

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 417 - L.D. 640

An Act to Update the Charter of the Lewiston-Auburn Water Pollution Control Authority

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

Sec. 1. P&SL 1967, c. 92, §1 is amended to read:

Sec. 1. Incorporation and purposes. There is hereby created a nonprofit body corporate and politic to be known as The Lewiston-Auburn Water Pollution Control Authority, hereinafter called "the authority-". The purposes of the authority ~~shall be~~ are to ~~plan, acquire facilities for, construct,~~ operate, maintain and improve a sewage treatment plant or plants and other facilities necessarily incident thereto, and to receive and treat and dispose of the ~~waste waters~~ wastewaters discharged by the sewage systems of the City of Lewiston and the Auburn Sewerage District. The authority ~~shall have~~ has all such powers, rights, privileges and immunities as may be necessary for the accomplishment of the aforesaid purposes, whether or not such powers are hereinafter specifically given.

Sec. 2. P&SL 1967, c. 92, §10 is amended to read:

Sec. 10. Apportionment of capital costs. ~~The board of the authority shall determine the proportionate shares of the initial construction and organizational costs, for which borrowings are authorized under section 8, to be borne by the City of Lewiston and by the Auburn Sewerage District. Such determination shall be based on the estimates of reputable engineers as to the annual volume of sewage and other waterborne wastes which will be piped to the authority's sewage treatment facilities for processing from the respective sewage systems of the City of Lewiston and the Auburn Sewerage District. Such determination shall also take into account estimates of the types of sewage which each sewage system will produce, the relative expense of treating the same, and such other factors as the board may deem necessary or appropriate. As soon as the board has reached its determination, notice thereof and of the basis upon which said determination was reached shall be given to each party. Within 14 days after the receipt of such notice, either party may appeal the determination of the board to the Androscoggin County Superior Court in the manner provided by Rule 80B of the Maine Rules of Civil Procedure and any amendments thereto. The court, acting without a jury, may affirm, modify or reverse the determination of the board, or make such other order as may be appropriate under the~~

circumstances, but in its deliberations the court shall give substantial weight to the findings and determination of the board. The court's decision may be appealed as in other civil actions.

With respect to the costs of the planning and construction of improvements and additions to the sewage treatment plant and related facilities occurring subsequent to the completion of the initial sewage treatment facilities, the board of the authority shall issue a new determination as to the proportionate shares of the cost to be borne by the City of Lewiston and by the Auburn Sewerage District, based upon the estimated benefit which that each will receive from the use of said proposed new facility. Such determination shall must include consideration of such reliable estimates as to the annual volume of sewage and other waterborne wastes produced by the respective sewage systems and of the types of sewage which each system is expected to produce and the relative expense of treating the same as may be available to the board and such other factors as the board may deem considers necessary or appropriate. Notice of such determination shall be given to the respective parties and appeal therefrom may be had in the same manner and subject to the same conditions as is provided herein with respect to determination of the proportionate shares of initial construction costs.

When a determination of the respective proportionate shares of the City of Lewiston and the Auburn Sewerage District has been finally made for a particular project, such proportionate shares shall may not be changed until all debts incurred to finance the particular project in respect of which such determination was made have been paid and discharged in full.

Sec. 3. P&SL 1967, c. 92, §11, as amended by P&SL 1969, c. 113, §3, is further amended to read:

Sec. 11. Estimating annual expenses of the authority. The authority shall annually prepare an itemized budget for its coming fiscal year itemizing expenses of operation, maintenance and repair, costs of contemplated capital construction and payments of principal and interest on fixed indebtedness and other borrowings. Such budget shall must include such other details as to present assets, surplus, expenses, and liabilities as the board shall determine determines to be advisable and as the City of Lewiston and the Auburn Sewerage District may reasonably require. ~~The board shall determine the proportionate share of the estimated expense of operation, maintenance, and repair for its coming fiscal year to be allocated to the City of Lewiston and the Auburn Sewerage District on the basis of the average inflow of sewage and other waterborne wastes metered at the sewage treatment facilities from the respective sewer systems over the previous year, together with such information as may be available to the board regarding the types of sewage being produced by each sewage system and the relative expense of treating the same. The board may also consider, in establishing such proportionate shares, any prospective increases or reductions in the volume or type of sewage produced by the respective sewage systems which are, in its judgment, reasonably certain to occur during the period to be covered by the assessments. In the first year of the sewage treatment plant's operation, however, the proportionate shares of operation, maintenance and other expense may be determined on the same basis as the proportionate share of initial construction costs as provided under section 10.~~

Sec. 4. P&SL 1967, c. 92, §12 is amended to read:

Sec. 12. Annual assessment ~~Assessment of costs~~ expenses. The board of the authority shall submit annually to the City of Lewiston and to the Auburn Sewerage District an assessment of ~~determine~~ the proportionate share of each, of the costs and expenses of the authority for its next fiscal year ~~expense of operation, maintenance and repair to be allocated to the City of Lewiston and the Auburn Sewerage District on the basis of the average inflow of sewage and other waterborne wastes metered at the sewage treatment facilities of the respective sewer systems and shall submit an assessment to the City of Lewiston and to the Auburn Sewerage District for each entity's proportionate share of the expenses.~~ Such assessments shall be submitted to each party by the authority in time for inclusion in their respective budgets for their ensuing fiscal years. The assessments shall be itemized in at least the following 3 categories:

1. Proportionate share of payments of principal and interest which will become due on indebtedness incurred to finance initial capital construction and related costs.

