organize by the election from the members of a chair, clerk and treasurer, who shall furnish bond in such form as the commissioners may fix, and by the election of such other officers and agents as they determine necessary, which other officers and agents shall serve at the pleasure of the commissioners. In prosecuting the work contemplated by this Act, the commissioners may engage the services of engineers and laborers and may purchase all necessary material and supplies, and construct the drains and sewers under their own supervision, or they may, if they determine it advantageous, contract with some responsible person, firm or corporation for the construction of the drains and sewers, but the district may not be released from liability, by reason of having contracted with any person, firm or corporation, as provided in this section for the construction of any sewer, drain or other structure. They shall also adopt a corporate seal and all bylaws and regulations necessary. The commissioners shall meet monthly and have special meetings as necessary. They shall publish an annual report. A person, while a commissioner of the district, may not be interested, either directly or indirectly, in any contract or agreement for the construction of any sewer, drain or other structure in the district entered into by the district. This provision does not prevent the district from entering upon or taking land or any easement on the land of any officer of the district while an officer, and awarding damages for the taking of land if, in the opinion of the commissioners, the entering or taking is necessary for the purposes of the district.

Sec. 9. P&SL 1949, c. 211, §7, 2nd ¶, as enacted by PL 1985, c. 99, §7, is amended to read:

The commissioners ~~shall~~ receive compensation as recommended by them and approved by a majority vote of the municipal officers in the City of Waterville, including compensation for any duties they perform as officers as well as for their duties as commissioners. Certification thereof ~~shall must~~ be recorded with the Secretary of State and recorded in the bylaws. Their compensation for duties as commissioners ~~shall must~~ be on the basis of ~~such the~~ specified amount as may be specified in the bylaws for each meeting actually attended and reimbursement for travel and expenses, with the total not to exceed ~~such the~~ specific amount as may be specified in the bylaws. The compensation schedule in effect on January 1, ~~1982 1999~~, ~~\$15 up to \$20~~ for each regular or special meeting attended, with total annual compensation not to exceed ~~\$300 \$500~~, ~~shall continue~~ continues in effect until changed.

Sec. 10. P&SL 1949, c. 211, §8, 2nd ¶ is amended to read:

All bonds or notes issued by ~~said the~~ district ~~shall must~~ bear the district seal, and ~~shall must~~ be signed by the treasurer and countersigned by the ~~chairman chair~~ of the commissioners of ~~said the~~ district, and if coupon bonds ~~be are~~ issued, each coupon ~~shall must~~ bear the facsimile signature of the treasurer.

Sec. 11. P&SL 1949, c. 211, §9, 2nd ¶ is amended to read:

The money set aside for the sinking fund ~~shall must~~ be devoted to the retirement of ~~said the~~ notes and bonds, and ~~shall may~~ not be used for ~~no any~~ other purposes, and ~~shall must~~ be invested in such securities as ~~savings~~ banks are allowed to hold.

Sec. 12. P&SL 1949, c. 211, §10, 2nd ¶, as enacted by P&SL 1987, c. 22, §7, is amended to read:

The rates may include a readiness-to-serve charge against owners or persons in possession, or against whom taxes are assessed, of all buildings or premises intended for human habitation or occupancy ~~which that~~ are accessible to sewers or drains of the district, but not actually connected to them, whether or not the buildings or premises are occupied. A building or premises ~~shall be deemed to be are~~ considered accessible to a sewer or drain of the district for purposes of this section if the building or premises, or any private sewer or drain directly or indirectly connected to ~~it them~~ or carrying waste water or commercial or industrial waste from ~~it them~~, comes at any point within ~~100 300~~ feet of a sewer or drain of the district, provided that the owner of the building is not required to acquire any real property or easement in real property for the sole purpose of making the connection.

Sec. 13. P&SL 1949, c. 211, §10-A, 2nd ¶, as repealed and replaced by P&SL 1953, c. 92, §10, is amended to read:

The treasurer of the district ~~shall have has~~ the authority and power to collect the rates, and ~~he is~~ empowered to exercise the authority ~~hereinafter set forth pursuant to this section~~ in enforcing the collection of any rates due and payable to the district.

