

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

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TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2011

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. Adjustment to membership of School Union No. 93. Notwithstanding the Maine Revised Statutes, Title 20-A, chapter 103-A and Public Law 2007, chapter 240, Part XXXX, as amended, the Commissioner of Education, upon the submission of a written plan of organization that has been approved by the school boards involved in School Union No. 93 and the school board of the Surry School Department, is authorized to adjust the grouping of school administrative units in School Union No. 93 to include the Town of Surry.

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

Effective May 31, 2011.

CHAPTER 10

H.P. 230 - L.D. 286

An Act To Allow the Operation of Crematoriums at Oak Grove Cemetery and the Kelley Family Cemetery

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

Whereas, the City of Gardiner adopted an ordinance limiting the location of crematoriums to areas zoned as industrial, commercial or rural; and

Whereas, Oak Grove Cemetery in Gardiner and other local cemeteries in the greater Gardiner area are nearing capacity for burials; and

Whereas, the demand for cremation is increasing significantly as a result of increases in the costs of traditional funerals and burials; and

Whereas, there is a need for additional crematoriums in the central and eastern Maine areas to meet current demand; and

Whereas, cremation is a more environmentally acceptable practice than traditional burials; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. Construction of crematoriums. Notwithstanding the Maine Revised Statutes, Title 13, section 1341, subsection 1 and any other provision of law:

1. Oak Grove Cemetery. Oak Grove Cemetery, located in Gardiner, Maine, may construct, own and operate a crematorium on land owned by Oak Grove Cemetery located in an area zoned for industrial or commercial use or zoned as rural in the greater Gardiner area; and

2. Kelley Family Cemetery. A Maine nonprofit corporation may construct, own and operate or lease for operation a crematorium on land of the Kelley Family Cemetery located in Steuben, Maine and owned by Dreamkeepers, Inc., as long as the cemetery has been used as a cemetery for at least 2 years prior to construction of the crematorium and contains at least 20 acres during any period when the crematorium will be built and operated and the crematorium meets other requirements of law.

Sec. 2. Conditions. The land on which the crematorium under section 1, subsection 1 is constructed may be less than 20 acres, but not less than 3 acres. The site on which the crematorium is constructed does not need to be part of the existing Oak Grove Cemetery, but must be owned by the Oak Grove Cemetery.

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

Effective May 31, 2011.

CHAPTER 11

S.P. 464 - L.D. 1483

An Act To Amend the Charter of the Sanford Sewerage District

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

PART A

Sec. A-1. P&SL 1947, c. 169, §1, first ¶, as repealed and replaced by P&SL 1977, c. 90, §1, is amended to read:

Sec. 1. Territorial limits; corporate name; purposes. The inhabitants and territory within the Town of Sanford in the County of York shall be, and hereby are, created a body politic under the corporate

name of the "Sanford Sewerage District," hereinafter called "the district," for the ~~purposes purpose~~ of providing and maintaining within the district the existing sewers and such additions thereto as are necessary for the adequate operation of that system, and the district is hereby authorized to provide, construct, maintain and operate those systems of sewage and sewage disposal, and to lay, make and maintain such common sewers as the board of trustees may, from time to time, deem necessary for the disposing of its sewage for the health, welfare, comfort and convenience of the inhabitants of the Town of Sanford a means of collecting, conveying, pumping, treating and disposing of domestic sewage and commercial and industrial waste within the district and outside the district.

Sec. A-2. P&SL 1947, c. 169, §2, as amended by P&SL 1977, c. 90, §3, is repealed and the following enacted in its place:

Sec. 2. Powers. The district is authorized for the purposes of this section to take over and hold the sewers and other assets of the existing sewerage system of the Town of Sanford and to acquire and hold by purchase, lease, the exercise of the right of eminent domain or otherwise land, real estate, rights or easements, or interests in land, real estate, rights or easements, located within the district or elsewhere and personal property. The district has all the powers and authorities and is subject to all the limitations and restrictions provided to a sanitary district formed under the Maine Revised Statutes, Title 38, chapter 11, except that sections 1061, 1062, 1067, 1101, 1102, 1103, 1104, 1105, 1106, 1159, 1160, 1201, subsection 10, 1203, 1205, 1206, 1207 and 1210 do not apply to the district and any notice impending automatic foreclosure issued by the district must bear the name "Sanford Sewerage District" in all appropriate locations.

