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Legislative Document

No. 1620

S.P. 530

In Senate, December 20, 2011

An Act To Amend the Charter of the Ogunquit Sewer District

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 16, 2011. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator HILL of York.

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

2 **Sec. 1. P&SL 1963, c. 87, §1**, as amended by P&SL 2001, c. 19, §2, is further
3 amended to read:

4 **Sec. 1. Territorial limits; incorporation; purposes.** The inhabitants and
5 territory within the Town of Ogunquit in York County constitute a public sewerage
6 district and a body politic and corporate under the name of "Ogunquit Sewer District."
7 The purpose of the district, subject to the provisions of section 10, is to take over, control,
8 operate and manage the sanitary sewer system previously owned by the Town of
9 Ogunquit and as further improved and expanded by the Ogunquit Sewer District with all
10 appurtenances thereto; to extend, increase, enlarge and improve the sewer system; to
11 extend the present system or systems so as to furnish sewerage facilities to those parts of
12 the district and, as determined appropriate by the trustees of the district, to parts of
13 adjoining municipalities not now served with such facilities; to provide for removal and
14 treatment of sewage when, as and if such treatment becomes necessary; and generally to
15 construct, maintain, operate and provide a system of sewerage sewage collection and
16 pumping, sewage disposal and sewage treatment for public purposes and for the health,
17 welfare, comfort and convenience of the inhabitants of the district.

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

19 **Sec. 1-A. Powers.** The district has all powers, rights, privileges and immunities
20 incident to similar corporations or necessary for the accomplishment of the district's
21 purposes. The district is authorized for the purposes of this section to take over and hold
22 the sewers and other assets of the existing sewerage system of the Town of Ogunquit and
23 to acquire and hold by purchase, lease, the exercise of the right of eminent domain or
24 otherwise land, real estate, rights or easements, or interests in the land, real estate, rights
25 or easements, located within the district or elsewhere and personal property. The district
26 has all the powers and authorities and is subject to the limitations and restrictions
27 provided to a sanitary district formed under the Maine Revised Statutes, Title 38, chapter
28 11, except that Title 38, sections 1061, 1062, 1067, 1101, 1102, 1103, 1104, 1105, 1106,
29 1201, subsection 10, 1203, 1205, 1206, 1207 and 1210 do not apply to the district and
30 any notice of impending automatic foreclosure issued by the district must bear the name
31 "Ogunquit Sewer District" in all appropriate locations.

32 **Sec. 3. P&SL 1963, c. 87, §2, 2nd ¶**, as amended by P&SL 2001, c. 19, §3, is
33 repealed.

34 **Sec. 4. P&SL 1963, c. 87, §2-A** is enacted to read:

35 **Sec. 2-A. Sewer extensions.** Sewer extensions are governed by the Maine
36 Revised Statutes, Title 38, section 1252, subsection 7.

37 **Sec. 5. P&SL 1963, c. 87, §8**, as amended by P&SL 2001, c. 19, §6, is repealed
38 and the following enacted in its place:

1 **Sec. 8. Contracts.** The district is authorized to contract with persons,
2 corporations, districts and other municipalities, both inside and outside the boundaries of
3 the district, with the State and the United States Government or any agency of either and
4 with private contractors, to provide for disposal of sewage and commercial and industrial
5 waste and storm and surface water through the district's system and through the system of
6 a person, corporation, district or other municipality; and every other district and
7 municipality of the State is authorized to contract with the district for the collection,
8 distribution, treatment and disposal of sewage and commercial and industrial waste and
9 storm and surface water.

10 **Sec. 6. P&SL 1963, c. 87, §9, 2nd ¶**, as amended by P&SL 2001, c. 19, §6, is
11 further amended to read:

12 When the character of the work is such as to endanger travel on a public way, the
13 ~~overseers~~ town manager of the Town of Ogunquit, ~~and the municipal officers or the town~~
14 managers of adjoining municipalities, when the instance may apply, may order a
15 temporary closing of the way, and of any intersecting way, upon request of the district,
16 and the way must remain closed to public travel until the ~~overseers or municipal officers,~~
17 ~~as the case may be, determine~~ respective town manager determines that the way is
18 restored to a condition safe for traffic.

19 **Sec. 7. P&SL 1963, c. 87, §12** is repealed and the following enacted in its place:

20 **Sec. 12. Connection of private sewers.** Every building within the district
21 intended for human habitation or occupancy or with facilities for discharge or disposal of
22 sewage or commercial or industrial waste that is accessible to a sewer or drain of the
23 district must have a sanitary sewer or drainage system that must be connected with the
24 sewer or drain of the district by the owner or person against whom taxes on the premises
25 are assessed in the most direct manner possible within 90 days after receiving a request
26 for connection from the district or within such further time as the trustees of the district
27 may grant and, if feasible, with a separate connection for each building. Existing
28 buildings that are already served by a private sewer system are not required to connect
29 with any sewer or drain of the district as long as the private sewer or drainage system
30 functions in a satisfactory and sanitary manner and does not violate any applicable law or
31 ordinance or any applicable requirements of the state plumbing code, as determined by
32 the municipal plumbing inspector or the plumbing inspector's alternate or, in the event
33 that both are trustees or employees of the district, the Department of Health and Human
34 Services, Division of Health Engineering. A building is considered to be accessible to a
35 sewer or drain of the district for the purposes of this section if that building or any private
36 sewer or drain directly or indirectly connected to the building, or carrying sewage or
37 commercial or industrial waste from the building, is at any point or may at some point
38 come within 150 feet of a sewer or drain of the district, except that nothing in this section
39 requires the owner of any building to acquire any real property or easement for the sole
40 purpose of making that connection.

41 **Sec. 8. P&SL 1963, c. 87, §13**, as amended by P&SL 2001, c. 19, §6, is further
42 amended to read:

1 **Sec. 13. Sanitary provisions, standards and penalty for violations.** The
2 district is authorized to adopt standards ~~as may be required to conform its operations with~~
3 ~~state and federal environmental statutes and regulations, establish and amend reasonable~~
4 ~~rules, regulations and bylaws for the proper management of the affairs of the district and~~
5 ~~perform other acts within the powers delegated by law to the trustees.~~ Any person who
6 places, discharges or leaves an offensive or injurious matter or material on or in the
7 conduits, catch basins or receptacles of the district contrary to its rules or regulations, or
8 willfully injures any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet,
9 engine, pump or other property held, owned or used by the district for the purposes of this
10 act is liable to pay twice the amount of the damages to the district, to be recovered in a
11 civil action; and such person, on conviction of any of the acts or willful injury described
12 in this section, and any person who violates section 11 or 12, may be punished by a fine
13 of up to \$1,000 per day.

14 **Sec. 9. P&SL 1963, c. 87, §14,** as amended by P&SL 2001, c. 19, §7, is further
15 amended by amending the 4th, 8th, 9th and 10th paragraphs to read:

16 The annual meeting of the district must be held ~~on the last Monday of June~~ at an
17 hour, date and place designated by resolution of the board of trustees ~~as provided in the~~
18 ~~bylaws.~~ At the annual meeting of the district, the trustees shall elect a chair, a treasurer
19 and a clerk to serve for the ensuing year and until their successors are elected and
20 qualified.

21 ~~As soon as convenient after the election or appointment of a new trustee, the board of~~
22 ~~trustees shall hold a meeting at some convenient place in the district, to be called by any~~
23 ~~member of the board of trustees in writing, designating the time and place and delivered~~
24 ~~in hand to the other 2 members not less than 2 full days before the meeting; except that~~
25 ~~they may meet by agreement without a notice.~~ As soon as convenient after the regularly
26 scheduled annual election, and after the appointment of a new trustee to fill a vacancy on
27 the board of trustees, the board of trustees shall organize by election from their own
28 members a chair, treasurer and clerk. The trustees may adopt and establish bylaws,
29 consistent with the laws of the State of Maine and the United States, as may be necessary
30 for their own convenience and the proper management of the affairs of the district, and
31 perform any other acts within the powers delegated to them by law.

