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No. 1532

S.P. 579

In Senate, May 14, 2013

An Act To Provide Model Language for Standard Sewer District Charters

Reported by Senator CLEVELAND of Androscoggin for the Joint Standing Committee on Energy, Utilities and Technology pursuant to Joint Order, S.P. 533.

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

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

2 **Sec. 1. 5 MRSA §18251, sub-§3, ¶B**, as enacted by PL 2003, c. 630, Pt. A, §3, is
3 amended to read:

4 B. An elected official or an official appointed for a fixed term. Special provisions
5 apply to certain officials as follows:

6 (1) Membership of trustees of a water district is governed by Title 35-A, section
7 6410, subsection 8;

8 (2) Membership of trustees of a sanitary district is governed by Title 38, section
9 1104; and

10 (3) Membership of trustees of a sewer district is governed by Title 38, section
11 ~~4252~~ 1036, subsections 7 and 8;

12 **Sec. 2. 14 MRSA §6321, 4th ¶**, as amended by PL 2007, c. 391, §9, is further
13 amended to read:

14 For purposes of this section, "public utility easements" means any easements held by
15 public utilities, as defined in Title 35-A, section 102; sewer districts, as defined in Title
16 38, section ~~4254~~ 1032, subsection 3 or 4; or sanitary districts, as formed under Title 38,
17 chapter 11.

18 **Sec. 3. 30-A MRSA §2356, sub-§3**, as amended by PL 1995, c. 616, §1, is
19 further amended to read:

20 **3. Trustees' compensation; water districts and sewer districts.** This chapter does
21 not affect the procedures concerning changes in the compensation of trustees of water
22 districts and sewer districts as provided in Title 35-A, section 6410, subsection 7; and
23 Title 38, section ~~4252~~ 1036, subsection 5 7.

24 **Sec. 4. 30-A MRSA §5061, sub-§5**, as enacted by PL 2007, c. 174, §2, is
25 amended to read:

26 **5. Sewer utility.** "Sewer utility" means a municipal sewer department, a sewer
27 district as defined in Title 38, section ~~4254~~ 1032, subsection 3 or 4 or a sanitary district
28 formed under Title 38, chapter 11.

29 **Sec. 5. 33 MRSA §593-A, sub-§1, ¶B**, as enacted by PL 2003, c. 526, §1, is
30 amended to read:

31 B. "Utility" means a public utility as defined in Title 35-A, section 102, sanitary
32 district established under Title 38, chapter 11 or sewer district as defined in Title 38,
33 section ~~4254~~ 1032, subsection 3 or 4.

34 **Sec. 6. 38 MRSA c. 10** is enacted to read:

35 **CHAPTER 10**

36 **STANDARD SEWER DISTRICT ENABLING ACT**

1 **SUBCHAPTER 1**

2 **GENERAL PROVISIONS**

3 **§1031. Short title**

4 This chapter may be known and cited as "the Standard Sewer District Enabling Act."

5 **§1032. Definitions**

6 As used in this chapter, unless the context indicates otherwise, the following terms
7 have the following meanings.

8 **1. Charter.** "Charter" means a private and special law or series of private and
9 special laws that establishes a sewer district and defines its responsibilities and
10 authorities.

11 **2. Rates.** "Rates" means a rate, toll, rent or other lawful charge established by a
12 sewer district pursuant to its charter.

13 **3. Sewer district.** "Sewer district" means a district, including a multipurpose district
14 and standard district, created by a private and special law of the State whose purposes
15 include collection, interception and treatment of sewerage. Except as otherwise provided
16 in this chapter or other applicable law, "sewer district" does not include a district whose
17 sewerage activities are confined to interception and treatment.

18 **4. Standard district.** "Standard district" means a sewer district that is formed and
19 chartered by a private and special law in conformance with this chapter.

20 **§1033. Scope and application**

21 The provisions of this chapter apply as follows.

22 **1. Applicable to all sewer districts.** Except as otherwise provided in the statutory
23 provisions listed in this subsection or in subsection 6, the following provisions are
24 incorporated into the private and special laws governing a sewer district, and any part of a
25 sewer district charter not in conformity with the following provisions is void.

26 A. Section 1036, subsection 7;

27 B. Section 1037;

28 C. Section 1040;

29 D. Section 1042;

30 E. Section 1045;

31 F. Section 1046, subsection 1 and subsection 4;

32 G. Section 1048, subsection 1, paragraph B and subsection 5; and

33 H. Section 1051.

1 **2. Mandatory provisions from former chapter 12.** The following provisions
2 apply to all sewer districts:

- 3 A. Section 1038;
- 4 B. Section 1049;
- 5 C. Section 1050;
- 6 D. Section 1054; and
- 7 E. Section 1055.

8 **3. Standard provisions.** Except as provided in subsections 1 and 2 or other express
9 provisions of this chapter, the provisions of this chapter do not apply to a sewer district
10 unless the charter of that district incorporates those provisions.

11 **4. Mandatory provisions.** Provisions governing the following aspects of a standard
12 district are not included in this chapter and must be otherwise specified in a standard
13 district charter:

- 14 A. The corporate name of the standard district;
- 15 B. The territorial limits of the standard district;
- 16 C. The number of trustees of the standard district, which in accordance with section
17 1036 may not be less than 3;
- 18 D. The appointing authority responsible for appointing or the method of electing the
19 first board of trustees;
- 20 E. The terms of the trustees who are elected or appointed subsequent to the first
21 board. Terms of the first board are determined pursuant to section 1036, subsection 4;
- 22 F. Whether the trustees, subsequent to the first board, are appointed or elected; and
- 23 G. The procedures for the local referendum on the creation of the standard district.

24 **5. Optional provisions.** A standard district charter may include provisions relating
25 to the following:

- 26 A. Special qualifications of trustees;
- 27 B. Election of trustees by other than at-large elections as provided in section 1036,
28 subsection 1. Any provision for election of trustees by other than at-large elections
29 must establish voting districts in conformance with the judicial principle of one
30 person, one vote;
- 31 C. Additional purposes and powers of the standard district, such as authority to buy
32 out an existing sewer company or to provide water or other utility services;
- 33 D. Areas outside the standard district's territory in which the standard district is
34 authorized to provide sewer services;
- 35 E. Areas outside the standard district's territory in which the standard district is
36 authorized to locate facilities;
- 37 F. Notwithstanding section 1053, a specific debt limit;

1 G. Towns with which the standard district is authorized to contract to provide sewer
2 service; and
3 H. Any other provisions or duties necessary to accomplish the legislative purposes
4 for creating the standard district.

5 **6. Limited sewer districts; exception.** Except as otherwise provided in this
6 subsection or other applicable law, a sewer district whose sewerage collection activities
7 are limited to collection performed pursuant to a contract with one or more municipalities
8 is exempt from the requirements of this chapter. The sewerage collection activities may
9 include the ownership, maintenance or operation of the collection facilities but not the
10 fixing of rate schedules for their use. If the sewer district owns the collection facilities
11 used under the contract, the sewer district is subject to the requirements of section 1042.

