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Legislative Document

No. 1483

S.P. 464

In Senate, April 14, 2011

An Act To Amend the Sanford Sewerage District

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator COURTNEY of York.

Cosponsored by Representatives: BOLAND of Sanford, NASS of Acton, TUTTLE of Sanford.

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

2 **PART A**

3 **Sec. A-1. P&SL 1947, c. 169, §1, first ¶**, as repealed and replaced by P&SL
4 1977, c. 90, §1, is amended to read:

5 **Sec. 1. Territorial limits; corporate name; purposes.** The inhabitants and
6 territory within the Town of Sanford in the County of York shall be, and hereby are,
7 created a body politic under the corporate name of the "Sanford Sewerage District,"
8 hereinafter called "the district," for the purposes purpose of providing ~~and maintaining~~
9 ~~within the district the existing sewers and such additions thereto as are necessary for the~~
10 ~~adequate operation of that system, and the district is hereby authorized to provide,~~
11 ~~construct, maintain and operate those systems of sewage and sewage disposal, and to lay,~~
12 ~~make and maintain such common sewers as the board of trustees may, from time to time,~~
13 ~~deem necessary for the disposing of its sewage for the health, welfare, comfort and~~
14 ~~convenience of the inhabitants of the Town of Sanford a means of collecting, conveying,~~
15 pumping, treating and disposing of domestic sewage and commercial and industrial waste
16 within the district and outside the district.

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18 repealed and the following enacted in its place:

19 **Sec. 2. Powers.** The district is invested with all powers, rights, privileges and
20 immunities incident to similar corporations or necessary for the accomplishment of the
21 district's purposes. Additionally, the district is authorized for the purposes of this section
22 to take over and hold the sewers and other assets of the existing sewerage system of the
23 Town of Sanford and to acquire and hold by purchase, lease, the exercise of the right of
24 eminent domain or otherwise land, real estate, rights or easements, or interests in land,
25 real estate, rights or easements, located within the district or elsewhere and personal
26 property. The district has all the powers and authorities and is subject to all the
27 limitations and restrictions provided to a sanitary district formed under the Maine Revised
28 Statutes, Title 38, chapter 11, except that sections 1061, 1062, 1067, 1101, 1102, 1103,
29 1104, 1105, 1106, 1201, subsection 10, 1203, 1205, 1206, 1207 and 1210 do not apply to
30 the district and any notice impending automatic foreclosure issued by the district must
31 bear the name "Sanford Sewerage District" in all appropriate locations.

32 **1. Enforcement.** The district is granted the right of enforcement powers as specified
33 in the Maine Revised Statutes, Title 38, section 1252, subsection 8.

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

1 collection, distribution, treatment and disposal of sewage and commercial and industrial
2 waste and storm and surface water.

3 **Sec. A-3. P&SL 1947, c. 169, §3** is amended to read:

4 **Sec. 3. Liability for damages.** The district ~~shall be~~ is, to the extent required by
5 law, liable for all the damages ~~that shall be~~ sustained by any person ~~in his property by the~~
6 as a result of the district's taking of any lands, rights, easements or interest ~~therein,~~
7 whatsoever, or by entering on or excavating through any land in real property for the
8 accomplishment of its purposes. If any person sustaining damage as aforesaid and the
9 district ~~shall do~~ not mutually agree upon the sum to be paid ~~therefor for the damage,~~ such
10 the person may cause ~~his~~ the person's damage to be ascertained in the same manner and
11 under the same conditions, restrictions and limitations as are or may be prescribed in the
12 case of damages resulting from the location of town ways.

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

17 **Sec. A-4. P&SL 1947, c. 169, §4** is amended to read:

18 **Sec. 4. Power to lay and maintain sewer.** The district is ~~hereby~~ authorized to
19 lay in and through streets and highways, under any water course, way or public and
20 private railroad, in the manner prescribed by law, within and outside the district, and to
21 remove and replace such pipes, aqueducts and fixtures as may be necessary ~~for the~~
22 objects above set forth, and whenever the district ~~shall lay, remove or replace~~ lays,
23 removes or replaces any pipes, aqueducts or fixtures in any street or highway, it shall
24 cause the work to be done with as little obstruction as possible to the public travel, and
25 shall at its own expense, without unnecessary delay, cause the earth and pavement to be
26 replaced in proper condition. ~~The district shall be liable to any person injured by any~~
27 ~~fault of the district or its agent, or any defects in the highway occasioned by the~~
28 ~~construction of the work, or during the repair of same, and also liable to said person or~~
29 ~~persons, who are injured through the carelessness of the employees of the district.~~

30 **Sec. A-5. P&SL 1947, c. 169, §4-A** is enacted to read:

31 **Sec. 4-A. Sewer extensions.** Sewer extensions are governed by the Maine
32 Revised Statutes, Title 38, section 1252, subsection 7.