2. Proportionate share of payments of principal and interest which will become due on indebtedness incurred to finance construction of improvements and additions to the plant and facilities of the authority subsequent to completion of the sewage treatment plant.

3. Proportionate shares of estimated expenses of operation, maintenance and repair for the ensuing fiscal year.

~~The City of Lewiston and the Auburn Sewerage District shall include the amount of their respective assessments in their budgets for their ensuing fiscal year and shall make provision through assessment of taxes or otherwise to obtain sufficient revenues to pay the same. Such assessments shall be due and payable to the authority on the first day of July next following the receipt of the assessments. In the event of default in the payment of any such assessment, the authority shall be entitled to exercise the remedies provided by the Maine Revised Statutes of 1964, Title 30, section 5053, Title 30-A, section 5701 and any amendments thereto, in collecting the same.~~

Sec. 5. P&SL 1967, c. 92, §14, 2nd ¶, as amended by P&SL 1993, c. 28, §3, is further amended to read:

Reasonable notice of the date of the meeting and of the necessity of electing a new member of the board of the authority, who may be an incumbent, must be given to the mayor of Lewiston by the ~~secretary or~~ clerk of the authority.

Sec. 6. P&SL 1967, c. 92, §14, 3rd ¶, as amended by P&SL 1993, c. 28, §3, is further amended to read:

At the initial meeting for organization of the authority, or as soon after the initial meeting as practicable, the 6 members of the board shall elect a 7th member who must be a resident of Auburn or Lewiston but may not hold any public municipal office or be a member of any municipal board or committee. If the 6 members are unable to agree upon the naming of a 7th member of the board, any Justice of the Superior Court or Supreme Judicial Court shall, on petition of any 4 of the members, select the 7th member of the board. The 7th member of the board serves for a 3-year term and until the member's successor is appointed, and may be elected to serve ~~an~~ additional 3-year ~~term~~ terms of office. When a vacancy occurs in the position of the 7th member of the board, a replacement must be elected by the remaining members of the board to serve for the remainder of the term in the same manner as initial elections are held. The members of the board serve

without compensation, but are reimbursed for their actual expenses incurred in the performance of their duties, on approval of the board.

Sec. 7. P&SL 1967, c. 92, §15, as repealed and replaced by P&SL 1993, c. 28, §4, is amended to read:

Sec. 15. Election of officers. The board shall appoint and determine the compensation of a ~~superintendent~~ general manager, who is the administrative officer. The board has the power to remove the ~~superintendent~~ general manager at the board's pleasure. The ~~superintendent~~ general manager must be an individual meeting the requirements for the operator in charge of a wastewater treatment plant under the Maine Revised Statutes, Title 32, chapter 62, except that an uncertified person or unregistered professional engineer who is nevertheless eligible for certification or registration as a professional engineer may be appointed as acting ~~superintendent~~ general manager and serve for a period of up to one year. In the board's discretion, the board may reappoint the acting ~~superintendent~~ general manager for additional one-year terms.

The board may appoint, and may at the board's pleasure remove, a treasurer and clerk who are not members of the board, and both ~~officers~~ offices, if the board determines it advisable, may be held by the same person. The treasurer shall furnish the board with a bond payable to the authority issued by a surety company authorized to transact business in the State and satisfactory to the board as surety, in such sum as the board may prescribe and conditioned on the faithful performance of the treasurer's duties. The duties of the treasurer and clerk are those usually appertaining to those offices, respectively, and in addition such duties as may from time to time be prescribed by the board. The compensation of the treasurer and of the clerk is determined by the board. The ~~superintendent~~ general manager, with the approval of the board, shall from time to time appoint or employ such engineers and such experts, agents, officers, clerks and other employees as the ~~superintendent~~ general manager determines necessary, and shall determine their duties. The salaries or compensation of all persons appointed or employed under this section, together with other expenses, are paid by the authority and are considered a part of the expense of operation of the authority.

Sec. 8. P&SL 1967, c. 92, §16, 3rd ¶, as amended by P&SL 1969, c. 113, §8, is further amended to read:

The authority shall make an annual report of its activities for the preceding year and shall submit a copy thereof to the ~~mayor of the City of Lewiston, and the President of the Auburn Sewerage District trustees and the Maine Water and Air Environmental Improvement Commission.~~