32 The trustees from time to time may choose and employ, and fix the compensation of,
33 any other necessary officers and agents who serve at their pleasure. The treasurer shall
34 furnish bond or appropriate insurance coverage in such sum and with such sureties as the
35 trustees approve, the cost of the bond or insurance coverage to be paid by the district.

36 Members of the board of trustees are eligible to serve in any office under the board.
37 The trustees receive a salary not to exceed ~~\$750~~ \$950 per year and the treasurer may be
38 allowed further compensation as the trustees determine.

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

41 **Sec. 17. Authorized to borrow money and to issue bonds and notes.** To
42 procure funds for the purposes of this Act and for such other expenses as may be

1 necessary for the carrying out of the purposes, the district without a district vote but by
2 action of its board of trustees is authorized to raise funds from sources other than
3 operational activities by borrowing money pursuant to the Maine Revised Statutes, Title
4 38, section 1201. The district may issue its notes and bonds in one series or in separate
5 series from time to time, as long as the aggregate outstanding principal balance at any one
6 time does not exceed \$7,000,000, unless a higher debt obligation limit is approved
7 pursuant to section 17-A.

8 All bonds, notes or other evidences of indebtedness must have inscribed upon their
9 face the words "Ogunquit Sewer District" and must be signed by the treasurer and
10 countersigned by the chair of the board of trustees of the district and, if coupon bonds are
11 issued, the interest coupons attached must bear the facsimile of the signature of the
12 treasurer.

13 **Sec. 11. P&SL 1963, c. 87, §17-A** is enacted to read:

14 **Sec. 17-A. Increases in the debt obligation limit.** The district is authorized to
15 increase its debt obligation limit pursuant to the Maine Revised Statutes, Title 38, section
16 1256. The district shall hold a referendum on any increase in its debt obligation pursuant
17 to Title 38, section 1256.

18 **Sec. 12. P&SL 1963, c. 87, §18** is repealed and the following enacted in its place:

19 **Sec. 18. Sinking fund provided for.** The district is authorized to create and
20 maintain reserves as may be required by any trust agreement or resolution securing bonds
21 and notes. The district is authorized to pay or provide for any amounts that the district
22 may be obligated to pay or provide for by law or contract, including any resolution or
23 contract with or for the benefit of the holders of its bonds and notes.

24 **Sec. 13. P&SL 1963, c. 87, §19**, as amended by P&SL 1975, c. 81, §6, is
25 repealed and the following enacted in its place:

26 **Sec. 19. Rates and tolls; application of revenues.** All individuals, firms and
27 corporations, whether public, private or municipal, shall pay to the treasurer of the district
28 rates pursuant to the Maine Revised Statutes, Title 38, section 1202 and other lawful
29 charges established by the board of trustees for the services used or available to them.
30 The sewer rates may be adjusted for the quality and character of the material discharged
31 into the sewer system and may include discounts and late charges, rates for the district's
32 connection fees, impact fees and readiness to serve charge against owners or persons in
33 possession or against whom the taxes are assessed of all buildings or premises intended
34 for human habitation or occupancy, whether occupied or not, that abut on a street or
35 location through which the district has constructed a sewer line or that are within 150 feet
36 of a sewer line constructed by the district, even if the buildings or premises are not
37 actually connected to the sewer line.

38 **Sec. 14. P&SL 1963, c. 87, §30** is enacted to read:

39 **Sec. 30. Supplementary charges; powers granted.** The district is authorized
40 to impose charges, in addition to any other assessments lawfully imposed by general law.

1 for the use of sewers, sewer systems and treatment works, and the trustees may adopt
2 rules and regulations as may be necessary or convenient to carry out the purposes of the
3 district. All incidental powers, rights and privileges necessary to the accomplishment of
4 the purposes of the district are granted to the district and its trustees, including the right of
5 its trustees to determine when and where sewerage and treatment facilities and disposal
6 units are needed and when and where they are constructed.

7

SUMMARY

8 This bill modifies the charter of the Ogunquit Sewer District to bring it into
9 compliance with the Maine Sanitary District Enabling Act, especially as it relates to the
10 sinking fund.