33 **Sec. A-6. P&SL 1947, c. 169, §5,** as repealed and replaced by P&SL 1977, c. 90,
34 §5, is amended to read:

35 **Sec. 5. Offenses and penalties.** ~~Any~~ A person or entity who ~~shall place~~ places or
36 ~~leave any~~ leaves an offensive or injurious matter or material on or in the district's
37 conduits, catch-basins or receptacles ~~of the district~~ contrary to the regulations, or ~~shall~~
38 willfully ~~injure~~ injures any conduit, pipe, reservoir, flush tank, catch-basin, manhole,
39 outlet, engine, pump or other property held, owned or used by the district for the purposes

1 of this Act, shall pay twice the amount of the damages to the district to be recovered in
2 any proper action, and that person ~~shall be~~ is guilty of a Class E crime.

3 **Sec. A-7. P&SL 1947, c. 169, §6**, as amended by P&SL 1997, c. 74, §1, is
4 repealed and the following enacted in its place:

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

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

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

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

28 The trustees are entitled to compensation as recommended by them and approved by
29 majority vote of the town council, including compensation for any duties they perform as
30 officers as well as for their duties as trustees. Certification of the vote must be recorded
31 with the Secretary of State and recorded in the bylaws. Their compensation for duties as
32 trustees must be on the basis of the specified amount as may be specified in the bylaws,
33 for each meeting actually attended and reimbursement for travel and expenses, with the
34 total not to exceed the specific amount as may be specified in the bylaws. Compensation
35 schedules in effect on January 1, 1982, continue in effect until changed.

36 **Sec. A-8. P&SL 1947, c. 169, §6-A**, as enacted by P&SL 1997, c. 74, §2, is
37 amended to read:

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

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

7 **Sec. A-9. P&SL 1947, c. 169, §7, first ¶**, as amended by P&SL 1977, c. 90, §10,
8 is repealed and the following enacted in its place:

9 **Sec. 7. May hold property; right of eminent domain; crossing other**
10 **public utilities.** The district is authorized and empowered to accept, by action of its
11 trustees, from the inhabitants of the Town of Sanford, and the Town of Sanford is
12 authorized to convey, by deed signed by a majority of the town council of the Town of
13 Sanford, duly authorized by the inhabitants of the Town of Sanford, to the district all
14 right, title and interest that the town may have in and to the drains and sewers now
15 located within the limits of the district, but any amount now owed by the Town of
16 Sanford upon the sewers and drains, or any interest due on any amounts owed, must be
17 paid by the Town of Sanford, and any assessments or amounts, due the Town of Sanford,
18 by reason or on account of any sewer or drain built by the Town of Sanford, must be paid
19 to the Town of Sanford. The district is further authorized and empowered to take and
20 hold by purchase, lease, the exercise of the right of eminent domain, which right of
21 eminent domain is expressly granted to the district, or otherwise personal property, land
22 or real estate, or easements in the land or real estate, necessary for forming basins or
23 outlets, for laying pipes and maintaining the same and for laying and maintaining
24 conduits for carrying, collecting, discharging and disposing of sewerage matters and
25 waters and for all other objects and purposes necessary, convenient and proper for the
26 purposes of this Act and any other lawful purposes. The authority and procedures for the
27 exercise of eminent domain by the district must conform to the requirements of the Maine
28 Revised Statutes, Title 38, section 1252, subsection 2.

29 **Sec. A-10. P&SL 1947, c. 169, §7-A** is enacted to read:

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

32 **Sec. A-11. P&SL 1947, c. 169, §8** is amended to read:

33 **Sec. 8. Right of abutters to enter the sewer.** The district, at all times, shall be
34 is bound to permit the owners of all premises abutting upon its lines and pipes and
35 conduits to enter the same with all proper sewage, upon conformity to the rules and
36 regulations of the district, and payment of the rates, ~~pries and rentals~~ assessments, fees
37 and charges established ~~therefor~~ to enter the lines, pipes and conduits with all proper
38 sewage.