12 **7. Guidelines for modified charters.** As determined appropriate by the Legislature,
13 a standard district charter may include provisions that differ from the provisions in this
14 chapter.

15 **§1034. Exemption from taxation**

16 A standard district is a public municipal corporation within the meaning of Title 36,
17 section 651 and the property of the district is exempt from taxation to the extent provided
18 in that section.

19 **§1035. Legislative amendment of charters**

20 Prior to acting on a proposed sewer district charter amendment, the joint standing
21 committee of the Legislature having jurisdiction over energy and utility matters shall
22 obtain written comments from the municipalities that lie in whole or in part within the
23 sewer district.

24 **SUBCHAPTER 2**

25 **GOVERNANCE**

26 **§1036. Trustees**

27 All of the affairs of a standard district must be managed by a board of trustees whose
28 members must be residents of the standard district. The number of trustees must be
29 specified in the standard district's charter and may not be less than 3. After selection of
30 the first board, each trustee is nominated and elected or appointed as provided in the
31 charter creating the standard district and in accordance with subsection 1 or 2, as
32 applicable. If the charter does not indicate whether trustees are appointed or elected, after
33 the selection of the first board the trustees must be elected in accordance with subsection
34 1.

35 **1. Nominations and elections; vacancies.** Nominations and elections of trustees
36 must be conducted in accordance with the laws relating to municipal elections in Title
37 30-A, chapter 121.

1 When the term of office of a trustee expires, the trustee's successor is elected at large by a
 2 plurality vote of the voters of the standard district. For the purpose of election, a special
 3 election must be called and held on the date established by the trustees. The election
 4 must be called by the trustees of the standard district in the same manner as town
 5 meetings are called and, for this purpose, the trustees are vested with the powers of
 6 municipal officers. A vacancy is filled in the same manner for the unexpired term by a
 7 special election called by the trustees of the standard district.

8 The trustees shall appoint a registrar of voters for the standard district, who may also be
 9 the registrar of voters for any town within the standard district, and fix the registrar's
 10 salary. It is the registrar's duty to make and keep a complete list of all the registered
 11 voters resident in the standard district. The list prepared by the registrar governs the
 12 eligibility of a voter. Voters who are resident outside the territorial limits of the standard
 13 district, as defined in its charter, are not eligible voters and the registrar of voters shall
 14 exclude those voters from the registrar's lists. All warrants issued for elections by the
 15 trustees must show that only the voters resident within the territorial limits of the standard
 16 district are entitled to vote.

17 **2. Appointments.** If the charter creating a standard district specifies that the trustees
 18 are appointed, the appointments must be made as provided in the charter.

19 **3. Eligibility requirements.** When a trustee ceases to be a resident of a standard
 20 district, the trustee shall vacate the office of trustee and the vacancy is filled as provided
 21 in subsections 1 or 2, as applicable. All trustees are eligible for reelection or
 22 reappointment, but a person who is a municipal officer, as defined in Title 30-A, section
 23 2001, subsection 10, of any town located, in whole or in part, within the standard district
 24 is not eligible for appointment, nomination or election as a trustee of that standard
 25 district.

26 **4. First board.** The first board is appointed or elected as provided in the charter
 27 creating the standard district. At the first meeting, the initial trustees shall determine by
 28 agreement or, failing to agree, shall determine by lot the term of office of each trustee.
 29 The terms of the trustees must be determined in accordance with the following table.

	<u>Total number of</u>	<u>1 year</u>	<u>2 years</u>	<u>3 years</u>
	<u>trustees</u>			
31	<u>3</u>	<u>1</u>	<u>1</u>	<u>1</u>
32	<u>4</u>	<u>1</u>	<u>1</u>	<u>2</u>
33	<u>5</u>	<u>1</u>	<u>2</u>	<u>2</u>
34	<u>6</u>	<u>2</u>	<u>2</u>	<u>2</u>
35	<u>7</u>	<u>2</u>	<u>2</u>	<u>3</u>
36	<u>8</u>	<u>2</u>	<u>3</u>	<u>3</u>
37	<u>9</u>	<u>3</u>	<u>3</u>	<u>3</u>
38	<u>10</u>	<u>3</u>	<u>3</u>	<u>4</u>
39	<u>11</u>	<u>3</u>	<u>4</u>	<u>4</u>
40	<u>12</u>	<u>4</u>	<u>4</u>	<u>4</u>
41	<u>13</u>	<u>4</u>	<u>4</u>	<u>5</u>
42	<u>14</u>	<u>4</u>	<u>5</u>	<u>5</u>

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The trustees shall enter on their records the determination made. Vacancies are filled pursuant to subsection 1 or 2, as applicable.

At the first meeting, the trustees shall organize by electing from among their members a chair and a clerk, by adopting a corporate seal and by electing a treasurer who may or may not be a trustee.

5. Organization; conduct of business. Within one week after each annual appointment or election, the trustees of a standard district shall meet for the purpose of electing a chair, treasurer and clerk in accordance with subsection 4 to serve for the ensuing year and until their successors are elected or appointed and qualified. The trustees, from time to time, may choose and employ and fix the compensation of any other necessary officers and agents, who serve at the pleasure of the trustees. The treasurer shall furnish bond in the sum and with sureties approved by the trustees. The standard district shall pay the cost of the bond.

The trustees may adopt and establish bylaws consistent with the laws of this State and necessary for the convenience and the proper management of the affairs of the standard district and perform other acts within the powers delegated by law to the trustees.

The trustees must be sworn to the faithful performances of their duties including the duties of a member who serves as clerk or clerk pro tem. The trustees shall publish an annual report that includes a report of the treasurer.

Business of the standard district must be conducted in accordance with the applicable provisions of the Freedom of Access Act.

6. Decisions of the board. All decisions of the board of trustees must be made by a majority of those present and voting, except that a vote to approve the issuing of any bond, note or other evidence of indebtedness payable within a period of more than 12 months after the date of issuance must be approved by a majority of the entire board. A quorum of the board of trustees consists of the total number of authorized trustees divided by 2 and, if necessary to obtain a whole number, the resulting number rounded up to the next whole number.

Trustees are subject to the conflict of interest provisions of Title 30-A, section 2605.

7. Trustees compensation; applicable to all sewer districts. The trustees of a sewer district receive compensation as recommended by the trustees and approved by majority vote of the municipal officers in municipalities representing a majority of the population within the sewer district, including compensation for any duties they perform as officers as well as for their duties as trustees. Certification of the vote must be recorded with the Secretary of State and recorded in the bylaws. Compensation for duties as trustees must be based on an amount specified in the bylaws for each meeting actually attended plus reimbursement for travel and expenses, with the total not to exceed a specific amount as specified in the bylaws. Compensation schedules in effect on January 1, 2013 continue in effect until changed.

