

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out all of section 2 and inserting the following:

‘**Sec. 2. P&SL 1963, c. 87, §1-A** is enacted to read:

Sec. 1-A. Powers. The district has all powers, rights, privileges and immunities of similar corporations or necessary for the accomplishment of the district's purposes.’

Amend the bill by inserting after section 4 the following:

‘**Sec. 5. P&SL 1963, c. 87, §6**, as amended by P&SL 2001, c. 19, §6, is repealed and the following enacted in its place:

Sec. 6. Limitations on crossing a public utility. If a sewer line of the district crosses the property or line of any other public utility, unless consent is given by the other public utility as to 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 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. If a sewer line of the district crosses the property or line of a railroad corporation, the procedure is the same as for crossing the property of a public utility except that the Department of Transportation shall determine the place, manner and conditions of the crossing. 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 public utility in the performance of a public duty, unless expressly authorized by act of the Legislature.’

Amend the bill by striking out all of section 6 and inserting the following:

‘**Sec. 6. P&SL 1963, c. 87, §8-A** is enacted to read:

Sec. 8-A. Lease of property. The district's lease of its property is governed by the Maine Revised Statutes, Title 38, section 1252, subsection 10.

Sec. 7. P&SL 1963, c. 87, §9, as amended by P&SL 2001, c. 19, §6, is repealed and the following enacted in its place:

Sec. 9. Conditions for carrying out work. If the district enters, digs up or excavates any public way or other land for the purpose of laying or maintaining its sewers, drains or pipes, constructing or maintaining manholes or catch basins or their appurtenances or for any other purpose, the work must be done expeditiously, and on completion of the work the district shall restore the way or land to the condition it was in prior to such work or to a condition equally good. If the character of the work is such as to endanger travel on any public way, the municipal officers of the municipality in which the work is being done may order a temporary closing of the way and of any intersecting way upon request of the district, and the way remains closed to public travel until the municipal officers determine it restored to a condition safe for traffic.’

Amend the bill in section 7 in Sec. 12 in the first line (page 2, line 20 in L.D.) by striking out the following: "Every" and inserting the following: 'Notwithstanding the Maine Revised Statutes, Title 38, section 1252, subsection 3, every'

Amend the bill in section 9 by striking out all of the last paragraph (page 3, lines 36 to 38 in L.D.) and inserting the following:

'Members of the board of trustees are eligible to serve in any office under the board. ~~The~~Notwithstanding the Maine Revised Statutes, Title 38, section 1252, subsection 5, the trustees receive a salary not to exceed \$750 \$950 per year and the treasurer may be allowed further compensation as the trustees determine.'

Amend the bill by striking out all of sections 10 to 13 and inserting the following:

'**Sec. 10. P&SL 1963, c. 87, §17**, as amended by P&SL 2001, c. 19, §8, is repealed and the following enacted in its place:

Sec. 17. Authorized to borrow money and to issue bonds and notes. 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 in accordance with this section. 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 \$7,000,000, unless a higher debt obligation limit is approved pursuant to the Maine Revised Statutes, Title 38, section 1256.

All bonds, notes or other evidences of indebtedness must have inscribed upon their face the words "Ogunquit Sewer District" and must be signed by the treasurer and countersigned by the chair of the board of trustees of the district and, if coupon bonds are issued, the interest coupons attached must bear the facsimile of the signature of the treasurer. Bonds must be issued in accordance with the following provisions.

1. Authorization of bonds. The district may provide by resolution of its board of trustees, without district vote, for the borrowing of money and the issuance from time to time of bonds for any of its corporate purposes, including, but not limited to:

A. Paying and refunding its indebtedness;

B. Paying any necessary expenses and liabilities incurred, including organizational and other necessary expenses and liabilities, whether incurred by the district or a municipality in the district, the district being authorized to reimburse a municipality in the district for any such expenses incurred or paid by the municipality;

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 to cover interest payments during the period of construction and for such period thereafter as the trustees may determine;

D. Providing such 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; or

E. Any combination of these purposes.

Bonds may be issued as general obligations of the district or as special obligations payable solely from particular funds. The principal of and premium, if any, and interest on all bonds are payable solely from the funds provided for that purpose from revenues. For purposes of this Act, "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, sale or other disposition of properties. All bonds issued by the district are legal obligations of the district and the district is declared to be 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 of a municipality encompassed by the district and without any proceedings or conditions other than those specifically required by this Act. Bonds issued do not constitute a debt or liability of the State or of a municipality encompassed by the district or a pledge of the faith and credit of the State or a municipality. 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. Notes. 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 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 issue of these notes is governed by the applicable provisions of this Act relating to the issue 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 of such notes 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 issue of other notes, as long as the period from the date of an original note to the maturity of a note issued to renew or pay the same or the interest on the note does not exceed one year.

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

3. Maturity; interest; form; temporary bonds. The bonds issued under this Act must be dated, must mature at such time or times not exceeding 40 years from their date or dates and must bear interest at such rate or rates as may be determined by the board of trustees, and may be made redeemable before maturity, at the option of the district, at such price or prices and under such 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 must be executed in the name of the district by the manual or facsimile signature of such officer or officers as may be authorized in the resolution to execute the bonds, but at least 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 an 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 of this Act or any recitals in any bonds issued under this Act, all such 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, and 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 the bonds in such manner, either at public or private sale, and for such price as the board may determine to be for the best interests of the district. The proceeds of the bonds of each issue must be used solely for the purpose for which those bonds have been authorized and must be disbursed in such manner and under such restrictions, if any, as the board of trustees may provide 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 a trust agreement securing the bonds may contain such limitations upon the issuance of additional bonds as the board of trustees may determine proper, and these additional bonds must be issued under such restrictions and limitations as may be 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. Pledges and covenants; trust agreement. In the discretion of the board of trustees of the district, an issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee, which may be a 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 accounts and contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the district, and the proceeds of the bonds, but 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 as may be 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 insurance of its sewer system or 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; and defining defaults and providing for remedies in the event of a default, 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 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 may determine 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 a 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 pledged and thereafter received by the district are immediately subject to the lien of the pledge without a physical delivery or segregation or further action under the Uniform Commercial Code or otherwise, and 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 a 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 as may be provided in the resolution or trust agreement, are 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 Act as the payment 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 are 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. Trust funds. Notwithstanding any other law, all money received pursuant to the authority of 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, that money is paid shall act as trustee of that 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 by this Act.