39 **Sec. A-12. P&SL 1947, c. 169, §8-A**, as enacted by P&SL 1977, c. 90, §11, is
40 repealed and the following enacted in its place:

1 **Sec. 8-A. Connection of private sewers.** Every building within the district
2 intended for human habitation or occupancy or with facilities for discharge or disposal of
3 sewage or commercial or industrial waste that is accessible to a sewer drain of that
4 district must have a sanitary sewer or drainage system that must be connected with that
5 sewer or drain of the district by the owner or person against whom taxes on the premises
6 are assessed in the most direct manner possible within 90 days after receiving a request
7 for connection from the district or within such further time as the trustees of the district
8 may grant and, if feasible, with a separate connection for each building. Existing
9 buildings that are already served by a private sewer system are not required to connect
10 with any sewer or drain of the district as long as the private sewer or drainage system
11 functions in a satisfactory and sanitary manner and does not violate any applicable law or
12 ordinance or any applicable requirements of the state plumbing code, as determined by
13 the municipal plumbing inspector, the plumbing inspector's alternate or, in the event that
14 both are trustees or employees of the district, the Department of Health and Human
15 Services, Division of Health Engineering. A building is considered to be accessible to a
16 sewer or drain of the district for the purposes of this section if that building or any private
17 sewer or drain directly or indirectly connected to the building, or carrying sewage or
18 commercial or industrial waste from the building, is at any point or may at some point
19 come within 200 feet of a sewer or drain of the district; except that nothing in this section
20 requires the owner of any building to acquire any real property or easement for the sole
21 purpose of making that connection.

22 **Sec. A-13. P&SL 1947, c. 169, §9, 2nd ¶**, as repealed and replaced by P&SL
23 1957, c. 153, §3, is amended to read:

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

41 **Sec. A-14. P&SL 1947, c. 169, §10**, as amended by P&SL 1997, c. 74, §§3 and
42 4, is repealed and the following enacted in its place:

43 **Sec. 10. Authorization to raise and borrow funds.** To procure funds for the
44 purposes of this Act and for such other expenses as may be necessary for the carrying out

1 of the purposes, the district without a district vote but by action of its board of trustees, is
2 authorized to raise funds from sources other than operational activities by borrowing
3 money pursuant to the Maine Revised Statutes, Title 38, section 1201. The district may
4 issue its notes and bonds in one series or in separate series from time to time, as long as
5 the aggregate outstanding principal balance at any one time does not exceed \$22,000,000
6 unless a higher debt obligation limit is approved pursuant to section 10-A.

7 **Sec. A-15. P&SL 1947, c. 169, §10-A,** as enacted by P&SL 1997, c. 74, §5, is
8 repealed and the following enacted in its place:

9 **Sec. 10-A. Increases in the debt obligation limit.** The district is authorized to
10 increase its debt obligation limit pursuant to the Maine Revised Statutes, Title 38, section
11 1256. The district shall hold a referendum on any increase in its debt obligation pursuant
12 to Title 38.

13 **Sec. A-16. P&SL 1947, c. 169, §10-B** is enacted to read:

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

17 **Sec. A-17. P&SL 1947, c. 169, §11,** as amended by P&SL 1977, c. 90, §15, is
18 repealed.

19 **Sec. A-18. P&SL 1947, c. 169, §12,** as repealed and replaced by P&SL 1977, c.
20 90, §16, is repealed and the following enacted in its place:

21 **Sec. 12. Rates.** All individuals, firms and corporations, whether public, private or
22 municipal, shall pay to the treasurer of the district rates pursuant to the Maine Revised
23 Statutes, Title 38, section 1202 and other lawful charges established by the board of
24 trustees for the services used or available to them. The sewer rates may include rates for
25 the district's readiness to serve charge against owners or persons in possession or against
26 whom the taxes are assessed of all buildings or premises intended for human habitation or
27 occupancy, whether the same are occupied or not, that abut on a street or location through
28 which the district has constructed a sewer line, or the building of which is within 200 feet
29 of a sewer line constructed by the district, although the premises are not actually
30 connected to the sewer line.

31 **Sec. A-19. P&SL 1947, c. 169, §13,** as repealed and replaced by P&SL 1977, c.
32 90, §17, is repealed and the following enacted in its place:

33 **Sec. 13. Collection of unpaid rates.** The collection of unpaid rates by the
34 treasurer of the district is governed by the Maine Revised Statutes, Title 38, section 1208.
35 In the event that a lien for unpaid rates automatically forecloses and the right of
36 redemption expires, the district may retain the real property so obtained for its own use or
37 may dispose of it on such terms and conditions and by whatever means and procedures as
38 the trustees determine to be reasonable in the circumstances.