1 This subsection is deemed to be incorporated into the private and special laws governing
2 a sewer district, and any part of a sewer district charter not in conformity with this
3 subsection is void, unless the sewer district's charter expressly references this subsection
4 or former section 1252, subsection 5 and specifically provides that this subsection or
5 former section 1252, subsection 5 does not apply.

6 **8. Trustees retirement; applicable to all sewer districts.** A person who has not
7 been a trustee of a sewer district prior to January 1, 1987, or who is not a full-time
8 employee, is not eligible to become member of the Maine Public Employees Retirement
9 System as a result of the person's selection as a trustee.

10 This subsection is deemed to be incorporated into the private and special laws governing
11 sewer district, and any part of a sewer district charter not in conformity with this
12 subsection is void, unless the sewer district's charter expressly references this subsection
13 or former section 1252, subsection 6 and specifically provides that this subsection or
14 former section 1252, subsection 6 does not apply.

15 **9. Expenses.** The trustees of a standard district may obtain an office and incur
16 necessary expenses.

17 **§1037. Coordination with municipal planning; applicable to all sewer districts**

18 The following provisions facilitate coordination of municipal planning and sewer
19 extension planning.

20 **1. Growth management.** The trustees of a sewer district shall cooperate with
21 municipal officials in the development of municipal growth management and other land
22 use plans and ordinances.

23 **2. Development that affects the district.** Municipal officers shall cooperate with
24 the trustees of a sewer district during the consideration of development applications that
25 may affect the operations of the sewer district.

26 This section is deemed to be incorporated into the private and special laws governing
27 a sewer district, and any part of a sewer district charter not in conformity with this section
28 is void, unless the sewer district's charter expressly references this section or former
29 section 1252, subsection 9 and specifically provides that this section or former section
30 1252, subsection 9 does not apply.

31 **§1038. Reorganization as sanitary districts**

32 A sewer district existing on January 1, 2013 may, but is not required to, reorganize as
33 a sanitary district under the Maine Sanitary District Enabling Act by referendum in
34 accordance with section 1101, subsection 1-A. The referendum may be initiated by the
35 voters or by a majority of the trustees.

36 **SUBCHAPTER 3**

37 **POWERS**

1 **§1039. Powers**

2 Except as otherwise provided by law, for the purposes of its incorporation, a standard
3 district may locate, construct and maintain pipes, drains, sewers, conduits, treatment
4 plants, pumping stations and other necessary structures and equipment for the collection,
5 interception and treatment of sewerage, commercial and industrial waste and storm and
6 surface water for the health, welfare, comfort and convenience of the inhabitants of the
7 standard district.

8 All incidental powers, rights and privileges necessary to accomplish the objectives of
9 this chapter are granted to a standard district .

10 **§1040. Right of eminent domain; applicable to all sewer districts**

11 The authority and procedures for the exercise of eminent domain by a sewer district
12 must conform to sections 1152, 1152-A, 1153 and 1154. In addition, a sewer district may
13 not take by right of eminent domain any of the property or facilities of any other public
14 utility used or acquired for future use by the owner of the public utility in the
15 performance of a public duty, unless expressly authorized by a special Act of the
16 Legislature.

17 This section is deemed to be incorporated into the private and special laws governing
18 a sewer district, and any part of a sewer district charter not in conformity with this section
19 is void, unless the sewer district's charter expressly references this section or former
20 section 1252, subsection 2 and specifically provides that this subsection or former section
21 1252, subsection 2 does not apply.

22 **§1041. Crossing other public utilities and railroad corporations**

23 If a standard district, in constructing, maintaining or replacing any of its facilities,
24 must cross property of another public utility or railroad corporation, the standard district
25 must obtain the consent of the other public utility or railroad corporation and undertake
26 the work in accordance with conditions established by agreement. If, within 30 days after
27 requesting consent, the standard district fails to reach an agreement with the public utility
28 or railroad corporation the standard district may petition as follows.

29 **1. Public utility.** In the case of crossing property of a public utility, the standard
30 district may petition the Public Utilities Commission to determine the time, place and
31 manner of crossing. All work done on the property of the public utility must be done
32 under the supervision and to the satisfaction of the public utility or as prescribed by the
33 Public Utilities Commission.

34 **2. Railroad corporation.** In the case of crossing the property of a railroad
35 corporation, the standard district may petition the Department of Transportation to
36 determine the time, place and manner of crossing. All work done on the property of the
37 railroad corporation must be done under the supervision and to the satisfaction of the
38 railroad corporation or as prescribed by the Department of Transportation.

39 All work under this section must be done at the expense of the standard district.

1 **§1042. Sewer extensions; applicable to all sewer districts**

2 Sewer extensions are governed by this section.

3 **1. Written assurance from municipality.** A sewer district may not construct any
4 sewer extension unless it acquires from the municipal officers or the designee of the
5 municipal officers of any municipality through which the sewer extension will pass
6 written assurance that:

7 A. Any development, lot or unit intended to be served by the sewer extension is in
8 conformity with any adopted municipal plans and ordinances regulating land use; and

9 B. The sewer extension is consistent with adopted municipal plans and ordinances
10 regulating land use.

11 If the municipal officers fail to issue a response to a written request from a sewer district
12 for written assurance within 45 calendar days of receiving the request in writing, the
13 written assurance is deemed granted.

14 Not less than 7 days prior to the meeting at which the trustees will take final action on
15 whether to proceed with the extension, the trustees of the sewer district shall publish
16 notice of the proposed extension in a newspaper having a general circulation that includes
17 all municipalities through which the sewer extension will pass.

18 **2. Review of municipal decision; applicable to all sewer districts.** For an
19 intermunicipal sewer extension, when written assurance is denied by municipal officers
20 pursuant to subsection 1, an aggrieved party may appeal, within 15 days of the decision,
21 to the Department of Agriculture, Conservation and Forestry for a review of the
22 municipal officers' decision. Notwithstanding Title 5, chapter 375, subchapter 4, the
23 following procedures apply to the review by the Department of Agriculture, Conservation
24 and Forestry.

25 A. The Department of Agriculture, Conservation and Forestry may request any
26 additional information from the sewer district, the municipality or the department. All
27 information requested must be submitted within 30 days of the request, unless an
28 extension is granted by the Department of Agriculture, Conservation and Forestry.

29 B. Within a reasonable time, the Department of Agriculture, Conservation and
30 Forestry shall hold a hearing. The Department of Agriculture, Conservation and
31 Forestry shall give at least 7 days' written notice of the hearing to the sewer district,
32 the municipality and the party that requested the hearing. The hearing is informal and
33 the Department of Agriculture, Conservation and Forestry may receive any
34 information it considers necessary.

35 C. Within 15 days of the hearing and within 60 days of the request for review, the
36 Department of Agriculture, Conservation and Forestry shall make a decision that
37 must include findings of fact on whether the sewer extension proposal is inconsistent
38 with adopted municipal plans and ordinances regulating land use. The decision of the
39 Department of Agriculture, Conservation and Forestry constitutes final agency action.

