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## **An Act To Allow Consolidation of the Winterport Sewerage District and the Winterport Water District and To Create Incentives for Consumers To Pay Water Bills**

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

**Whereas,** the Winterport Sewerage District was created by Private and Special Law 1971, chapter 143; and

**Whereas,** the Winterport Water District was created by Private and Special Law 1969, chapter 94; and

**Whereas,** the 2 districts wish to merge their charters in order to reduce management expenses as the result of unified management as one district; and

**Whereas,** it is imperative that action be taken at the earliest possible moment to allow for continuity of services provided by the Winterport Water District and the Winterport Sewerage District; 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. P&SL 1969, c. 94, §§1-A and 1-B** are enacted to read:

**Sec. 1-A. Additional powers.** The district has all the powers and authority and is subject to all the requirements and restrictions provided to a water district in the Maine Revised Statutes, Title 35-A, chapter 64. The district has all the powers and authorities and is subject to all limitations and restrictions provided to a sanitary district formed under Title 38, chapter 11, except that sections 1062, 1101, 1102, 1103, 1104, 1105, 1106 and 1162 do not apply to the district and any notice of impending automatic foreclosure issued by the district pursuant to section 1208 must bear the name "Winterport Water District" in all appropriate locations. The provisions of Title 38, chapter 12 do not apply to the district. The Winterport Water District, referred to in this Act as "the district," is granted additional powers, rights, privileges and obligations as provided in this charter for the purpose of allowing the district to supply the town and inhabitants and others within the territory of the district with sewer services. The district shall take over, control, manage and operate the sewers owned by the Town of Winterport with all appurtenances thereto in order to: extend, increase, enlarge and improve sewers; extend the system to furnish sewerage facilities to portions of the town not served with such facilities; provide for removal of sewage and provide for treatment of sewage in whole or in part before discharging it into rivers when, as and if such treatment becomes necessary; and generally provide a system of sanitary sewerage for public purposes and for the health and comfort and convenience of the inhabitants of the district.

**Sec. 1-B. Transfer title to drains to Town of Winterport.** Title to all public drains, storm water drains, catch basins and other surface water or storm water facilities owned by the district is transferred to the Town of Winterport. Title to all sanitary and sewer drains and facilities of the district remains with the district. Notwithstanding any provisions in this charter to the contrary, the Town of Winterport is responsible for the construction, maintenance and operation of all public drains, storm water drains, catch basins and other surface water or storm water facilities within the district and the district is relieved of all such responsibility.

**Sec. 2. P&SL 1969, c. 94, §2-A** is enacted to read:

**Sec. 2-A. Authority to acquire and hold property for sewerage purposes; right of eminent domain conferred.** Title to all public drains and sewers in the Town of Winterport passes to and vests in the district, and the district shall maintain and operate them. For the purpose of providing a system of sewers and drainage for the comfort, convenience and health of the inhabitants of the district, the district is authorized and empowered to acquire and hold real estate and personal estate necessary and convenient for the purposes aforesaid, subject to all duties and obligations of the Town of Winterport with respect thereto, which duties and obligations are to be assumed by the district. The district is hereby authorized to take and hold by purchase, lease or the exercise of the right of eminent domain, as provided in this charter or otherwise, any land or real estate or any easement in land or real estate necessary for forming basins, reservoirs and outlets; for erection of buildings for pumping works and sewage treatment; for laying and maintaining pipes; for laying and maintaining conduits for collecting, holding, purifying, distributing and disposing of sewage matter and rain water; and for other objectives necessary, convenient and proper for the purpose of this Act, and all of such property, wherever located, is exempt from taxation.