1. Other applicable laws. The district is subject to all the provisions of the Maine Revised Statutes, Title 38, section 1252.

2. Contracts. The district is authorized to contract with persons, corporations, districts and other municipalities, both inside and outside the boundaries of the district, with the State of Maine and the United States Government or any agency of either and private contractors, to provide for disposal of sewage and commercial and industrial waste and storm and surface water through the district's system and through the system of any such person, corporation, district or other municipality; and every other district and municipality of the State of Maine is authorized to contract with the district for the collection, distribution, treatment and disposal of sewage and commercial and industrial waste and storm and surface water.

Sec. A-3. P&SL 1947, c. 169, §3 is repealed and the following enacted in its place:

Sec. 3. Liability. As a governmental entity, as defined in the Maine Tort Claims Act, the district and its officers, agents and employees are afforded all of the privileges and immunities granted under the Maine Tort Claims Act. All claims seeking recovery of damages must be brought in accordance with the terms of the Maine Tort Claims Act.

Sec. A-4. P&SL 1947, c. 169, §6, as amended by P&SL 1997, c. 74, §1, is repealed and the following enacted in its place:

Sec. 6. Officers. All the affairs of the district are managed by a board of 5 trustees. Trustees are elected at the Town of Sanford annual municipal election and assume office on January 1st following the election. The trustees must be residents and qualified voters of the district, who are elected by ballot of the voters of the district legally qualified to vote in the Town of Sanford elections. The trustees hold office for staggered terms of 3 years and until their successors are chosen and qualified.

Any registered voter of the district may become a candidate for the office of trustee and have the candidate's name appear on the municipal election ballot by signing and presenting a petition to the town clerk, signed by the number of registered voters of the district as provided by the Maine Revised Statutes, Title 21-A. If a vacancy occurs more than 3 months before the next annual election, the vacancy must be filled by the appointment of a registered voter of the district by the town council of the Town of Sanford for the remaining period until the next annual election.

At the January meeting following the annual election, the trustees shall elect or appoint a chair, vice-chair, treasurer, clerk and any other necessary officers to serve until the next annual election and until their successors are elected or appointed and qualified.

A trustee or an inhabitant of the district may serve as treasurer and shall furnish a bond or appropriate insurance coverage in such sum and with such sureties as the trustees may approve, with the cost of the bond or insurance to be paid by the district. Members of the board are eligible for any office under the board, but may not receive any compensation as an officer except as trustee, with the exception that whoever serves as treasurer receives a salary to be determined by the trustees. Each member trustee must be sworn in for faithful performance of the trustee's duty.

Sec. A-5. P&SL 1947, c. 169, §6-A, as enacted by P&SL 1997, c. 74, §2, is amended to read:

Sec. 6-A. Establishment of rules; preparation of annual report. The trustees may from time to time adopt, establish and amend reasonable rules, regulations and bylaws for the construction, use, repair and maintenance of sewers and fix and collect the fees to be paid for entering the same, and also the quarterly rentals for the use thereof necessary for the proper

management of the affairs of the district and perform other acts within the powers delegated by law to the trustees. The trustees also shall prepare, publish and make available for any interested inhabitants of the district an annual report and financial statement of the affairs of the district for the calendar year just preceding, such report and statement to be prepared, published and made available as soon as practicable after the close of the calendar year.