40 D. Notwithstanding section 1, if the Department of Agriculture, Conservation and
41 Forestry determines that the sewer extension proposal is not inconsistent with

1 adopted municipal plans and ordinances regulating land use, the Department of
2 Agriculture, Conservation and Forestry shall issue written assurance that the proposal
3 is consistent with adopted municipal plans and ordinances regulating land use and the
4 sewer district may construct the sewer extension.

5 This section is deemed to be incorporated into the private and special laws governing
6 a sewer district, and any part of a sewer district charter not in conformity with this section
7 is void, unless the sewer district's charter expressly references this section or former
8 section 1252, subsection 7 and specifically provides that this subsection or former section
9 1252, subsection 7 does not apply.

10 **§1043. Conditions for carrying out work**

11 When a standard district enters, digs up or excavates any public way or other land to
12 lay or maintain its sewers, drains or pipes, constructing manholes or catch basins or other
13 appurtenances or for any other purpose, the work must be done expeditiously. On
14 completion of the work the standard district shall restore the public way or land to its
15 condition prior to such work or to a condition equally good. If the work is being
16 undertaken in a municipality and could potentially endanger travel on a public way, the
17 municipal officers of the municipality in which the work is being done may order a
18 temporary closing of the public way and of any intersecting way. Upon request of the
19 standard district, the public way must remain closed to public travel until the municipal
20 officers of the unit of local government determines the public way is restored to a
21 condition safe for traffic. If the work is being undertaken in an unorganized territory and
22 could potentially endanger travel on a public way, the commissioners of the county where
23 the public way is located may order a temporary closing of the public way and of any
24 intersecting way. Upon request of the standard district, the public way must remain
25 closed to public travel until the county commissioners determine the public way is
26 restored to a condition safe for traffic.

27 **§1044. Contracts**

28 A standard district, through its trustees, in order to carry out the purposes of its
29 incorporation, may contract with a person, standard district, utility or corporation or with
30 a municipality, the State or other governmental entity.

31 **§1045. Lease of property; applicable to all sewer districts**

32 A sewer district may enter into a lease and leaseback transaction with respect to some
33 or all of its real or personal property, other than land, and may take all other necessary
34 action, including, but not limited to, the granting of mortgages and liens, to effectuate the
35 transaction. For purposes of this section, "lease" includes a lease of any length, including
36 leases that may be defined as sales for income tax purposes.

37 This section is deemed to be incorporated into the private and special laws governing
38 a sewer district, and any part of a sewer district charter not in conformity with this section
39 is void, unless the sewer district's charter expressly references this section or former
40 section 1252, subsection 10 and specifically provides that this subsection or former
41 section 1252, subsection 10 does not apply.

1 **§1046. Enforcement**

2 Sewer districts have enforcement powers as specified in this section.

3 **1. Violation of standards by an industrial user; applicable to all sewer districts.**

4 A sewer district may seek in a civil action injunctive relief from an industrial user that
5 violates a pretreatment standard or requirement, administered by the sewer district. The
6 sewer district may seek a civil penalty of up to \$1,000 per day for each violation by an
7 industrial user of a pretreatment standard or requirement.

8 This subsection is deemed to be incorporated into the private and special laws governing
9 a sewer district, and any part of a sewer district charter not in conformity with this
10 subsection is void, unless the sewer district's charter expressly references this subsection
11 or former section 1252, subsection 8 and specifically provides that this subsection or
12 former section 1252, subsection 8 does not apply.

13 **2. Injury to property of standard districts.** A person may not place, discharge or
14 leave any offensive or injurious matter or material on or in the conduits, catch basins or
15 receptacles of a standard district formed under this chapter contrary to its regulations or
16 knowingly injure any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet,
17 engine, pump or other property held, owned or used by the standard district.

18 A person who violates this subsection is liable to pay twice the amount of the damages to
19 the standard district to be recovered in any proper action and is subject to a civil penalty
20 not to exceed \$2,500 for each violation, payable to the standard district. The civil penalty
21 is recoverable in a civil action.

22 **3. Required connection.** Except as provided in subsection 4, upon receiving a
23 request from a standard district to connect a building located in the territory of the
24 standard district that is accessible to a sewer or drain of the standard district and that is
25 intended for human habitation or occupancy or that has facilities for discharge or disposal
26 of waste water or commercial or industrial waste, the owner of that building shall arrange
27 to have the building connected through a sanitary sewer or drainage system to the
28 standard district's accessible sewer or drain in the most direct manner possible. If
29 feasible, each building requiring connection must have its own separate connection. The
30 connection must be completed within 90 days of the receipt by the owner of the request,
31 or within any extended period requested by the owner and agreed to by the trustees. For
32 purposes of this subsection, "owner" includes the owners of record or any person against
33 whom property taxes on the building are assessed.

34 A person who receives a notice in accordance with this subsection to connect to a
35 building and fails to connect to the building in accordance with this subsection is subject
36 to a civil penalty not to exceed \$2,500, payable to the standard district. This penalty is
37 recoverable in a civil action.

38 **4. Connections not required; applicable to all sewer districts.** An existing
39 building that is already served by a private sewer system is not required to connect with a
40 sewer or drain of a sewer district as long as the private sewer or drainage system
41 functions in a satisfactory and sanitary manner and does not violate applicable law or
42 ordinance applicable to the connection with a sewer or drain or a sewer district or any

1 applicable requirements of the state plumbing code, as determined by the municipal
2 plumbing inspector or the municipal plumbing inspector's alternate, or, in the event that
3 both are trustees or employees of the sewer district, the Department of Health and Human
4 Services, Division of Health Engineering.

5 This subsection is deemed to be incorporated into the private and special laws governing
6 a sewer district, and any part of a sewer district charter not in conformity with this
7 subsection is void, unless the sewer district's charter expressly references this subsection
8 or former section 1252, subsection 3 and specifically provides that this subsection or
9 former section 1252, subsection 3 does not apply.

10 **5. Permissive connection.** A person not otherwise required to connect a private
11 sewer into a sewer of a standard district may connect to the standard district's sewer if
12 that person obtains a permit from the standard district and pays any charges required by
13 this subsection. The clerk of the standard district shall record the permit in the records of
14 the standard district.

15 A. If construction of the standard district's sewer is complete at the proposed point of
16 entry of the private sewer and the standard district has established an entrance charge
17 for entry at that location, the person seeking to connect the private sewer at that
18 location shall pay the entrance charge before the connection is undertaken.

19 B. If the standard district's sewer is under construction and not completed at the point
20 of the proposed entry of the private sewer, the person seeking to connect the private
21 sewer at that location is not required to pay an entrance charge.

22 **§1047. Inspection of sewers**

23 The officers or agents of a standard district have free access to all premises served by
24 the standard district's sewers, at all reasonable hours, for inspection of plumbing and
25 sewage fixtures, to ascertain the quality and quantity of sewage discharged and the
26 manner of discharge, and to enforce this chapter and the rules prescribed by the trustees
27 of the standard district.