**Sec. 3. P&SL 1969, c. 94, §3-A** is enacted to read:

**Sec. 3-A. Procedure in exercise of right of eminent domain.** The trustees for the district may exercise the right of eminent domain vested in the district for the purposes of this charter after hearing, notice of the time and place of the hearing having been given by publication in any newspaper published in the district once a week for 2 successive weeks, the last publication to be at least 2 weeks previous to the time appointed for the hearing, and the clerk of the district shall keep a record of their proceedings and their determination and decision that sets forth a description of the land or easement taken and the owners, if known, and the amount of damages awarded therefor. In lieu of the notice for publication described in this section, the notice may be served in hand by an officer duly qualified to serve civil process in this State on the record owner or owners of the premises involved, which notice must to be served at least 14 days prior to the time appointed for the hearing. Upon the signing of the record of the trustees and the filing of the record in the registry of deeds for Waldo County, the trustees may enter upon the land and take possession of the land or an easement on the land, as the case may be, for the purposes of this charter. Any person aggrieved by the decision of the trustees, as it relates to the damages for land or easements on the land so taken, has the same rights of appeal as are provided in the case of the laying out of town ways under the Maine Revised Statutes, Title 23, chapter 304.

**Sec. 4. P&SL 1969, c. 94, §4** is repealed and the following enacted in its place:

**Sec. 4. Authorized to lay sewer pipes over public ways; other rights.** The district is authorized to lay in and through the streets, roads, ways, highways and bridges in the Town of Winterport, and across private lands in the town, and to maintain, repair and replace all such pipes, aqueducts and fixtures as may be necessary and convenient for its corporate purposes. The district may lay pipes

and construct conduits in accordance with this section in and through the district and convey through them sewage, surface water and the natural flowage of existing water courses; may secure and maintain basins, reservoirs and outlets and build and maintain pumping stations and buildings convenient for them; may construct and maintain treatment plants, flush tanks, manholes, storm water inlets and other usual appliances for collecting, holding, distributing and disposing of sewage and storm water and supply water for such flush tanks and for flushing the system of sewers and for any other purposes for which the district may determine it desirable and install all pipes and necessary structures and appliances to this end; may establish through and by its trustees regulations for the use of sewers and fix and collect the prices to be paid for entering them and also the service charges for the use of sewers; and may enter into contract with persons, corporations or municipalities outside the boundaries of the district to care for sewage or drainage through the district's system. The district is authorized for the purposes described in this section to lay down in and through the streets, highways and land of the district and take up, replace and repair all conduits, pipes and fixtures necessary or desirable for the objects of its incorporation; to carry and lay conduits and pipes under any water course, public or private way or railroad, in the manner prescribed in this section; and to cross any water pipe, gas pipe, electric conduit, drain or sewer or, if necessary, to change its direction in such a manner as not to obstruct its use by the construction of any of the works of the district, whether during construction, after construction has been completed, while the construction is undergoing repairs or while extensions are being made. The district is liable to the Town of Winterport, public utilities and private persons for any costs, damages and expenses that each may suffer or be put to by reason of the default, neglect, negligence or carelessness of the district or any of its officers, servants or agents in creating, maintaining, repairing or extending the sewerage system. The trustees of the district may purchase all maps, plans and files relating to sewers and drainage that are in the possession of the Town of Winterport. In case of any crossing of any public utility, unless consent is given by the company owning or operating the public utility as to place, manner and conditions of the crossing within 30 days after the consent is requested by the district, the Public Utilities Commission shall determine the place, manner and conditions of the crossing, and all work on the property of the public utility must be done under the supervision and to the satisfaction of the public utility, but at the expense of the district.

**Sec. 5. P&SL 1969, c. 94, §§4-A and 4-B** are enacted to read:

**Sec. 4-A. Sewer excavations and repair work, property to be left in good condition; liability for damages; closing of streets.** When the district enters, digs up or excavates any street, way or highway or other land within the district for the purpose of laying aqueducts, pipes or conduits; constructing manholes or catch basins; taking up, repairing, extending or maintaining any sewer, drain, manhole, catch basin or other structure; or for any other purpose, the street, highway, way or other land must, at the completion of the work of the district, be returned to the condition it was in prior to the work of the district or to a condition equally good. The district is liable to any person, firm or corporation injured or damaged by any fault of the district or its servants or agents, or by reason of any defect in any way, street or highway occasioned by the construction of any of the works of the district, whether during construction, after construction has been completed, while the construction is undergoing repairs or while extensions are being made, and the district is liable to the Town of Winterport for any costs, damages and expenses that the town may suffer or be put to by reason of the default, neglect, negligence or carelessness of the district or any of its officers, servants or agents in creating, maintaining, repairing or extending the sewerage system. When the character of the work of the district is such as to endanger travel on any street or way, the Town of Winterport shall direct the temporary closing of the