Sec. A-6. P&SL 1947, c. 169, §7, as amended by P&SL 1977, c. 90, §10, is repealed and the following enacted in its place:

Sec. 7. May hold property. The district is authorized and empowered to accept, by action of its trustees, from the inhabitants of the Town of Sanford, and the Town of Sanford is authorized to convey, by deed signed by a majority of the town council of the Town of Sanford, duly authorized by the inhabitants of the Town of Sanford, to the district all right, title and interest that the town may have in and to the drains and sewers located within the limits of the district on the effective date of Private and Special Law 1947, chapter 169, but any amount on that date owed by the Town of Sanford upon the sewers and drains, or any interest due on any amounts owed, must be paid by the Town of Sanford, and any assessments or amounts due the Town of Sanford, by reason or on account of any sewer or drain built by the Town of Sanford, must be paid to the Town of Sanford.

Sec. A-7. P&SL 1947, c. 169, §7-A is enacted to read:

Sec. 7-A. Exempt property. The property, both real and personal, rights and franchises of the district are forever exempt from taxation.

Sec. A-8. P&SL 1947, c. 169, §8-A, as amended by P&SL 1977, c. 90, §11, is repealed and the following enacted in its place:

Sec. 8-A. Connection of private sewers. Every building within the district intended for human habitation or occupancy or with facilities for discharge or disposal of sewage or commercial or industrial waste that is accessible to a sewer drain of that district must have a sanitary sewer or drainage system that must be connected with that sewer or drain of the district by the owner or person against whom taxes on the premises are assessed in the most direct manner possible within 90 days after receiving a request for connection from the district or within such further time as the trustees of the district may grant and, if feasible, with a separate connection for each building. Existing buildings that are already served by a private sewer system 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 applicable law or ordinance or any applicable requirements of the state

plumbing code, as determined by the municipal plumbing inspector, the plumbing inspector's alternate or, in the event that both are trustees or employees of the district, the Department of Health and Human Services, Division of Health Engineering. A building is considered to be accessible to a sewer or drain of the district for the purposes of this section if that building or any private sewer or drain directly or indirectly connected to the building, or carrying sewage or commercial or industrial waste from the building, is at any point or may at some point come within 200 feet of a sewer or drain of the district; except that nothing in this section requires the owner of any building to acquire any real property or easement for the sole purpose of making that connection.

Sec. A-9. P&SL 1947, c. 169, §9, 2nd ¶, as repealed and replaced by P&SL 1957, c. 153, §3, is amended to read:

As funds provided for in this section permit, and ~~so~~ as far as such the separation may be feasible as provided in this section, and under the direction and supervision of the Board of Trustees of ~~said District~~ the district, the catch-basins, storm-water lines and any other surface drainage facilities now connected with the sanitary sewerage system ~~shall~~ must as rapidly as possible be separated from ~~said the~~ the sanitary sewer system by methods and devices such as connecting catch-basins into storm-water lines, extending storm-water lines to natural water courses, and diverting storm-water sources away from sanitary sewerage lines. As ~~such~~ such the separation is effected, the ~~District~~ district, acting through its trustees, is authorized to convey by deed signed by a majority of ~~such~~ such the trustees to the inhabitants of the ~~town~~ Town of Sanford, any and all right, title and interest ~~which said District~~ that the district may have in and to such the separated catch-basins, storm-water lines and other surface drainage facilities now located within ~~said District~~ the district, and the ~~said~~ said inhabitants of the ~~town~~ Town of Sanford by action of a majority of its ~~Selectmen~~ town council shall accept ~~such~~ such the separated catch-basins, storm-water lines and other surface drainage facilities to be ~~thereafter~~ thereafter maintained, repaired, replaced and extended under the direction of ~~said the~~ said the inhabitants of the ~~town~~ Town of Sanford as a part of the usual and regular functions of its Highway Department or Departments.