28 **SUBCHAPTER 4**

29 **RATES AND FEES**

30 **§1048. Rates and fees**

31 A person, firm and corporation, whether public, private or municipal, shall pay to the
32 treasurer of a standard district the rates established by the trustees for the sewer or
33 drainage service used or available with respect to their real estate as long as those rates
34 are consistent with this section.

35 **1. Uniform rates.** Rates must be uniform within a standard district whenever the
36 cost to the standard district of installation and maintenance of sewers or their
37 appurtenances and the cost of service is substantially uniform, except that:

38 A. A standard district may establish a higher rate in sections where, for any reason,
39 the cost to the standard district of construction and maintenance, or the cost of

1 service, exceeds the average as long as the higher rates are uniform throughout the
2 sections where the rates apply; and

3 B. Trustees may reduce the impact fee or connection fee, as those terms are defined
4 in Title 30-A, section 5061, for sewer service to newly constructed affordable
5 housing in accordance with Title 30-A, chapter 202-A.

6 This paragraph is deemed to be incorporated into the private and special laws
7 governing a sewer district, and any part of a sewer district charter not in conformity
8 with this paragraph is void, unless the sewer district's charter expressly references this
9 paragraph or former section 1252, subsection 12 and specifically provides that this
10 paragraph or former section 1252, subsection 12 does not apply.

11 **2. Multidistrict rates.** Notwithstanding any other provision of law, a standard
12 district that shares supplies or contracts for services with another standard district shall
13 establish rates mutually agreeable to the trustees of each participating standard district.

14 **3. Readiness to serve.** A standard district's rates may include readiness to serve
15 rates charged against owners of real estate abutting or accessible but not connected to
16 sewers or drains of the standard district, whether or not the real estate is improved.

17 **4. Interest on late payments.** A standard district may charge and collect interest on
18 delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of
19 State for municipal taxes.

20 **5. Adoption of rate schedule.** Prior to the adoption of a new rate schedule, the
21 trustees shall hold a public hearing regarding the proposed rate schedule. The trustees
22 shall publish the proposed rates and notice of the hearing not less than once in a
23 newspaper having a general circulation in the district not less than 7 days prior to the
24 hearing. The standard district shall mail to each ratepayer a notice of the public hearing
25 and the proposed rate at least 14 days prior to the hearing.

26 This subsection is deemed to be incorporated into the private and special laws governing
27 a sewer district, and any part of a sewer district charter not in conformity with this
28 subsection is void, unless the sewer district's charter expressly references this subsection
29 or former section 1252, subsection 1 and specifically provides that this subsection or
30 former section 1252, subsection 1 does not apply.

31 **6. Revenue from rates.** Rates established by the trustees in accordance with this
32 chapter must be fixed and adjusted so as to produce in aggregate revenue at least
33 sufficient, together with any other revenues, to:

34 A. Pay the current expenses of operating and maintaining the sewerage, drainage and
35 treatment system of the standard district;

36 B. Pay the principle of, premium, if any, and interest on all bonds and notes issued
37 by the standard district under this chapter as they become due and payable;

38 C. Create and maintain reserves as may be required by any trust agreement or
39 resolution securing bonds and notes;

1 D. Provide funds for paying the cost of all necessary repairs, replacements and
2 renewals of the sewerage, drainage and treatment systems of the standard district; and

3 E. Pay or provide for all amounts that the standard district may be obligated to pay or
4 provide for by law or contract, including any resolution or contract with or benefit of
5 the holders of its bonds and notes.

6 **7. Rates in an unorganized territory.** If a standard district encompasses
7 unorganized territory, rates applicable to real estate in that unorganized territory must be
8 charged against the person or entity in possession of the real estate.

9 **8. Civil action for unpaid rates.** If rates under this section are not paid, and a
10 standard district does not collect unpaid rates as a qualified sewer district under section
11 1050, then the standard district may maintain a civil action against the person who has not
12 paid rates for the amount of the unpaid rates plus 10% interest.

13 **§1049. Waiver of sewer district lien foreclosure**

14 A sewer district, including but not limited to a qualified sewer district subject to
15 section 1050, may use the following provisions to waive a lien foreclosure.

16 **1. Waiver.** The treasurer of a sewer district, including a qualified sewer district,
17 when authorized by the trustees of the sewer district, may waive the foreclosure of a
18 sewer district lien mortgage created pursuant to the sewer district's charter by recording in
19 the registry of deeds a waiver of foreclosure before the period for the right of redemption
20 from the lien mortgage has expired. The lien mortgage remains in full effect after the
21 recording of a waiver. Other methods established by law for the collection of any unpaid
22 rate are not affected by the filing of a waiver under this section.

23 **2. Form.** The waiver of foreclosure under subsection 1 must be substantially in the
24 following form.

25 The foreclosure of the sewer lien mortgage on real estate for charges
26 against.....(NAME) to.....(NAME OF SEWER DISTRICT)
27 dated.....and recorded in the.....County Registry of Deeds in Book.....
28 Page..... is hereby waived.

29 The form must be dated, signed by the treasurer of the sewer district and notarized. A
30 copy of the form must be provided to the party named on the lien mortgage and each
31 record holder of a mortgage on the real estate.

32 **§1050. Qualified sewer districts; collection of unpaid rates**

33 The provisions of this section apply only to a qualified sewer district.

34 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
35 following terms have the following meanings.

36 A. "Eligible sewer district" means a sewer district whose charter does not establish,
37 or authorize the district to establish, a lien on real estate served by the district.

1 B. "Qualified sewer district" means an eligible sewer district that has satisfied the
2 requirements of subsection 4; or a standard district that includes this section in its
3 charter.

4 C. "Real estate" means an identified parcel of land and its improvements, if any,
5 including, but not limited to, a mobile home.

6 **2. Lien.** There is a lien on real estate served or benefited by the sewers of the
7 qualified sewer district to secure the payment of the qualified sewer district's rates. The
8 lien established under this section takes precedence over all other claims on such real
9 estate, except claims for taxes.

10 **3. Collection.** The treasurer of the qualified sewer district may collect rates and all
11 rates must be committed to the treasurer. The treasurer may, after demand for payment,
12 sue in the name of the qualified sewer district in a civil action in any court of competent
13 jurisdiction for any rates remaining unpaid. In addition to other methods established by
14 law for the collection of rates and without waiver of the right to sue for the collection of
15 rates, the lien created under subsection 2 may be enforced in the following manner.

16 A. When rates have been committed to the treasurer of the qualified sewer district
17 for collection, the treasurer may, after the expiration of 3 months and within one year
18 after the date when the rates became due and payable, give to the owner of the real
19 estate served, leave at the owner's last and usual place of abode or send by certified
20 mail, return receipt requested, to the owner's last known address a notice in writing
21 signed by the treasurer or bearing the treasurer's facsimile signature, stating the
22 amount of the rates due, describing the real estate upon which the lien is claimed and
23 stating that a lien is claimed on the real estate to secure the payment of the rates and
24 demanding the payment of the rates within 30 days after service or mailing, with \$1
25 added to the demanded rate for the treasurer and an additional fee to cover mailing
26 the notice by certified mail, return receipt requested. The notice must contain a
27 statement that the qualified sewer district is willing to arrange installment payments
28 of the outstanding debt.