street or way and of intersecting streets or ways upon request of the district, and those streets and ways must remain closed to public traffic until the work of the district is completed and the surfaces of the streets and ways are restored to proper condition.

**Sec. 4-B. Abutting sewer owners have right to enter.** The district, at all times after the district starts receiving pay for the facilities supplied by the district, is bound to permit the owners of all premises abutting upon its lines of pipes and conduits to enter them with all proper sewage upon conformity to the rules and regulations of the district and payments of the prices, assessments and rental established.

**Sec. 6. P&SL 1969, c. 94, §5-A** is enacted to read:

**Sec. 5-A. Sewer extensions.** The district has the right to determine whether extensions to its system must be made subject to the authority of local and state health officials and the Department of Environmental Protection, Bureau of Water Quality. The district has the power to make assessments for the cost of such extensions and charges for the use of the extensions.

**Sec. 7. P&SL 1969, c. 94, §11** is repealed.

**Sec. 8. P&SL 1969, c. 94, §14,** as amended by P&SL 2001, c. 68, Pt. B, §1, is repealed and the following enacted in its place:

**Sec. 14. Authorized to receive government aid; borrow money; issue bonds and notes.** 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 and borrow money temporarily and issue for the money its negotiable notes for renewing and refunding the indebtedness so created in accordance with the Maine Revised Statutes, Title 35-A, chapter 64 and Title 38, chapter 12. The district, through its trustees, may also issue from time to time, in accordance with Title 35-A, chapter 63, bonds, notes or other evidences of indebtedness of the district in an amount or amounts; bearing interest at a rate or rates; selling at par or at a discount or a premium, to be sold at public or private sale; and having other terms and provisions determined by the trustees, except that loans running for one year or less do not require the approval of the Public Utilities Commission.

**Sec. 9. P&SL 1969, c. 94, §15** is repealed and the following enacted in its place:

**Sec. 15. Rates.** The rates established pursuant to this charter are in accordance with the Maine Revised Statutes, Title 35-A, chapter 64 and Title 38, chapter 12.

**Sec. 10. P&SL 1969, c. 94, §§18-A to 18-M** are enacted to read:

**Sec. 18-A. Assessment against lot benefited.** The Public Utilities Commission's rules apply for the collection of all outstanding water and sewer debt. The district may disconnect the water service in the event the user of the sewer system of the district fails within reasonable time to pay the statement of rates, fees or charges submitted by the district to the user as long as the action by the district is accomplished in accordance with the Public Utilities Commission's rules for the disconnection of water services. When the district has constructed and completed a public drain or common sewer, the trustees shall determine what lots or parcels of land are benefited by that drain or sewer and shall estimate and assess upon the lots and parcels of land and against the owner of the lots or parcels of land or the person in possession, whether the person assessed is the owner, tenant, lessee or agent and whether the lots or parcels of land are occupied or not, a sum not exceeding the benefit the trustees determine just and

equitable towards defraying the expenses of constructing and completing the drain or sewer, together with such sewage disposal units and appurtenances as may be necessary, the whole of the assessments not to exceed 1/2 of the cost of the drain or sewer and sewage disposal units. The trustees shall file with the clerk of the district the location of the drain or sewer and sewage disposal unit, with a profile description of the same, and 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 each lot or parcel or the person against whom the assessment is made, and the clerk of the district shall record the filing in a book kept for that purpose. Within 10 days after filing the notice, each person so 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. The notice must be 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 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 given by posting the same notice in some conspicuous place in the vicinity of the lot or parcel of land so assessed at least 30 days before the hearing, or notice may be given by publishing it once a week for 3 successive weeks in any newspaper published 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 any constable in the Town of Winterport or the production of the paper containing the notice is conclusive evidence that the notice has been given, and upon such a hearing the trustees have power to revise, increase or diminish any of the assessments. All such revisions, increases or diminutions must be in writing and recorded by the clerk of the district.

**Sec. 18-B. Right of appeal.** A person aggrieved by the decision of the trustees as it relates to the assessment for sewer construction has the same rights of appeal as are provided in the case of laying out of town ways under the Maine Revised Statutes, Title 23, chapter 304.

**Sec. 18-C. Assessments; lien; sheriff's sale.** All assessments made under the provisions of section 18-A create a lien upon each and every lot or parcel of land so assessed and the buildings upon the lot or parcel, which lien takes effect when the trustees file with the clerk the completed assessment and continues one year thereafter. Within 10 days after the date of hearing on the assessment, the clerk shall make out a list of all such assessments, the amount of each and the name of the person against whom the assessment is made, and the clerk shall certify the list and deliver it to the treasurer of the district. If the assessment is not paid within 3 months from the date the assessment is made, the treasurer may bring a civil action for the collection of the assessment in the name of the district against the person against whom the assessment is made. The action begins with a writ of attachment commanding the officer serving it to specially attach the real estate upon which the lien is claimed, which must be served as other writs of attachment to enforce liens on real estate. The declaration in such an action must contain a statement of the assessment, a description of the real estate against which the assessment is made and an allegation that a lien is claimed on the real estate to secure the payment of the assessment. If no service is made upon the defendant or if it appears that any other persons are interested in the real estate, the court shall order such further notice of action as appears proper and shall allow the other persons to become parties to the action. If it appears upon trial of such an action that the assessment was legally made against the real estate and is unpaid and that there is an existing lien on the real estate for the payment of the assessment, judgment must be rendered for the assessment, interest and costs against the defendants and against the real estate upon which the assessment was made and execution must be issued thereon, to be enforced

by sale of the real estate in the manner provided for a sale or execution of real estate attached on original writs, as long as in making the sale the officer follows the procedure in selling and conveying and there are the same rights of redemption as are provided in the Maine Revised Statutes, Title 36, section 941.

**Sec. 18-D. Additional method of collection of assessment.** If an assessment under the provisions of section 18-A is not paid and the district does not proceed to collect the paid assessment by a sheriff's sale of the real estate upon which such an assessment is made under section 18-C or does not collect or is in any manner delayed or defeated in collecting such an assessment by a sheriff's sale of the real estate under section 18-C, then the district, in the name of the district, may maintain an action against the party so assessed for the amount of the assessment, as for money paid, laid out and expended, in any court competent to try the action and in that action may recover the amount of the assessment with 10% interest on the assessment from the date of the assessment and costs.

**Sec. 18-E. Assessment paid by other than owner; how recovered.** When any assessment under the provisions of section 18-A is paid by any person against whom an assessment has been made who is not the owner of the lot or parcel of land, then the person paying the assessment has a lien upon the lot or parcel of land with the buildings on the lot or parcel of land for the amount of the assessment paid by that person and incidental charges, which lien continues for one year and may be enforced in a civil action and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots.

**Sec. 18-F. Sanitary provisions and penalty for violation.** Any person who violates the provisions of this section or sections 18-G and 18-H or who places or discharges any offensive or injurious matter or material on or into the conduits, catch basins or receptacles of the district contrary to its regulations or willfully injures any conduit, pipe, reservoir, flush tank, catch basin, inlet, manhole, outlet, engine, pump or other property held, owned or used by the district for the purposes of this Act is liable to pay twice the amount of the damages to the district, to be recovered in any proper action.