6. Remedies. A holder of bonds issued under this Act or of any of the coupons appertaining to the bonds, and the trustee under a 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 all rights under the laws of the State or granted under this Act or under the resolution or trust agreement, and may enforce and compel the performance of all duties required by this Act or by the resolution or trust agreement to be performed by the district or by an 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. Refunding bonds. The district by resolution of its board of trustees, without district vote, may issue refunding bonds for the purpose of paying 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 refunding, any interest accrued or to accrue to the date of payment of the 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 the refunding bonds as may be required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the maturities and other details of the refunding bonds, the security for the refunding 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 the Maine Revised Statutes, Title 38, chapter 11 relating to the issue of bonds other than refunding bonds.

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

9. Bonds declared legal investments. Bonds and notes issued by the district under this Act are made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, 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, retirement funds and other persons carrying on a banking business, and all other persons who are now or may hereafter be 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 made securities that may properly and legally be deposited with and received by a state, municipal or public officer, or an agency or political subdivision of the State, for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

Sec. 11. P&SL 1963, c. 87, §19, as amended by P&SL 1975, c. 81, §6, is repealed and the following enacted in its place:

Sec. 19. Rates and tolls; application of revenues. All individuals, firms and corporations, whether public, private or municipal, shall pay to the treasurer of the district rates, tolls, rents, entrance charges and other lawful charges established by the board of trustees in accordance with this Act for the services used or available to them. The sewer rates may be adjusted for the quality and character of the material discharged into the sewer system and may include discounts and late charges, rates for the district's connection fees, impact fees and readiness to serve charge 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 occupied or not, that abut on a street or location through which the district has constructed a sewer line or that are within 150 feet of a sewer line constructed by the district, even if the buildings or premises are not actually connected to the sewer line.

In this Act, the words "other lawful charges" or "other charges" include, but are not limited to, 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 and entrance charges must be uniform within the district if the cost to the district of installation and maintenance of sewers or their appurtenances and the cost of service is substantially uniform; but nothing precludes the district from establishing a higher rate, toll, rent or entrance charge

than the regular rates, tolls, rents 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, but the higher rates, tolls, rents and entrance charges must be uniform throughout the sections where they apply.

Prior to the adoption of a new rate schedule, the board of trustees shall hold a public hearing regarding the proposed rate schedule. The board of trustees shall publish the proposed rates and notice of the hearing at least once in a newspaper having a general circulation in the district not less than 7 days prior to the hearing. The district shall mail to each ratepayer a notice of the public hearing and the proposed new rate at least 14 days prior to the hearing.

Notwithstanding any other provision of law, districts that share, supply or contract with another district for services shall establish rates, tolls, rents and entrance charges mutually agreeable to the board of each participating district.

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

1. Current operating expenses. Pay the current expenses of operating and maintaining the sewerage, drainage and treatment system of the district;

2. Payment of interest and principal. Pay the principal of, premium, if any, and interest on all bonds and notes issued by the district under this Act and the Maine Revised Statutes, Title 38, chapter 11 as the same become due and payable;

3. Sinking fund for retirement of obligations; repairs; replacement; renewals. Create and maintain sinking funds and other reserves for retirement of obligations as may be required by any trust agreement or resolution securing bonds and notes and provide funds for paying the cost of all necessary repairs, replacements and renewals of the sewerage, drainage and treatment systems of the district; and

4. Payment of obligations. Pay or provide for all amounts that the district may be obligated to pay or provide for by law or contract, including a resolution or contract with or for the benefit of the holders of its bonds and notes.

Sec. 12. P&SL 1963, c. 87, §24-A is enacted to read:

Sec. 24-A. Landlord access to tenant bill payment information. Landlord access to payment information related to sewer service is governed by the Maine Revised Statutes, Title 38, section 1252, subsection 11.

Sec. 13. P&SL 1963, c. 87, §28-A is enacted to read:

Sec. 28-A. Coordination with municipal planning. The district shall coordinate municipal planning and sewer extension planning in accordance with the Maine Revised Statutes, Title 38, section 1252, subsection 9.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment modifies the charter of the Ogunquit Sewer District to bring it into compliance with the Maine Revised Statutes, Title 38, chapter 12 and affords the sewer district some powers granted to sanitary districts under the Maine Revised Statutes. The amendment:

1. Adds language that describes the procedure to be taken when a public utility crosses the property or line of a railroad corporation;
2. Clarifies how work done by the district must be carried out;
3. Sets out the procedures that the district must follow to borrow money and to issue bonds and notes;
4. Sets out the procedures for setting rates and tolls;
5. Clarifies that landlord access to payment information related to sewer service is governed by Title 38, section 1252, subsection 11;
6. Requires the district to coordinate municipal planning and sewer extension planning in accordance with Title 38, section 1252, subsection 9; and
7. Strikes those sections of the bill that deal with increases in the debt obligation limit and sinking fund.