Sec. 14. P&SL 1949, c. 211, §10-A, 3rd ¶, as amended by P&SL 1965, c. 98, §4, is further amended to read:

In addition to other methods previously established by law for the collection of the rates, the lien ~~herein created by this section~~ may be enforced in the following manner. ~~Whenever any~~ When a rate has become becomes payable within 18 months preceding

the first day of January of any year and remains unpaid, the treasurer may, during the month of January, give to the person against whom the rate is assessed or real estate owner or leave at his the last and usual place of abode, or send by registered certified mail to his the last known address a notice in writing signed by said the treasurer stating the amount of such the rates, and the periods or charges for which payable, describing the real estate upon which the lien is claimed, alleging that a lien is claimed on the real estate to secure the payment of the rates and demanding the payment of the rates within 10 days after the service of such the notice or mailing of such the notice. If the person from whom any rate is payable ~~shall die dies~~ before such the demand is made ~~on him~~, such the demand may be made upon the executor or administrator of his the estate or upon any of his the heirs or devisees of the person. After the expiration of the 10 days and on or before February 20 of such year, the treasurer shall record in the registry of deeds of Kennebec ~~county~~ County a certificate signed by said the treasurer setting forth the amount of such the rates and the periods or charges for which payable, a description of the real estate on which the lien is claimed and an allegation that a lien is claimed on the real estate to secure the payment of the rates, that a demand for payment of the rates has been made in accordance with the provisions of this section and that the rates remain unpaid. At the time of the recording of the certificate in the registry of deeds as ~~herein~~ provided in this section, in all cases such the treasurer shall file in the office of the district a true copy of the certificate and also at the time of recording ~~as aforesaid~~, the officer shall mail by registered certified letter to each record holder of a mortgage on said that real estate, addressed to ~~him at his the~~ last known address, a true copy of the certificate. The fee to be charged to the ratepayer for such the notice and filing ~~shall be \$3 is \$25~~ plus the recording fees and registered certified mail fees paid for sending the true copies of the lien certificate.

Sec. 15. P&SL 1949, c. 211, §10-A, last ¶, as repealed and replaced by P&SL 1953, c. 92, §10, is amended to read:

~~In the event that~~ If the rate, interest and costs ~~shall be~~ are paid within the period of redemption ~~herein~~ provided for in this section, the treasurer of the district shall discharge the mortgage in the same manner as is ~~now~~ provided for discharge of real estate mortgages, and all costs of discharging the mortgage must be paid by the person assessed.

Sec. 16. P&SL 1949, c. 211, §10-A, as amended by P&SL 1965, c. 98, §4, is further amended by adding at the end a new paragraph to read:

The owner and occupant of real estate serviced by the district are jointly and severally liable to the

district for all charges, rates, tolls, rents, assessments and other lawful charges for that service. The owner is liable for all assessments, rates and charges by reason of the availability of sewer facilities to the real estate. The owner and occupant may contract or agree otherwise between themselves, but such contract or agreement does not affect the rights of the district under this section.

Sec. 17. P&SL 1949, c. 211, §10-B, as enacted by P&SL 1985, c. 99, §9, is amended to read:

Sec. 10-B. Additional method of collecting rate payments. If rates under section 10 are not paid, and the district does not proceed to secure payment by placing a lien on the real estate served by the district, under section 10-A, or does not collect or is in any manner delayed or defeated in collecting the rates under section 10-A, then the district may, in the district's name, maintain an action against the person against whom the rate is assessed or the owner of real estate, as for money paid, laid out and expended, in any court competent to try the same, and in such the suit may recover the amount of the assessment, with interest at an annual rate of 10% on the same from the date of assessment and costs.

See title page for effective date.

CHAPTER 14

H.P. 1085 - L.D. 1532

An Act Concerning Liens Held by the Freeport Sewer District

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

Sec. 1. P&SL 1947, c. 60, §19-A, as enacted by P&SL 1949, c. 50, §6, is amended to read:

Sec. 19-A. Liens for payment of rates. There ~~shall be~~ is a lien to secure the payment of rates established under section 19 of this act and legally assessed on real estate within the district, ~~which shall take that takes~~ take that takes precedence of all other claims on such real estate, excepting only claims for taxes. ~~Real estate, for the purpose of this act shall bear the same definition as given in section 3 of chapter 81 of the revised statutes.~~

The treasurer of the district ~~shall have~~ has the authority and power to collect the rates, and all rates ~~shall must~~ be committed to ~~him the~~ treasurer.

In addition to other methods previously established by law for the collection of the rates, the lien ~~herein~~ created may be enforced in the following manner; ~~provided, however, that~~ as long as in making