**Sec. 18-G. Free access to premises.** The officers or agents of the district have free access to all premises served by its sewers at all reasonable hours to permit the inspection of plumbing and sewerage fixtures, to ascertain the amount of sewage discharged and the manner of discharge and to enforce the provisions of this charter and the rules and regulations that may be prescribed under this charter. Failing to achieve such access, the district has the right to discontinue service.

**Sec. 18-H. Buildings to connect with sewer if available.** Every building in the district intended for human habitation or occupancy on premises abutting on a street in which there is a public sewer and any such building within 100 feet of a public sewer must have a house drainage system, which must be connected with the sewer by the owner or agent of the premises in the most direct manner possible and, if feasible, with a separate connection for each house or building, except that existing buildings that are already served by a satisfactory private sewage disposal system that meets and continues to meet the requirements of the state plumbing code are not required to connect with the public sewer.

**Sec. 18-I. Lien to secure payment of rates; procedure.** When a rate, toll, rent or other charge has been committed to the treasurer of the Winterport Water District for collection, the treasurer may, after the expiration of 3 months and within one year after the date when the charge became due and payable, give to the owner of the real estate served, leave at the owner's last and usual place of abode or send by certified mail, return receipt requested, to the owner's last known address a written notice signed by the treasurer or bearing the treasurer's facsimile signature stating the amount of that rate, toll, rent or other charge, describing the real estate upon which the lien is claimed, stating that a

lien is claimed to secure payment of the charge and demanding payment within 30 days after service or mailing of the notice plus \$1 for the treasurer for mailing the notice together with all the certified mail, return receipt requested fees. 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 the 30-day period and within one year, the treasurer shall record in the Waldo County Registry of Deeds a certificate signed by the treasurer setting forth the amount of the rate, toll, rent or other charge and the real estate on which the lien is claimed and stating that a lien is claimed to secure payment of the charge, that notice and demand for payment of the charge has been given or made in accordance with the provisions of this section and that the charge remains unpaid. At the time of the recording of a certificate in the registry of deeds, the treasurer shall file in the office of the district a true copy of the certificate and mail a true copy of the certificate by certified mail, return receipt requested, to each record holder of any mortgage on the real estate, addressed to the record holder at the record holder's last and usual place of abode. The filing of the certificate in the registry of deeds is deemed to create a mortgage on the real estate described in the deed for the district that has priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and gives to the district all the rights usually possessed by mortgagees, except that the district as mortgagee does not have a right to possession of the real estate until the right of redemption provided for has expired. If the mortgage, together with interest and costs, is not paid within 18 months after the date of filing of the certificate in the registry of deeds, the mortgage is deemed foreclosed and the right of redemption expired. The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage. If the rate, toll, rent or other charge, with interest and costs, is paid within the period of redemption, the treasurer of the district shall discharge the mortgage in the same manner as provided for discharge of real estate mortgages. The cost to be paid by the owner of the real estate served is the sum of the fees for receiving, recording and indexing the lien, or its discharge, as established by the Maine Revised Statutes, Title 33, section 751, plus \$13 and all certified mail, return receipt requested fees. The district shall pay the treasurer \$1 for filing the lien certificate and the amount paid for certified mail, return receipt requested fees. The fees for recording the lien certificate must be paid by the district to the register of deeds. A discharge of the certificate given after the right of redemption has expired and has been recorded in the registry of deeds for more than one year terminates all title of the district derived from that certificate or any other recorded certificate for which the right of redemption expired 10 years or more before the foreclosure date of this discharge lien, unless the district has conveyed any interest based upon the title acquired from any of the affected liens.

**Sec. 18-J. Statutes not affected; rights conferred subject to provisions of law.**

Nothing in this charter is intended to repeal or may be construed as repealing the whole or any part of any provision of the Maine Revised Statutes, Title 35-A, and all the rights and duties contained in this charter must be exercised and performed in accordance with all the applicable provisions of Title 35-A, Part 1.