29 B. After the expiration of 30 days and within one year after giving notice pursuant to
30 paragraph A, the treasurer of the qualified sewer district shall record in the registry of
31 deeds of the county in which the property of the person is located a certificate signed
32 by the treasurer setting forth the amount of the rates due, describing the real estate on
33 which the lien is claimed and stating that a lien is claimed on the real estate to secure
34 payment of the rates and that a notice and demand for payment has been given or
35 made in accordance with this section and stating further that the rates remain unpaid.
36 At the time of the recording of the certificate in the registry of deeds, the treasurer
37 shall file in the office of the qualified sewer district a true copy of the certificate and
38 shall mail a true copy of the certificate by certified mail, return receipt requested, to
39 each record holder of any mortgage on the real estate, addressed to the record holder
40 at the record holder's last and usual place of abode.

41 C. The filing of the certificate in the registry of deeds creates a mortgage held by the
42 qualified sewer district on the real estate described in the certificate that has priority
43 over all other mortgages, liens, attachments and encumbrances of any nature, except
44 liens, attachments and claims for taxes, and gives to the qualified sewer district all the

1 rights usually possessed by mortgagees, except that the qualified sewer district as
2 mortgagee does not have any right to possession of that real estate until the right of
3 redemption has expired.

4 D. If the mortgage created under paragraph C, together with interest and costs, has
5 not been paid within 18 months after the date of filing the certificate in the registry of
6 deeds in accordance with paragraph B, the mortgage is foreclosed and the right of
7 redemption expires. The filing of the certificate in the registry of deeds is sufficient
8 notice of the existence of the mortgage. In the event that the rate, with interest and
9 costs, is paid within the period of redemption, the treasurer of the qualified sewer
10 district shall discharge the mortgage in the same manner as provided for discharge of
11 real estate mortgages.

12 E. The owner of the real estate shall pay the sum of the fees for receiving, recording
13 and indexing the lien, or its discharge, as established by Title 33, section 751, plus
14 \$13, plus all certified mail, return receipt requested, fees.

15 F. Not more than 45 days or less than 30 days before the foreclosing date of the
16 mortgage created under paragraph C, the treasurer of the qualified sewer district shall
17 notify the party named on the mortgage and each record holder of a mortgage on the
18 real estate in a writing signed by the treasurer or bearing the treasurer's facsimile
19 signature and left at the holder's last and usual place of abode or sent by certified
20 mail, return receipt requested, to the holder's last known address of the impending
21 automatic foreclosure and indicating the exact date of foreclosure. For sending this
22 notice, the qualified sewer district is entitled to receive \$3 plus all certified mail,
23 return receipt requested, fees, which must be added to and become a part of the
24 amount due under paragraph E. If notice is not given in the time period specified in
25 this paragraph, the person not receiving timely notice has up to 30 days after the
26 treasurer provides notice as specified in this paragraph in which to redeem the
27 mortgage. The notice of impending automatic foreclosure must be substantially in
28 the following form:

29 **STATE OF MAINE**

30 **..... SEWER DISTRICT**

31 **NOTICE OF IMPENDING AUTOMATIC FORECLOSURE**

32 **SEWER LIEN**

33 **M.R.S.A., Title 38, section 1050**

34 **IMPORTANT: DO NOT DISREGARD THIS NOTICE**

35 **YOU WILL LOSE YOUR PROPERTY UNLESS**

36 **YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH**

37 **A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE**

38 **..... SEWER DISTRICT.**

39 **TO:**

40 **IF THE LIEN FORECLOSES,**

THE SEWER DISTRICT WILL OWN
YOUR PROPERTY, SUBJECT ONLY TO
MUNICIPAL TAX LIENS.

.....

District Treasurer

G. The qualified sewer district shall pay the treasurer \$1 for the notice, \$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 qualified sewer district to the register of deeds.

H. A discharge of the certificate given after the right of redemption has expired, which discharge has been recorded in the registry of deeds for more than one year, terminates all title of the qualified sewer district derived from that certificate or any other recorded certificate for which the right of redemption expired 10 years or more prior to the foreclosure date of this discharge lien, unless the qualified sewer district has conveyed any interest based upon the title acquired from any of the affected liens.

4. Adoption; referendum. An eligible sewer district may become a qualified sewer district in accordance with this subsection. The trustees of the eligible sewer district shall submit a proposal to become a qualified sewer district for approval in a districtwide referendum. The referendum must be called, advertised and conducted according to the law relating to municipal elections in Title 30-A, chapter 121, except the registrar of voters is not required to prepare or the clerk to post a new list of voters. The referendum may be held outside the territory of the eligible sewer district if the usual voting place for persons located within the district is located outside the territory of the district. For the purpose of registering voters, the registrar of voters must be in session on the regular work day preceding the election. The question presented must conform to the following form:

"Do you favor authorizing the (insert name of eligible sewer district) to become a qualified sewer district, allowing the district to exercise the lien authority established in the Maine Revised Statutes, Title 38, section 1050 with respect to unpaid rates?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the trustees and entered upon the eligible sewer district's records. Due certificate of the results must be filed by the clerk with the Secretary of State.

The eligible sewer district becomes a qualified sewer district under this section only upon acceptance of the question by a majority of the legal voters within the eligible sewer district voting at the referendum. Failure of approval by the majority of voters voting at the referendum does not prevent subsequent referenda from being held for the same purpose. The costs of referenda are borne by the eligible sewer district.

1 **§1051. Landlord access to tenant bill payment information; applicable to all sewer**
2 **districts**

3 If a tenant is billed for sewer service provided to property rented by the tenant and
4 nonpayment for the service may result in a lien against the property, the sewer district
5 shall provide to the landlord or the landlord's agent, on request of the landlord or the
6 landlord's agent, the current status of the tenant's account, including any amounts due or
7 overdue.

8 This section is deemed to be incorporated into the private and special laws governing
9 a sewer district, and any part of a sewer district charter not in conformity with this section
10 is void, unless the sewer district's charter expressly references this section or former
11 section 1252, subsection 11 and specifically provides that this subsection or former
12 section 1252, subsection 11 does not apply.

13 **SUBCHAPTER 5**

14 **BONDS, INVESTMENT AND DEBT LIMIT**

15 **§1052. Authorized to receive government aid, borrow money and issue bonds and**
16 **notes**

17 A standard district is authorized to receive government aid, borrow money and issue
18 bonds and notes in accordance with this section.

