

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

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December 1, 2004 to March 30, 2005

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

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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Penmor Lithographers
Lewiston, Maine
2005

CHAPTER 21

H.P. 1006 - L.D. 1442

An Act To Facilitate Energy Self-sufficiency for Maine's Offshore Islands**Be it enacted by the People of the State of Maine as follows:**

Sec. 1. Fox Islands Electric Cooperative, Inc.; authority to sell power under certain circumstances. Notwithstanding the Maine Revised Statutes, Title 35-A, section 3207, subsection 1, paragraph B, the Fox Islands Electric Cooperative, Inc., a consumer-owned transmission and distribution company, may sell wholesale generation service in order to reduce its cost of providing retail service.

See title page for effective date.

CHAPTER 22

S.P. 137 - L.D. 413

An Act To Amend the Charter of the York Sewer District**Be it enacted by the People of the State of Maine as follows:**

Sec. 1. P&SL 1951, c. 63, §3, 4th ¶, as repealed and replaced by P&SL 1985, c. 57, §1, is amended to read:

At the close of each fiscal year, the trustees shall make a detailed report of their doings, of the receipts and expenditures of the sewer district, of its financial and physical condition and of other matters and things pertaining to the district and show the inhabitants how the trustees are fulfilling the duties and obligations of their trust. The report must include audited financial statements. This report ~~is to~~ must be filed with the municipal officers, who shall include the report in the annual town report.

Sec. 2. P&SL 1951, c. 63, §14, 2nd and 3rd ¶¶, as enacted by P&SL 1985, c. 57, §1, are amended to read:

Any person aggrieved by the decision of the trustees as it relates to any assessment for sewer construction under this section ~~shall have the same rights of appeal as are provided in the case of laying out of town ways~~ may appeal the decision to the town manager of the Town of York. The decision of the town manager may be appealed to the town board of appeals. A final decision of the board of appeals may

be appealed pursuant to the Maine Rules of Civil Procedure, Rule 80B.

Prior to authorizing any sewer extension, except by specific state or federal mandate, the trustees shall notify the legislative bodies and the planning boards of the affected municipalities in order to assure conformity with their comprehensive plans and other public policies relating to their growth and development. The trustees shall publish notice of the proposed action in a newspaper with general circulation in the district no less than 7 days prior to the meeting at which they will take final action on the authorization of the extension. The district shall comply with the Maine Revised Statutes, Title 38, section 1252, subsections 7 and 9 with respect to any sewer extensions.

Sec. 3. P&SL 1951, c. 63, §23, as repealed and replaced by P&SL 1985, c. 57, §1, is amended to read:

Sec. 23. Dissolution; voluntary. The trustees of the district may at any time enter into negotiations with the Town of York for the purpose of dissolving the district and transferring its entire assets and ~~liabilities~~ obligations to the Town of York. If an agreement to dissolve the district is reached with the municipal officers of the Town of York, the district may be dissolved upon the unanimous vote of the trustees and upon referendum vote being taken at the next annual municipal election in the Town of York. The town clerk of the Town of York shall reduce the subject matter to the following question:

"Shall the York Sewer District be dissolved and all of its assets and ~~liabilities~~ obligations be assumed by and become the responsibility of the Town of York?"

The voters shall indicate by a cross or check mark placed upon their ballots against the ~~words~~ word "Yes" or "No" their opinion of the same. The ~~result~~ results shall be declared by the municipal officers and due certificate ~~thereof~~ of the results filed by the town clerk with the Secretary of State and, if the result so filed shows that a majority of the voters is for the approval of the dissolution of the York Sewer District, ~~it shall take complete~~ the dissolution takes effect upon filing with the town clerk an attested copy of the unanimous votes of the trustees of the district to dissolve the district according to the terms ~~hereof~~ of this section; ~~provided that only if~~ the total vote cast for and against the dissolution of the York Sewer District equals, or exceeds, 25% of the total vote for all candidates for Governor cast at the last gubernatorial election.

Upon completion of the transfer of assets and obligations of the district to the Town of York in accordance with this section, the clerk of the Town of

York shall file a certificate to this effect with the Secretary of State, and the corporate existence of the district terminates. The certificate must be prepared by the clerk of the Town of York once all of the necessary assets and obligations have been transferred to the Town of York from the district. The Town of York may commence and carry out municipal sewer service prior to completion of the transfer of assets and obligations of the district if necessary to carry out the purposes of this section, and, in such an event, the district may continue to exist for the limited purpose of carrying out the requirements of this section until such a time as the transfer of assets and obligations is complete. After filing the certificate with the Secretary of State, the town clerk of the Town of York shall submit legislation to repeal Private and Special Law 1951, chapter 63, as repealed and replaced by Private and Special Law 1985, chapter 57, as amended. The legislation may include any necessary amendments or additions to law to allow the Town of York to provide adequate sewer service.

Sec. 4. P&SL 1951, c. 63, §24 is enacted to read:

Sec. 24. Dissolution; involuntary. The qualified electors of the district may petition for a referendum vote on dissolution in accordance with this section.

1. Petition. The petition must be signed by electors within the district equal to at least 20% of the vote cast for the office of Governor at the last gubernatorial election and filed with the town clerk of the Town of York. Within 3 days after the petition is offered for filing, the town clerk of the Town of York 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 any insufficiency within 5 days following the affixing of the original certificate. Within 2 days after the offering of the amended petition for filing, the certificate must again be carefully examined to determine sufficiency, and a certificate stating the findings must be attached. Upon finding an original or amended petition sufficient, the town clerk of the Town of York shall file the petition, and a referendum vote on dissolution must be held at the next regular town election.

2. Referendum. The town clerk of the Town of York shall reduce the subject matter to the following question:

"Shall the Town of York and the York Sewer District be directed to arrange for the dissolution of the York Sewer District and the transfer of all of its assets and liabilities to the Town of York?"

The voters shall indicate by a cross or check mark placed upon their ballots against the word "Yes" or "No" their opinion of the same. The result must be declared by the municipal officers, and due certificate of the results filed by the town clerk of the Town of York with the Secretary of State.

If the results filed show that a majority of the voters voted for the dissolution of the district and the total votes cast for and against the dissolution of the district equals or exceeds 25% of the total vote for all candidates for Governor cast at the last gubernatorial election, the municipal officers of the Town of York and the trustees of the district shall enter into discussions to make arrangements for transferring the district's entire assets and obligations to the Town of York. Within one year of a vote on the referendum, pursuant to arrangements made with the trustees of the district, the trustees of the district shall transfer to the municipal officers of the Town of York the entire assets and obligations of the district in accordance with subsection 3.

3. Transfer. If a transfer of the assets and obligations of the district to the Town of York is required under this section, the district shall, within one year of the vote on the referendum requiring the transfer, convey, assign and transfer to the Town of York:

A. All physical and intangible assets of the district, including all cash, lands, mains, pipes, fixtures, machinery, tools, apparatus, appliances, structures and any other physical element necessary and convenient for providing sewer services;

B. All valid and legally enforceable contracts or other obligations between the district and any 3rd party as of the effective date of the transfer. The town shall redeem or otherwise satisfy all nonassumable debt of the district; and

C. All permits, licenses and approvals of any municipal, state or federal entity or agency.

Unless other legal arrangements are made, all property, contracts, obligations and franchises of the district must be conveyed subject to all debentures, bonds, mortgages, liens and encumbrances, all of which must be assumed by the Town of York.

In order to avoid any unconstitutional impairment of existing contractual rights that are valid and enforceable, the Town of York and, if necessary, the district shall enter into any contractual agreements necessary for the Town of York to fulfill any such contractual obligations of the district, including any existing financial obligations to the district's bondholders.

For purposes of assuming all debts and obligations of the district, the Town of York is the corporate successor to the district upon the transfer of the assets and obligations of the district to the Town of York pursuant to this section.

Upon completion of the transfer of assets and obligations of the district to the Town of York in accordance with this section, the town clerk of the Town of York shall file a certificate to that effect with the Secretary of State, and the corporate existence of the district terminates. The certificate must be prepared by the town clerk of the Town of York once all of the necessary assets and obligations have been transferred to the Town of York from the district. The Town of York may commence and carry out municipal sewer service prior to completion of the transfer of assets and obligations of the district if necessary to carry out the purposes of this section, and, in such an event, the district may continue to exist for the limited purpose of carrying out the requirements of this section until such time as the transfer of assets and obligations is complete. After filing the certificate with the Secretary of State, the town clerk of the Town of York shall submit legislation to repeal Private and Special Law 1951, chapter 63, as repealed and replaced by Private and Special Law 1985, chapter 57, as amended. The legislation may include any necessary amendments or additions to law to allow the Town of York to provide adequate sewer service.

Sec. 5. P&SL 1989, c. 34, §2, first line is amended to read:

Sec. 2. P&SL ~~1985~~ 1951, c. ~~57~~ 63, §13, as repealed and replaced by P&SL 1985, c. 57, §1, is amended to read:

Sec. 6. Referendum; effective date. This Act takes effect when approved only for the purpose of permitting its submission to the legal voters within the Town of York at an election called for that purpose and held 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 clerk to post a new list of voters. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The subject matter of this Act is reduced to the following question:

"Do you favor amending the charter of the York Sewer District to:

1. Require the York Sewer District to include in its annual report audited financial statements and require the Town of York to include the district's report in the town's annual report;

2. Provide that decisions of the York Sewer District relating to assessments for sewer construction may be appealed to the Town of York; and

3. Authorize a citizen-initiative process to call for a referendum to dissolve the York Sewer District and transfer its assets and obligations to the Town of York?"

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 York and due certificate of the results filed by the clerk with the Secretary of State.

This Act takes effect for all purposes immediately upon its approval by a majority of the legal voters voting at the election. Failure to achieve the necessary approval in any referendum does not prohibit subsequent referenda consistent with this section as long as the referenda are held prior to January 1, 2006.

Effective pending referendum.

CHAPTER 23

H.P. 1189 - L.D. 1684

An Act Regarding Transition Provisions for the Sharing of Costs in Certain School Districts

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

Whereas, Public Law 2005, chapter 2 directs the Department of Education to conduct a review and analysis of the implications of the proposed cost-sharing mechanism established pursuant to the Maine Revised Statutes, Title 20-A, section 15688, subsection 2 on the member municipalities of school administrative districts and community school districts whose cost-sharing formulas were established in accordance with Title 20-A, sections 1301 and 1704, respectively; and

Whereas, it is necessary to establish transition provisions for certain school districts whose cost-sharing formulas may result in adverse fiscal impacts for member municipalities within those school districts in fiscal year 2005-06; and

Whereas, it is necessary to allow the Department of Education additional time to assist certain school districts in developing transition plans that