**Sec. 18-K. The Winterport Water District's acquisition of property of Winterport Sewerage District.** The Winterport Water District acquires under the terms contained in this charter all of the plant, properties, assets, franchises, rights and privileges owned by the Winterport Sewerage District, including, without limitation, lands, buildings, sewers, reservoirs, flush tanks, manholes, catch basins, filtration plants, pumping stations and other appliances and property used or usable for collecting, holding, purifying and disposing of sewage matter and waste waters. The consideration paid for them is the assumption by the Winterport Water District of all of the outstanding

debts, obligations and liabilities of the Winterport Sewerage District, including, without limitation, the assumption by the Winterport Water District of any outstanding notes or bonds of the Winterport Sewerage District that are due on or after the date of transfer.

**Sec. 18-L. Winterport Sewerage District required to sell property to Winterport Water District.** The Winterport Sewerage District, a quasi-municipal corporation organized and existing pursuant to Private and Special Law 1971, chapter 143, under the terms contained in this charter shall sell, transfer and convey to the Winterport Water District by appropriate instruments of conveyance all of its plants, properties, assets, franchises, rights and privileges, including, without limitation, lands, buildings, sewers, reservoirs, flush tanks, manholes, catch basins, filtration plants, pumping stations and other appliances and property used or usable for collecting, holding, purifying and disposing of sewage matter and waste waters, in consideration of the assumption by the Winterport Water District of all of the outstanding debts, obligations and liabilities of the Winterport Sewerage District, including, without limitation, the assumption of any outstanding notes or bonds of the Winterport Sewerage District that are due on or after the date of the transfer.

**Sec. 18-M. Dissolution and termination of Winterport Sewerage District; pledge of revenues.** If and when all debts, obligations and other liabilities of the Winterport Sewerage District have been paid in full and discharged or the holders or owners of all debts, obligations and other liabilities that have not been paid in full and discharged have assented to the assumption thereof by the Winterport Water District and to the novation and substitution of the Winterport Water District as obligor in respect thereto in place of the Winterport Sewerage District and when the transfer of property pursuant to section 18-L is complete, the clerk of the Winterport Sewerage District shall file a certificate to that effect with the Secretary of State and the corporate existence of the Winterport Sewerage District terminates. After filing the certificate with the Secretary of State, the clerk of the Winterport Sewerage District shall submit legislation to repeal Private and Special Law 1971, chapter 143. Until the corporate existence of the Winterport Sewerage District is terminated pursuant to this section, the gross revenues derived by the Winterport Sewerage District from the sale of sewer service within the area comprising the former limits of the Winterport Sewerage District must be applied first to the payment of expenses and 2nd to payments of debts, obligations and other liabilities of the Winterport Sewerage District assumed by the Winterport Water District pursuant to this charter.

**Sec. 11. Emergency clause; referendum; effective date.** In view of the emergency cited in the preamble, this Act takes effect when approved only for the purpose of permitting its submission to the legal voters of the Town of Winterport voting at a special election called and held within 2 years after passage of this Act. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the municipal officers are not required to prepare or the town clerk to post a new list of voters. For the purpose of registration of voters, the registrar is required to be in session the 3 secular days next preceding the election, of which the first 2 days must be devoted to registration of the voters and the last day to verification of the list and completion of the records of these sessions. The subject matter of this Act is reduced to the following question:

“Do you favor the dissolution of the Winterport Sewerage District and the acquisition of the assets and liabilities of the Winterport Sewerage District by the Winterport Water District?”



This Act also must be submitted to the Trustees of the Winterport Sewerage District for a ratification vote at any trustees' meeting. This Act takes effect for all purposes immediately upon its acceptance by the Trustees of the Winterport Sewerage District and by a majority of the legal voters of Winterport voting at the election. The results of the election must be declared by the municipal officers of the Town of Winterport and due certificate of the results filed by the town clerk with the Secretary of State. The trustees of the Winterport Sewerage District shall certify the results of their vote and file the certification with the Secretary of State.

## **SUMMARY**

This bill consolidates the Winterport Water District and the Winterport Sewerage District.