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

22 A. Paying and refunding its indebtedness;

23 B. Paying any necessary expenses and liabilities incurred under this chapter,
24 including organizational and other necessary expenses and liabilities, whether
25 incurred by the standard district or any municipality within the standard district or
26 any person residing in unorganized territory encompassed by the standard district.
27 The standard district may reimburse any municipality within the standard district or
28 any person residing in unorganized territory encompassed by the standard district for
29 any expenses incurred or paid by the municipality or person;

30 C. Paying costs directly or indirectly associated with acquiring properties, paying
31 damages, laying sewers, drains and conduits, constructing, maintaining and operating
32 sewage and treatment plants or systems and making renewals, additions, extensions
33 and improvements to the same and to cover interest payments during the period of
34 construction and for any period after construction as the trustees may determine;

35 D. Providing reserves for debt service, repairs and replacements or other capital or
36 current expenses as may be required by a trust agreement or resolution securing
37 bonds; and

38 E. Any combination of these purposes.

1 Bonds may be issued under this section as general obligations of the standard district or
2 as special obligations payable solely from particular funds. The principal of, premium, if
3 any, and interest on all bonds are payable solely from the funds provided for that purpose
4 from revenues. For purposes of this section, "revenues" means and includes the proceeds
5 of bonds, all revenues, rates, fees, entrance charges, assessments, rents and other receipts
6 derived by the standard district from the operation of its sewer system and other
7 properties, including, but not limited to, investment earnings and the proceeds of
8 insurance, condemnation, sale or other disposition of properties. All bonds issued by a
9 standard district under this section are legal obligations of the standard district, and a
10 standard district whose charter includes this section is declared to be a quasi-municipal
11 corporation within the meaning of Title 30-A, section 5701. Bonds may be issued under
12 this section without obtaining the consent of any commission, board, bureau or agency of
13 the State or of any municipality encompassed by the district and without any other
14 proceedings or the happening of other conditions other than those proceedings or
15 conditions that are specifically required by the standard district's charter or other
16 applicable law. Bonds issued under this section do not constitute a debt or liability of the
17 State or of any municipality encompassed by the standard district or a pledge of the faith
18 and credit of the State or any such municipality, but the bonds are payable solely from the
19 funds provided for that purpose, and a statement to that effect must be recited on the face
20 of the bonds.

21 **2. Notes.** A standard district may provide by resolution of its trustees, without
22 district vote, for the issuance from time to time of notes in anticipation of bonds
23 authorized under this section and of notes in anticipation of the revenues to be collected
24 or received in any year or in anticipation of the receipt of federal or state grants or other
25 aid. The issue of these notes is governed by the applicable provisions of this chapter
26 relating to the issue of bonds, except that notes in anticipation of revenue must mature no
27 later than one year from their respective dates and notes issued in anticipation of federal
28 or state grants or other aid and renewals of grants or aids must mature no later than the
29 expected date of receipt of those grants or aid. Notes in anticipation of revenue issued to
30 mature less than one year from their dates may be renewed from time to time by the issue
31 of other notes, except that the period from the date of an original note to the maturity of
32 any note issued to renew or pay the original note or the interest on a note may not exceed
33 one year.

34 A standard district is authorized and empowered to enter into agreements with the State
35 or the United States, or any agency of either, or any municipality, corporation,
36 commission or board authorized to grant or loan money to or otherwise assist in the
37 financing of projects of the type that that district is authorized to carry out and to accept
38 grants and borrow money from any government, agency, municipality, corporation,
39 commission or board as may be necessary or desirable to accomplish the purposes of the
40 standard district.

41 **3. Maturity; interest; form; temporary bonds.** The bonds issued under this
42 section must be dated, must mature at such time or times not exceeding 40 years from
43 their date or dates and must bear interest at such rate or rates as may be determined by the
44 trustees, and may be made redeemable before maturity, at the option of the standard
45 district, at the price or prices and under the terms and conditions as fixed by the trustees
46 prior to the issuance of the bonds. The trustees shall determine the form of the bonds,

1 including any interest coupons to be attached to the bonds, and the manner of execution
2 of the bonds and shall fix the denomination or denominations of the bonds and the place
3 or places of payment of principal and interest, which may be at any bank or trust
4 company inside or outside the State. Bonds must be executed in the name of the standard
5 district by the manual or facsimile signature of the officer or officers as authorized in the
6 resolution to execute the bonds, but at least one signature on each bond must be a manual
7 signature. Coupons, if any, attached to the bonds must be executed with the facsimile
8 signature of the officer or officers of the standard district designated in the resolution. In
9 case any officer, whose signature or a facsimile of whose signature appears on any bonds
10 or coupons, ceases to be such officer before the delivery of the bonds, the signature or its
11 facsimile is valid and sufficient for all purposes as if the officer had remained in office
12 until the delivery.

13 Notwithstanding any of the other provisions of this chapter or any recitals in any bonds
14 issued under this section, all bonds issued under this section are negotiable instruments
15 under the laws of this State. The bonds may be issued in coupon or registered form, or
16 both, as the trustees may determine, and provision may be made for the registration of
17 any coupon bonds as to principal alone and as to both principal and interest and for the
18 reconversion into coupon bonds of any bonds registered as to both principal and interest.
19 The trustees may sell bonds, either at public or private sale and for the price as they
20 determine to be for the best interests of the standard district. The proceeds of the bonds
21 of each issue must be used solely for the purpose for which those bonds have been
22 authorized and must be disbursed in the manner and under the restrictions, if any, that the
23 trustees provide, in the resolution authorizing the issuance of the bonds or in the trust
24 agreement securing the bonds. The resolution providing for the issuance of bonds and
25 any trust agreement securing the bonds may contain limitations upon the issuance of
26 additional bonds as the trustees determine proper, and these additional bonds must be
27 issued under such restrictions and limitations prescribed by that resolution or trust
28 agreement. Prior to the preparation of definitive bonds, the trustees may, under the same
29 restrictions, issue interim receipts or temporary bonds, with or without coupons,
30 exchangeable for definitive bonds when those bonds are executed and are available for
31 delivery. The trustees may provide for the replacement of any bond that is mutilated,
32 destroyed or lost.

33 **4. Pledges and covenants; trust agreement.** In the discretion of the trustees of a
34 standard district, each or any issue of bonds may be secured by a trust agreement by and
35 between the standard district and a corporate trustee, which may be any trust company
36 located within or outside the State.