Sec. A-10. P&SL 1947, c. 169, §10, as amended by P&SL 1997, c. 74, §§3 and 4, is repealed and the following enacted in its place:

Sec. 10. Authorization to raise and borrow funds. To procure funds for the purposes of this Act and for such other expenses as may be necessary for the carrying out of the purposes, the district without a district vote but by action of its board of trustees, is authorized to raise funds from sources other than operational activities by borrowing money pursuant to

the Maine Revised Statutes, Title 38, section 1201. The district may issue its notes and bonds in one series or in separate series from time to time, as long as the aggregate outstanding principal balance at any one time does not exceed \$22,000,000 unless a higher debt obligation limit is approved pursuant to section 10-A.

Sec. A-11. P&SL 1947, c. 169, §10-A, as enacted by P&SL 1997, c. 74, §5, is repealed and the following enacted in its place:

Sec. 10-A. Increases in the debt obligation limit. The district is authorized to increase its debt obligation limit pursuant to the Maine Revised Statutes, Title 38, section 1256. The district shall hold a referendum on any increase in its debt obligation pursuant to Title 38.

Sec. A-12. P&SL 1947, c. 169, §10-B is enacted to read:

Sec. 10-B. State and federal aid or grants. For accomplishing the purposes of this charter, the district through its trustees without vote of the inhabitants may receive state and federal aid or grants.

Sec. A-13. P&SL 1947, c. 169, §11, as amended by P&SL 1977, c. 90, §15, is repealed.

Sec. A-14. P&SL 1947, c. 169, §12, as repealed and replaced by P&SL 1977, c. 90, §16, is repealed and the following enacted in its place:

Sec. 12. Rates. All individuals, firms and corporations, whether public, private or municipal, shall pay to the treasurer of the district rates pursuant to the Maine Revised Statutes, Title 38, section 1202. The district may assess a readiness-to-serve charge pursuant to Title 38, section 1202 but only against owners or persons in possession or against whom the taxes are assessed of all buildings or premises intended for human habitation or occupancy, whether the same are occupied or not, that abut on a street or location through which the district has constructed a sewer line, or the building of which is within 200 feet of a sewer line constructed by the district, although the premises are not actually connected to the sewer line.

Sec. A-15. P&SL 1947, c. 169, §13-E, as enacted by P&SL 1957, c. 153, §5-D, is repealed and the following enacted in its place:

Sec. 13-E. Town council review. Prior to proposing any amendment to this charter to the Legislature, the trustees shall present the amendment to the town council of the Town of Sanford for review and comment.

Sec. A-16. P&SL 1947, c. 169, §13-F, as enacted by P&SL 1977, c. 90, §18, is repealed.

Sec. A-17. P&SL 1947, c. 169, §13-G, as enacted by P&SL 1977, c. 90, §18, is repealed.

Sec. A-18. P&SL 1947, c. 169, §13-H, as enacted by P&SL 1977, c. 90, §18, is repealed.

PART B

Sec. B-1. Trustees; transition. The trustee of the Sanford Sewerage District in office on the effective date of this Act whose term ends in 2011 may continue in office until the next Town of Sanford municipal election after the effective date of this Act. At that election, the trustee who succeeds the trustee whose term ends in 2011 is elected to a 3-year term, and the 2 new trustees established in this Act are elected as follows: one must be elected to a 2-year term and one to a 3-year term. When the term of office of a trustee expires, that trustee's successor is elected in accordance with this Act.

See title page for effective date.

CHAPTER 12

H.P. 1160 - L.D. 1577

An Act To Amend the Winthrop Utilities District Charter

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

Whereas, the Winthrop Utilities District does not have a provision in its charter to file a lien for nonpayment of utility rates; and

Whereas, without such a provision the district is unable to file a lien for nonpayment of utility rates; and

Whereas, there are customers of the district who have failed to pay the rates due; and

Whereas, the inability to file liens for nonpayment of utility rates is causing financial hardship for the district; and

Whereas, to provide the district with the authority to file a lien for nonpayment of rates, it is necessary that the following legislation take effect immediately; 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: