

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

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

Section 4 of this Act takes effect for all purposes immediately upon acceptance by a majority of the voters of the Town of Waldoboro. Failure to achieve the necessary approval does not prevent subsequent elections held prior to December 31, 2006.

Effective May 13, 2005, unless otherwise indicated.

CHAPTER 12

H.P. 874 - L.D. 1277

An Act Regarding Speech-language Pathology Aides

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

Whereas, this legislation authorizes the Department of Professional and Financial Regulation, Board of Examiners on Speech-language Pathology and Audiology to issue renewal registrations to speech-language pathology aides who held valid registrations on December 31, 2004, prior to the enactment of new requirements beginning January 1, 2005; and

Whereas, if the Board of Examiners on Speech-language Pathology and Audiology is not granted additional authority, it will not be feasible for many speech-language pathology aides to comply with the new requirements for registration and they will therefore be denied an opportunity to continue providing a valuable service to the citizens of the State; 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. Transition provisions. Notwithstanding the Maine Revised Statutes, Title 32, section 6004, subsection 2, the Department of Professional and Financial Regulation, Board of Examiners on Speech-language Pathology and Audiology is authorized to delay until December 31, 2008 application of the requirements of Title 32, section 6004,

subsection 2 to speech-language pathology aides who held valid registrations on December 31, 2004. This transition is not intended to prevent timely consideration by the Board of Examiners on Speech-language Pathology and Audiology of applications for registration for individuals who have or will have complied with the requirements under Title 32, section 6004, subsection 2.

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

Effective May 20, 2005.

CHAPTER 13

H.P. 692 - L.D. 982

An Act To Revise the Charter of the Kennebunk Sewer District

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

Whereas, the Kennebunk Sewer District charter should be modified as soon as possible; and

Whereas, the next election when the referendum to approve the amended charter could be held is less than 90 days after adjournment of this Legislature; 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; purposes. The inhabitants and territorial limits within that part of the Town of Kennebunk situated between the Atlantic Ocean and the southeasterly side of the Maine Turnpike and the territory of the Town of Kennebunk situated on the northwesterly side of the Maine Turnpike and described on the October 2004 Town of Kennebunk tax maps as follows: Map 020, Lot 001; P/O Map 020, Lot 002; Map 027, Lot 014; Map 020, Lot 018; P/O 018, Lot 071; P/O 018, Lot 067; Map 018, Lot 072; P/O 028, Lot 005; Map 027, Lot 005; Map 027, Lot 004; Map 027, Lot 011; P/O 029, Lot 010; P/O 021, Lot 098; Map 020, Lot 001; Map 020, Lot 002; Map 027, Lot 022; Map 027, Lot 020; Map 027, Lot 019; Map 020, Lot 003; Map 020, Lot 024 are made and declared to be a public

sewerage district and a quasi-municipal corporation under the name "Kennebunk Sewer District" and is a system of public sewerage constructed, maintained and operated for the public health and welfare and for the benefits of the inhabitants and property in the district served by the sewerage facilities, in the manner and with the rights, duties and immunities as described in this Act and all applicable statutes.

The district is authorized to provide services outside the territory of the district to school buildings and facilities owned by Maine School Administrative District No. 71 and to municipal buildings and facilities owned by the Town of Kennebunk and may own such easements, rights of way, sewer lines and other facilities as are necessary or convenient to provide that service, but the cost of locating and constructing sewer facilities located outside the boundaries of the district for that purpose are borne entirely by Maine School Administrative District No. 71 or the Town of Kennebunk and any sewer facilities located outside the boundaries of the district for that purpose may be used only by Maine School Administrative District No. 71 and the Town of Kennebunk.

Sec. 2. Authority to construct and maintain. Inside the territory and outside the territory to serve buildings and facilities owned by Maine School Administrative District No. 71 and the Town of Kennebunk, the district has the authority to lay pipes, drains, sewers and conduits, and to take up, repair and maintain the pipes, drains, sewers and conduits or to contract for the pipes, drains, sewers and conduits to be done, in, along and through any public or private ways and public grounds, and in, along and through lands of any person or corporation as provided in this Act, to and into tidal waters, rivers, watercourses and treatment works or into any drain or sewer now or hereafter built that empties into tidal waters, rivers, watercourses and treatment works. The discharge from the pipes, drains, sewers and conduits must be at such points consistent with the requirements of public health as found convenient and reasonable for the district and the flow of existing watercourses. The district shall construct and maintain treatment works, pumping stations, basins, reservoirs, flush tanks and such other appliances for collecting, holding, purifying, distributing and disposing of sewerage matter and commercial and industrial waste and of storm and surface water, as may be necessary or proper. The district has the authority to do any or all other things necessary or incidental to accomplish the purposes of the district. The district has the authority to enter into a lease, leaseback and sale and sale and leaseback with respect to some or all of the district's real or personal property and to take all other action necessary or desirable, including, but not limited to, the granting of mortgages or liens to effectuate the transaction to the extent authorized pursuant to the Maine Revised Statutes, Title 38, section 1252, subsection 10.

Sec. 3. Election of trustees; terms of office; meetings. All affairs of the district are managed by a board of trustees composed of 5 members who must be residents of the district and elected as provided in this Act. The trustees holding office on the effective date of this Act shall continue to hold office until their terms expire. At each annual municipal election of the Town of Kennebunk, the voters of the district shall elect a trustee for the term of 3 years. If the Town of Kennebunk does not hold an annual election, the district shall arrange for an annual election to fill the trustee position that ends in that year and to fill any vacancy in the office of trustee. The trustees are nominated and elected under the same procedure as provided for the municipal officers of the town. If a vacancy arises in the membership of the board of trustees, the vacant office must be filled by the municipal officers until the next regular municipal election at which a trustee is elected to the unexpired term. All trustees are eligible for reelection, but municipal officers of the Town of Kennebunk are not eligible for nomination or election as trustees.

After each annual municipal election of the Town of Kennebunk, the trustees shall organize by electing a chair, vice-chair, treasurer and clerk. The trustees may adopt a corporate seal and, when necessary, may choose other needful officers and agents for the proper conduct and management of the affairs of the district and fix any compensation for such officers or agents, who serve at the pleasure of the board. The treasurer shall furnish bond or insurance in such a sum and with such sureties as the trustees approve, the cost of the bond or insurance to be paid by the district. The trustees may receive compensation in accordance with the Maine Revised Statutes, Title 38, section 1252, subsection 5.

The trustees are sworn to the faithful performance of their duties, which include the duties of any member who serves as clerk or clerk pro tem.

At the close of each fiscal year, the trustees shall make a detailed report of their activities, of the receipts and expenditures of the district, of its financial and physical condition and of other matters and things pertaining to the district and shall file the report with the municipal authorities for inclusion in the report of the Town of Kennebunk.

Sec. 4. Meetings of district. The trustees of the district may call meetings of the district at any time. Notice of the meeting, signed by the chair or clerk of the board, must be conspicuously posted at the Kennebunk Town Hall not less than 7 days before the meeting and must state the business to be transacted at the meeting.

On written petition of 10% of the voters of the district, the trustees shall call a meeting of the district within 60 days.

All persons resident in the district and qualified to vote for Governor under the laws of this State are entitled to vote in any meeting of the district.

Sec. 5. Meetings of trustees. The trustees of the district may call meetings of the board of trustees at any time. Notice of the regularly scheduled meetings of the board, signed by the chair or clerk of the board, must be posted at the offices of the district and the Kennebunk Town Hall not less than 7 days before the meeting and must state the business to be transacted at any such meeting.

Special meetings of the board may be called as are regularly scheduled meetings, but on one day's notice.

In the event of an emergency meeting, local representatives of the media must be notified of the meeting, whenever practical. Notification must include time and location and must be in the same manner as used to notify the members of the board. The minutes of an emergency meeting must state the reason for the meeting.

Sec. 6. Registration of voters of district. The preparation and correction of lists of the persons qualified to vote in the district is the responsibility of the registrar of the Town of Kennebunk as defined in the Maine Revised Statutes, Title 21-A, section 1, subsection 38 and must be performed under the same procedure governing the preparation and correction of lists of persons qualified to vote in town elections. All meetings of the district are presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings.

Sec. 7. Recall. The trustees may be recalled in accordance with the following provision.

1. The qualified electors of the district may petition for the recall of a trustee after the first year of the term for which the trustee is elected by filing a petition with the municipal clerk demanding the recall of the trustee. A trustee may be subject to recall for misfeasance, malfeasance or nonfeasance in office. The petition must be signed by electors equal to at least 25% of the vote cast for the office of Governor at the last gubernatorial election within the district. The recall petition must state the reason for removal.

2. Within 3 business days after the petition is offered for filing, the municipal clerk shall determine by careful examination whether the petition is sufficient and so state in a certificate attached to the petition. If the petition is found to be insufficient, the certificate must state the particulars creating the

insufficiency. The petition may be amended to correct an insufficiency within 5 days following the affixing of the original certificate. Within 2 days after the offering of the amended petition for filing, the petition must again be carefully examined to determine sufficiency and a certificate stating the findings must be attached. Immediately upon finding an original or amended petition sufficient, the municipal clerk shall file the petition and call a special election to be held not less than 45 days nor more than 90 days from the date the municipal clerk certifies the petition as sufficient. The municipal clerk shall notify the trustee against whom the recall petition is filed of the special election.

3. The trustee against whom the recall petition is filed is a candidate at the special election without nomination, unless the trustee resigns within 10 days after the original filing of the petition. There is no primary. Candidates for the office may be nominated under the usual procedure of nomination for trustees by filing nomination papers, not later than 5 p.m., 4 weeks preceding the election and having their names placed on the ballot at the special election.

4. The trustee against whom a recall petition has been filed shall continue to perform the duties of the trustee's office until the result of the special election is officially declared. The person receiving the highest number of votes at the special election is declared elected for the remainder of the term. If the incumbent receives the highest number of votes, the incumbent continues in office. If another candidate receives the highest number of votes, the other person succeeds the incumbent within 10 days after receiving notification.

5. After one recall petition and special election, no further recall petition may be filed against the same trustee during the term for which the trustee was elected.

Sec. 8. Eminent domain. The district's authority to exercise and the procedures for exercising eminent domain are as specified in the Maine Revised Statutes, Title 38, section 1252, subsection 2.

Sec. 9. Crossing other public utility. If a sewer line of the district crosses the property or line of another public utility, unless consent is given by the other public utility as to the place, manner and conditions of the crossing within 30 days after consent is requested by the district, the Public Utilities Commission shall determine the place, manner and conditions of the crossings. Any work on the property of that public utility must be done under the supervision and to the satisfaction of the public utility, but at the expense of the district. If a sewer line of the district as provided in this section crosses the property or line of a railroad corporation, the procedure is the same as stated in this section, except that the Depart-

ment of Transportation is substituted for the Public Utilities Commission. Nothing in this section may 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 the property or facilities in the performance of a public duty unless expressly authorized by special act of the Legislature.

Sec. 10. Rights and obligations of abutters and others to enter. A person may not connect a private sewer to a district sewer until:

1. The private sewer has been inspected by a designated agent of the district and that agent has certified in writing that the private sewer has been constructed in compliance with and meets all requirements and conditions of the district's regulations;

2. The person has paid or has made arrangements acceptable to the district to pay all assessments, impact fees or other charges the district imposes when a private sewer is connected to any of the district sewers; and

3. The person has obtained a permit in writing permitting the connection from the trustees. Before a permit is issued, the clerk or the clerk's designee for the district shall record the permit in the district's records.

Every building in the district intended for human habitation or occupancy or with facilities for discharge or disposal of sewage or commercial or industrial waste accessible to a sewer of the district must, in the most direct manner possible, connect to the district sewer within 90 days after receiving from the district a request to connect or within such further time as the trustees of the district may grant. Whenever feasible, each building must have a separate connection to the district's sewer. A building is considered accessible to a sewer of the district if the building is at any point within 200 feet of a district sewer or if any private sewer or drain directly or indirectly connected to the building or carrying wastewater or commercial or industrial waste from the building comes within 200 feet of a district sewer. This section does not require the owner of a building to acquire any real property or easement for the sole purpose of making the connection.

In accordance with the Maine Revised Statutes, Title 38, section 1252, subsection 3, existing buildings that are already served by a private sewer system are not required to connect with any sewer or drain of the district.

Sec. 11. Contracts authorized. The district is authorized to contract with persons, corporations, districts, the Town of Kennebunk and other municipalities, both inside and outside the boundaries of the

district, and with the State Government and Federal Government or any agency of either, to provide for disposal of sewage and commercial and industrial wastewater and storm and surface water through the district's system and through the system owned by any such person, corporation, district or other municipality. Every other district and municipality of the State may contract with the district for the collection, distribution, treatment and disposal of sewage and commercial and industrial wastewater, and for those purposes any such municipality may raise money as for other municipal charges.

Sec. 12. Condition for carrying out work.

When the district enters, digs up or excavates a public way or other land for the purpose of laying its sewers, drains or pipes or constructing or maintaining manholes or catch basins or their appurtenances or for any other purpose, the work must be done expeditiously. Upon completion of the work, the district shall restore the way or land to the condition it was in prior to the work or to a condition equally as good. Whenever the character of the work is such that it endangers travel on a public way, the municipal officers of the Town of Kennebunk may order a temporary closing of the way and of any intersecting way upon request of the district. The way must remain closed to public travel until the municipal officers determine it restored to a condition safe for traffic.

Sec. 13. Enforcement of laws and rules.

The district has the enforcement authority specified in the Maine Revised Statutes, Title 38, section 1252, subsection 8. The district or any official designated by the district may pursue any other legal remedies, including but not limited to the recovery of legal fees, that may be available to it under applicable laws against any person, including without limitation a landowner, the landowner's agent or a contractor, who violates a provision of this Act or a district rule or injures the district's property by discharging or otherwise permitting an offensive or injurious material or matter to enter the district's system.

Sec. 14. Property tax exemption. The property and franchises of the district are forever exempt from taxation.

Sec. 15. Bonds and notes. The district may authorize bonds and notes.

1. The district may provide by resolution of its board of trustees, without district vote, except as provided in section 16, for the borrowing of money and the issuance from time to time of bonds, subject to the debt limitation set in this section, for any of its corporate purposes, including, but not limited to:

A. Paying and refunding its indebtedness;

B. Paying any necessary expenses and liabilities, whether incurred by the district or the Town of Kennebunk, the district being authorized to reimburse the Town of Kennebunk for any such expenses incurred or paid by it;

C. Paying costs directly or indirectly associated with acquiring properties, paying damages, laying sewers, drains and conduits, constructing, maintaining and operating sewage and treatment plants or systems and making renewals, additions, extensions and improvements to the same and covering interest payments during the period of construction and for the period after construction as the trustees may determine; and

D. Providing reserves for debt service, repairs and replacements or other capital or current expenses as may be required by a trust agreement or resolution securing bonds.

Bonds may be issued as general obligations of the district or as special obligations payable solely from particular funds. The total outstanding and unpaid indebtedness of the district may not at any one time exceed the sum of \$16,000,000. The principal of and premium if any and interest on all bonds are payable solely from the funds provided for that purpose from revenues. "Revenues" means and includes the proceeds of bonds, all revenues, rates, fees, entrance charges, assessments, rents and other receipts derived by the district from the operation of its sewer system and other properties, including, but not limited to, investment earnings and the proceeds of insurance, condemnation and sale of or other disposition of properties. All bonds issued by the district are legal obligations of the district. The district is a quasi-municipal corporation within the meaning of the Maine Revised Statutes, Title 30-A, section 5701. Bonds may be issued without obtaining the consent of a commission, board, bureau or agency of the State or the Town of Kennebunk and without any proceedings, limitations or conditions to meet other than those specifically required under this Act. Bonds issued under this Act do not constitute a debt or liability of the State or the Town of Kennebunk or a pledge of the faith and credit of the State or the municipality, but the bonds are payable solely from the funds provided for that purpose, and a statement to that effect must be recited on the face of the bonds.

2. The district may also provide by resolution of its board of trustees, without district vote, for the issuance from time to time of notes in anticipation of bonds authorized under this section and of notes in anticipation of the revenues to be collected or received in any year or in anticipation of the receipt of federal or state grants or other aid. The issuance of these notes is governed by the applicable provisions of this section relating to the issuance of bonds, except that

notes in anticipation of revenue must mature no later than one year from their respective dates and notes issued in anticipation of federal or state grants or other aid and renewals must mature no later than the expected date of receipt of those grants or aid. Notes in anticipation of revenue issued to mature less than one year from their dates may be renewed from time to time by the issuance of other notes, except that the period from the date of an original note to the maturity of any note issued to renew or pay the same or the interest on the note may not exceed one year.

The district is authorized to enter into agreements with the State or the United States, or any agency of either, or any municipality, corporation, commission or board authorized to grant or loan money to or otherwise assist in the financing of projects of the type the district is authorized to carry out and to accept grants and borrow money from the government, agency, municipality, corporation, commission or board necessary or desirable to accomplish the purposes of the district.

3. The bonds issued under this section must be dated, mature at a time or times not exceeding 40 years from their date or dates and bear interest at a rate or rates determined by the board of trustees. The bonds may be made redeemable before maturity, at the option of the district, at a price or prices and under any terms and conditions as may be fixed by the board of trustees prior to the issuance of the bonds. The board of trustees shall determine the form of the bonds, including any interest coupons to be attached to the bonds, and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company inside or outside the State. Bonds are executed in the name of the district by the manual or facsimile signature of the officer or officers authorized in the resolution to execute the bonds. One signature on each bond must be a manual signature. Coupons, if any, attached to the bonds must be executed with the facsimile signature of the officer or officers of the district designated in the resolution. If the officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be an officer before the delivery of the bonds, the signature or its facsimile is valid and sufficient for all purposes as if the officer had remained in office until the delivery. Notwithstanding any of the other provisions in this Act or any recitals on any bonds issued under this section, all bonds are deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form, or both, as the board of trustees may determine. Provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The

board of trustees may sell bonds in that manner, either at public or private sale at a price as it determines to be in the best interest of the district. The proceeds of the bonds of each issue must be used solely for the purpose for which those bonds are authorized and must be disbursed in such a manner and under such restrictions as the board of trustees provides in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. The resolution providing for the issuance of bonds and any trust agreement securing the bonds may contain such limitations upon the issuance of additional bonds as the board of trustees determines proper. The additional bonds must be issued under such restrictions and limitations prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board of trustees may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The board of trustees may provide for the replacement of any bond that is mutilated, destroyed or lost.

4. In the discretion of the board of trustees, any issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee that may be any trust company inside or outside the State.

The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other money held or to be received by the district and any account and contract or other rights to receive the same, whether then existing or coming into existence and whether then held or acquired by the district, and the proceeds from the bonds, but the resolution or trust agreement may not convey or mortgage the sewer system or any other properties of the district. The resolution may also contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the district and the board of trustees in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and assurance of its sewer system or any of its other properties; the fixing and revising of rates, fees and charges; the application of the proceeds of bonds; the custody, safeguarding and application of revenues; the defining of defaults and providing for remedies in the event of defaults, which may include the acceleration of maturities; the establishment of reserves; and the making and amending of contracts. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the corporate trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, the resolution or trust

agreement may contain such other provisions as the board of trustees determines reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any resolution or trust agreement is valid and binding and is deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, money, rights and proceeds so pledged and received by the district are immediately subject to the lien of the pledge without any physical delivery or segregation of the pledge or further action under the Uniform Commercial Code or otherwise. The lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the district irrespective of whether those parties have notice of the lien of the pledge.

The resolution authorizing the issuance of bonds under this Act, or any trust agreement securing those bonds, may provide that all or a sufficient amount of revenues, after providing for the payment of the cost of repair, maintenance and operation and reserves for the payment as may be provided in the resolution or trust agreement, is set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this chapter as the principal becomes due and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of money to the credit of the fund is subject to such regulations as may be provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund is a fund for the benefit of all bonds without distinction or priority of one over another.

5. Notwithstanding any other provision of law, all money received pursuant to the authority provided under this Act is deemed to be trust funds, to be held and applied solely as provided in this Act. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer to whom, or bank, trust company or other fiscal agent to which, the money is paid acts as trustee of the money and shall hold and apply the same for the purposes of this Act, subject to such regulations as may be provided in the resolution or trust agreement or as may be required under this Act.

6. A holder of bonds issued under this Act or of any of the coupons appertaining to the bonds or a corporate trustee under any trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including

proceedings for the appointment of a receiver to take possession and control of the properties of the district, protect and enforce any and all rights under the laws of the State or granted under this Act or under the resolution or trust agreement. The holder of bonds and the trustee under any trust agreement may enforce and compel the performance of any duty required by this Act or by the resolution or trust agreement to be performed by the district or by any officer of the district, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services and facilities furnished by the district.

7. The board of trustees by resolution, without district vote, may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of trustees determines to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium on the bonds, any interest accrued or to accrue to the date of payment of those bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by a trust agreement or resolution securing bonds. The issuance of refunding bonds, the maturities and other details of the refunding bonds, the security for refunding the bonds, the rights of the holders of the refunding bonds and the rights, duties and obligations of the district in respect of the same are governed by the applicable provisions of this section relating to the issuance of bonds other than refunding bonds.

8. All bonds, notes or other evidences of indebtedness issued under this Act, their transfer and the income from the bonds, notes or other evidences of indebtedness, including any profit made on the sale of bonds, notes or other evidences of indebtedness, must at all times be free from taxation within the State.

9. Bonds and notes issued by the district are securities in which all public officers and public bodies of the State and its political subdivisions, insurance companies and associations and other persons carrying on an insurance business; trust companies, banks, bankers and banking associations; savings banks and savings associations, including savings and loan associations; credit unions; building and loan associations; investment companies; executors, administrators, trustees and other fiduciaries; pension, profit-sharing and retirement funds; and other persons carrying on a banking business, and all other persons who are authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or

belonging to them. The bonds and notes are securities that may properly and legally be deposited with and received by any state, municipal or public officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is authorized by law.

Sec. 16. Certain bond issues; special meeting; vote. If the trustees vote to authorize bonds or notes for any of the corporate purposes of the sewer district, excluding notes payable within one year, notes in anticipation of bonds authorized pursuant to this Act, notes in anticipation of the revenues to be collected or received in any year and notes in anticipation of the receipt of approved federal or state grants, the authorized amount of which singly or in aggregate included in any one financing is \$150,000 or more, the trustees must call a special district meeting for the purpose of permitting the collection of testimony from the public concerning the purpose and the amount of debt so authorized. Notice of the special district meeting, stating the approximate amount of the debt and the purpose for which it is being issued, must be published not less than 7 full days prior to the date of the meeting in a newspaper having general circulation in the district and must be mailed to each ratepayer in the district not later than the date of the publication. A debt may not be incurred under the vote of the trustees until the expiration of 7 full days following the date of the special district meeting.

Except for debt to fund that part of any project that has been approved for grant financing by the State Government or Federal Government to meet the requirements of the United States Clean Water Act and the Maine Revised Statutes, Title 38, chapter 12, including any related facilities not eligible for that financing but essential to the operation of the approved project as an integral system, for debts in excess of the amount specified in this section, the following petition and referendum procedure applies. If, on or before the 7th day following the date of the special district meeting, a petition signed by at least 5%, but not fewer than 50, of the registered voters of the district is filed with the clerk of the district requesting reference of the vote of the trustees to referendum, the clerk of the district shall call and hold a special election of the voters of the district for the purpose of submitting to referendum vote a question of approving the vote of the trustees. The vote of the trustees is suspended until it has received approval by vote of a majority of the voters of the district voting on the question at the special election.

Sec. 17. Rates. All persons, firms and corporations, whether public, private or municipal, shall pay to the treasurer of the district the rates, tolls, rents, entrance charges, impact fees and other lawful charges established by the trustees for the sewer or drainage

service used or available with respect to their real estate. The rates include rates for the district's readiness to serve charged owners of real estate abutting on or accessible to sewers or drains of the district but not actually connected to the district, whether or not such real estate is improved. For the purposes of this Act, "other lawful charges" and "other charges" include interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.

Rates, tolls, rents, impact fees and entrance charges must be uniform within the district when both the cost to the district of installation and maintenance of sewers or their appurtenances and the cost of service are substantially uniform. Nothing precludes the district from establishing a rate, toll, rent, impact fee or entrance charge higher than the regular rates, tolls, rents, impact fees and entrance charges in sections where, for any reason, the cost to the district of construction and maintenance, or the cost of service, exceeds the average. The higher rates, tolls, rents, impact fees and entrance charges must be uniform throughout the sections where they apply.

Prior to the adoption of a new rate schedule, the trustees shall hold a public hearing regarding the proposed rate schedule in accordance with the Maine Revised Statutes, Title 38, section 1252, subsection 1.

The sewer rates, tolls, rents, impact fees, entrance charges and other lawful charges established by the board of trustees in accordance with this Act must be fixed and adjusted with respect to the aggregate of the rates, tolls, rents, impact fees and entrance charges so as to produce revenue at least sufficient, together with any other money available to produce revenue, to:

1. Pay the current expenses of operating and maintaining the sewerage, drainage and treatment system of the district;
2. Pay the principal of and premium if any and interest on all bonds and notes issued by the district as they become due and payable;
3. Create and maintain such reserves as may be required by the trustees or any trust agreement or resolution securing bonds and notes;
4. Provide funds for paying the cost of all necessary repairs, replacements and renewals of the sewerage, drainage and treatment systems of the district;
5. Pay or provide for any amounts that the district may be obligated to pay or provide for by law or contract, including any resolution or contract with or for the benefit of the holders of its bonds and notes; and

6. Provide revenue in order to pay all or part of the present or projected cost to improve, enlarge or expand the district's system, including payment of interest accruing on any indebtedness for such purposes.

Sec. 18. Assessments. When the district formed under this Act has constructed and completed a common sewer, the trustees may, in order to defray a portion of the expense of the construction of a sewer, determine what lots or parcels of land are benefited by the sewer and estimate and assess upon the lots and parcels of land, and against the owners of the lots and parcels of land, or person in possession or against whom taxes are assessed, whether the person to whom the assessment is made is the owner, tenant, lessee or agent and whether the same is occupied or not, a sum not exceeding the benefit as the trustees may determine just and equitable towards defraying the expense of constructing and completing the sewer, together with such sewage disposal units and appurtenances as may be necessary. The assessments may not exceed the cost of the sewer and sewage disposal units. The trustees shall file with the clerk of the district the location of the sewer and sewage disposal unit, with a profile description of the same, 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 owner of the lots or parcels of land or person against whom the assessment is made. The clerk of the district shall record that information in a book kept for that purpose. Within 10 days after the filing, each person assessed must be notified of the assessment by having an authentic copy of the assessment, 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 the person's usual place of abode in the district. If the person has no place of abode in the district, then the notice must be given or left at the abode of the person's tenant or lessee if the person has one in the district. If the person has no tenant or lessee in the district, then notice must be posted in some conspicuous place in the vicinity of the lot or parcel of land so assessed at least 30 days before the hearing. The notice may be given by publishing it once a week for 3 successive weeks in any newspaper of general circulation in the district, the first publication to be at least 30 days before the hearing. A return made upon a copy of the notice by a constable in a municipality within the district or by a sheriff or deputy sheriff or the production of the newspaper containing the notice is conclusive evidence that the notice has been given. At the hearing, the trustees have the authority to revise, increase or diminish any of the assessments, and all revisions, increases or diminutions must be in writing and recorded by the clerk of the district.

Sec. 19. Appeal on assessment. A person aggrieved by a decision of the trustees as it relates to an assessment for sewer construction has the same rights of appeal as are provided in the case of laying out town ways.

Sec. 20. Civil action for unpaid assessments. If an assessment imposed under section 18 is not paid and the district does not proceed to collect unpaid assessments by proceedings as prescribed in section 21 or does not collect or is in any manner delayed or defeated in collecting the assessments by the proceedings, then the district in its name may maintain a civil action against the party so assessed for the amount of the assessment as for money paid, laid out and expended in any court of competent jurisdiction. The district may recover the amount of the assessment with 10% interest on the same from the date of the assessment and costs.

Sec. 21. Collection of unpaid rates. There is a lien on real estate served or benefited by the sewers of the district to secure the payment of rates, tolls, rents, impact fees, entrance charges and other charges established and due under this Act. The lien takes precedence over all other claims on the real estate excepting only claims for taxes.

The treasurer of the district has full and complete authority and power to collect the rates, tolls, rents, impact fees, entrance charges and other charges established under this Act, and they must be committed to the treasurer. The treasurer may, after demand for payment, sue in the name of the district in a civil action for any rate, toll, rent, impact fee, entrance charge or other charge remaining unpaid in any court of competent jurisdiction. In addition to other methods established by law for the collection of rates, tolls, rents, impact fees, entrance charges and other charges, and without waiver of the right to sue for the same, the lien created may be enforced in the following manner. The treasurer, when a rate, toll, rent, impact fee, entrance charge or other charge has been committed to the treasurer for collection, may, after the expiration of 3 months and within one year after the date when the same 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 notice in writing signed by the treasurer or bearing the treasurer's facsimile signature stating the amount of that rate, toll, rent, impact fee or entrance charge or other charge. The notice must describe the real estate upon which the lien is claimed and state that a lien is claimed on the real estate to secure the payment of the rate, toll, rent, impact fee, entrance charge or other charge. The notice must demand the payment of the rate, toll, rent, impact fee, entrance charge or other charge within 30 days after service or mailing, with \$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 considered real estate. After the expiration of a period of 30 days and within one year thereafter, the treasurer shall record in the registry of deeds in the county in which the property of the person is located a certificate signed by the treasurer setting forth the amount of the rate, toll, rent, impact fee, entrance charge or other charge describing the real estate on which the lien is claimed. The certificate must state that a lien is claimed on the real estate to secure payment of the rate, toll, rent, impact fee, entrance charge or other charge; that a notice and demand for payment of the same has been given or made in accordance with this section; and that the rate, toll, rent, impact fee, entrance charge or other charge remains unpaid. At the time of the recording of the certificate in the registry of deeds as provided, the treasurer shall file in the office of the district a true copy of the certificate and shall mail a true copy of the certificate by certified mail, return receipt requested, to each record holder of any mortgage on the real estate 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, and creates, a mortgage on the real estate described in the certificate to the district that has priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes. The mortgage gives the district all the rights usually possessed by mortgagees, except that the district as mortgagee does not have any 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 as provided, the mortgage is deemed to have been foreclosed and the right of redemption to have expired. The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage provided for. If the rate, toll, rent, impact fee, entrance charge or other charge, with interest and costs, is paid within the period of redemption provided for, the treasurer of the district shall discharge the mortgage in the same manner as provided for the discharge of real estate mortgages.

The costs 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, plus all certified mail, return receipt requested, fees.

The treasurer of the district shall notify the party named on the sewer lien mortgage and each record

holder of a mortgage on the real estate not more than 45 days or less than 30 days before the foreclosing date of the sewer lien mortgage in a notice signed by the treasurer or bearing the treasurer's facsimile signature. The notice of the impending automatic foreclosure indicating the exact date of foreclosure must be left at the holder's last and usual place of abode or sent by certified mail, return receipt requested, to the holder's last known address.

For sending this notice, the district is entitled to receive \$3 plus all certified mail, return receipt requested, fees. These costs must be added to and become a part of the amount due. If notice is not given to the party named on the sewer lien mortgage or to any record holder of a mortgage in the time period specified in this section, the person not receiving timely notice may redeem the sewer lien mortgage until 30 days after the treasurer does provide notice in the manner specified in this section. The notice of impending automatic foreclosure must be substantially in the following form:

**STATE OF MAINE
KENNEBUNK SEWER DISTRICT
NOTICE OF IMPENDING AUTOMATIC
FORECLOSURE
SEWER LIEN**

IMPORTANT: DO NOT DISREGARD THIS NOTICE. YOU WILL LOSE YOUR PROPERTY UNLESS YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE KENNEBUNK SEWER DISTRICT.

TO:

You are the party named on the Sewer Lien Certificate filed on, 20.. and recorded in Book, Page in the York County Registry of Deeds. This Kennebunk Sewer District filing created a sewer lien mortgage on the real estate described in the Sewer Lien Certificate.

On, 20.., the sewer lien mortgage will be foreclosed and your right to redeem the mortgage and recover your property by paying the District's charges and interest that are owed will expire.

IF THE LIEN FORECLOSES, THE KENNEBUNK SEWER DISTRICT WILL OWN YOUR PROPERTY, SUBJECT ONLY TO MUNICIPAL TAX LIENS.

If you cannot pay the outstanding charges, costs and interest that are the subject of this notice or the subject of installment payment arrangements that you have made with the district, please contact me immediately to discuss this notice.

.....
District Treasurer

The district shall pay the treasurer \$1 for the notice, \$1 for filing the lien certificate and the amount paid for certified mail, return receipt requested, fees. The fees for recording the lien certificate are paid by the district to the register of deeds.

A discharge of the certificate given after expiration of the right of redemption when the discharge has been recorded in the registry of deeds for more than one year terminates all title the sewer district derived from that certificate or any other recorded certificate for which the right of redemption expired 10 years or more prior to 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. 22. Supplementary charges. The district is authorized to impose charges, in addition to any other assessments now lawfully imposed by general law, for the use of sewers, sewer systems and treatment works. The trustees may adopt rules as may be necessary or convenient to carry out the purposes of the district. All incidental powers, rights and privileges necessary to the accomplishment of the purposes of the district are granted to the district and its trustees, including the right of its trustees to determine when and where sewerage and treatment facilities and disposal units are needed and when and where the same are constructed.

Sec. 23. Competitive bidding. A contract in excess of \$2,000 between the district and a contractor for the construction of facilities located on private property for the exclusive use of a private individual and for which the private individual is required to pay the total cost directly to the district must be awarded by a system of competitive bidding. Unless there are valid reasons to the contrary, the contracts must be awarded to the lowest responsible bidder.

Sec. 24. District personnel records. The personnel records of the district are confidential to the same extent as municipal records pursuant to the Maine Revised Statutes, Title 30-A, section 2702, subsection 1. The records are reviewable by employees of the district to the same extent and in the same manner as provided for municipal personnel records pursuant to the Maine Revised Statutes, Title 30-A, section 2702, subsection 2.

Sec. 25. Sewer extension. The district may not construct a sewer extension unless the district complies with the provisions of the Maine Revised Statutes, Title 38, section 1252, subsection 7.

Sec. 26. P&SL 1955, c. 69, as amended, is repealed.

Sec. 27. Existing law 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 part of any existing law, and all rights and duties mentioned in this Act must be exercised and performed in accordance with the applicable provisions of the Maine Revised Statutes, Title 38, chapter 12 and any amendments thereto.

Sec. 28. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act takes effect when approved but only for the purpose of permitting its submission to the legal voters within the territory described in section 1 at the election called for that purpose by January 1, 2006. 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. For the purpose of registration of voters, the registrar of voters must be in session on the secular day preceding the election. The subject matter of this Act is reduced to the following question:

"Do you favor adopting the Kennebunk Sewer District charter, 2005 revision?"

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

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

This Act takes effect for all other purposes immediately upon its approval by a majority of the legal voters voting at the election.

Effective pending referendum.

CHAPTER 14

H.P. 766 - L.D. 1113

An Act To Create the Fryeburg Water District

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

Whereas, the health, safety and convenience of the customers of the Fryeburg Water Company require adequate and affordable water service and immediately creating authority to establish through a referendum vote the Fryeburg Water District may be the means of ensuring such service; 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, chapter 64, that part of the Town of Fryeburg described as follows and its inhabitants constitute a standard district under the name Fryeburg Water District, referred to in this Act as "the district":

Beginning at the point of intersection of 70°, 57', 4.11" longitude W and 44°, 3', 14.76" latitude N; thence due south to the point of intersection of 70°, 57', 0.65" longitude W and 44°, 1', 19.63" latitude N to Route 302; thence east along Route 302 to the point of intersection of 70°, 56', 32.66" longitude W and 44°, 1', 26.8" latitude N; thence south to the point of intersection of 70°, 56', 29.08" longitude W and 43°, 59', 56.34" latitude N; thence west to the Maine and New Hampshire border; thence north along the Maine and New Hampshire border to Stevens Brook; thence south along Stevens Brook to the Saco River; thence north along the Saco River to the point of intersection of 70°, 57', 51.24" longitude W and 44°, 3', 14.42" latitude N; thence east to the point of beginning.

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.

Sec. 3. Additional powers. The district is authorized to enter into contracts with appropriate entities to arrange for, or provide, continued service to existing customers of the Fryeburg Water Company who are located outside the territory of the district to the extent permitted under and in accordance with applicable laws and rules.

The district is authorized to sell water to bulk water exporters, subject to the requirements of applicable laws and rules and town ordinances and with the approval of the town's planning board.

Sec. 4. Power to take water. The district is authorized to take, to hold and to convey within the Town of Fryeburg and from any part of the town water from any surface or groundwater source within the town.

Sec. 5. Number of trustees. The board of trustees of the district is composed of 5 trustees. The