37 A. The resolution authorizing the issuance of the bonds or the trust agreement may
38 pledge or assign, in whole or in part, the revenues and other money held or to be
39 received by the standard district and any accounts and contract or other rights to
40 receive the revenues of the money, whether then existing or coming into existence
41 and whether then held or acquired by the standard district, and the proceeds of the
42 revenues or the money, but may not convey or mortgage the sewer system or any
43 other properties of the standard district. The resolution may also contain provisions
44 for protecting and enforcing the rights and remedies of the bondholders that are
45 reasonable and proper and not in violation of law, including, but not limited to,
46 covenants setting forth the duties of the standard district and the trustees in relation to

1 the acquisition, construction, reconstruction, improvement, repair, maintenance,
2 operation and insurance of its sewer system or any of its other properties, the fixing
3 and revising of rates, fees and charges, the application of the proceeds of bonds, the
4 custody, safeguarding and application of revenues, defining defaults and providing
5 for remedies in the event of defaults that may include the acceleration of maturities,
6 the establishment of reserves and the making and amending of contracts. The
7 resolution or trust agreement may set forth the rights and remedies of the bondholders
8 and of the trustee, if any, and may restrict the individual right of action by
9 bondholders as is customary in trust agreements or trust indentures securing bonds or
10 debentures of corporations. In addition, the resolution or trust agreement may contain
11 such other provisions as the trustees determine reasonable and proper for the security
12 of the bondholders. All expenses incurred in carrying out the resolution or trust
13 agreement may be treated as a part of the cost of operation. The pledge by any
14 resolution or trust agreement is valid and binding and is deemed continuously
15 perfected for the purposes of the Uniform Commercial Code from the time when the
16 pledge is made. All revenues, money, rights and proceeds so pledged and received
17 by the standard district are immediately subject to the lien of the pledge without any
18 physical delivery or segregation of the revenues and proceeds or further action under
19 the Uniform Commercial Code or otherwise, and the lien of the pledge is valid and
20 binding as against all parties having claims of any kind in tort, contract or otherwise
21 against the standard district irrespective of whether those parties have notice of the
22 lien.

23 B. The resolution authorizing the issuance of bonds under this section or any trust
24 agreement securing those bonds may provide that all or a sufficient amount of
25 revenues, after providing for the payment of the cost of repair, maintenance and
26 operation and reserves as may be provided in the resolution or trust agreement, must
27 be set aside at regular intervals as provided in the resolution or trust agreement and
28 deposited in a fund for the payment of the interest on and the principal of bonds
29 issued under this section as the interest and principle become due and for the
30 redemption price or purchase price of bonds retired by call or purchase. The use and
31 disposition of money of the fund are subject to any regulations provided in the
32 resolution authorizing the issuance of the bonds or in the trust agreement securing the
33 bonds and, except as may otherwise be provided in the resolution or trust agreement,
34 the fund must be a fund for the benefit of all bonds without distinction or priority of
35 one over another.

36 **5. Trust funds.** Notwithstanding any other law, all funds received pursuant to the
37 authority of a standard district's charter are trust funds, to be held and applied solely as
38 provided in the charter of the standard district. The resolution authorizing the issuance of
39 bonds or the trust agreement securing the bonds must provide that any officer to whom,
40 or bank, trust company or other fiscal agent to which, the funds are paid must act as
41 trustee of the funds and must hold and apply the funds for the purposes of the standard
42 district in accordance with its charter, subject to any regulations as may be provided in
43 the resolution or trust agreement or as may be required by the charter of the standard
44 district.

45 **6. Remedies.** A holder of bonds issued under this section or of any of the coupons
46 appertaining to the bonds, and the trustee under a trust agreement, except to the extent the

1 rights given may be restricted by the resolution authorizing the issuance of those bonds or
2 trust agreement, may, either at law or in equity, by suit, action, mandamus or other
3 proceeding, including proceedings for the appointment of a receiver to take possession
4 and control of the properties of the standard district, protect and enforce all rights under
5 the laws of the State, including this section, or under the resolution or trust agreement. A
6 holder of bonds issued under this section or of any of the coupons appertaining to the
7 bonds and the trustee under a trust agreement may enforce and compel the performance
8 of all duties required by the standard district charter or by the resolution or trust
9 agreement to be performed by the standard district or by any officer of the standard
10 district, including the fixing, charging and collecting of rates, fees and charges for the use
11 of or for the services and facilities furnished by the standard district.

12 **7. Refunding bonds.** A standard district by resolution of its board of trustees,
13 without district vote, may issue refunding bonds for the purpose of paying any of its
14 bonds at maturity or upon acceleration or redemption. The refunding bonds may be
15 issued at a time prior to the maturity or redemption of the refunded bonds that the board
16 of trustees determines to be in the public interest. The refunding bonds may be issued in
17 sufficient amounts to pay or provide the principal of the bonds being refunded, together
18 with any redemption premium, any interest accrued or to accrue to the date of payment of
19 the bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the
20 bonds being refunded and any reserves for debt service or other capital or current
21 expenses from the proceeds of the refunding bonds that may be required by a trust
22 agreement or resolution securing bonds. The issue of refunding bonds, the maturities and
23 other details of those bonds, the security for those bonds, the rights of the holders and the
24 rights, duties and obligations of the standard district in respect to those bonds are
25 governed by the applicable provisions of the standard district charter relating to the issue
26 of bonds other than refunding bonds.

27 **8. Tax exemption.** All bonds, notes or other evidences of indebtedness issued under
28 the standard district's charter and the transfer of and the income from those bonds, notes
29 or other evidences of indebtedness, including any profit made on the sale, are exempt
30 from taxation in the State.

31 **9. Bonds declared legal investments.** Bonds and notes issued by a standard district
32 under this section are securities in which all public officers and public bodies of the State
33 and its political subdivisions, all insurance companies and associations and other persons
34 carrying on an insurance business, trust companies, banks, bankers, banking associations,
35 savings banks and savings associations, including savings and loan associations, credit
36 unions, building and loan associations, investment companies, executors, administrators,
37 trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons
38 carrying on a banking business, and all other persons authorized to invest in bonds or
39 other obligations of the State may properly and legally invest funds, including capital in
40 their control or belonging to them. The bonds and notes are securities that may properly
41 and legally be deposited with and received by any state, municipal or public officer, or
42 any agency or political subdivision of the State, for any purpose for which the deposit of
43 bonds or other obligations of the State is authorized by law.

1 **§1053. Debt limit; approval by voters of a standard district**

2 **1. Debt limit proposed.** Prior to issuing on behalf of a standard district any bond,
3 note or other evidence of indebtedness payable within a period of more than 12 months
4 after the date of issuance, the trustees shall propose a debt limit for the standard district
5 that the trustees must submit for approval in a districtwide referendum. The referendum
6 must be called, advertised and conducted according to the law relating to municipal
7 elections in Title 30-A, chapter 121, except the standard district's registrar of voters is not
8 required to prepare or the clerk to post a new list of voters. The referendum may be held
9 outside the territory of the standard district if the usual voting place for persons located in
10 the standard district is located outside the territory of the standard district. For the
11 purpose of registering voters, the registrar of voters must be in session on the regular
12 workday preceding the election. The question presented must be in substantially the
13 following form:

14 "Do you favor establishing the debt limit of the (insert name of standard district) at
15 (insert amount)?"

16 The voters shall indicate by a cross or check mark placed against the word "Yes" or "No"
17 their opinion on the question.

18 **2. Results declared.** The results of the referendum held under subsection 1 must be
19 declared by the trustees and entered upon the standard district's records. Due certificate
20 of the results must be filed by the clerk with the Secretary of State.

21 **3. Effective date.** A debt limit proposal becomes effective upon its acceptance by a
22 majority of the legal voters within the standard district voting at the referendum. Failure
23 of approval by the majority of voters voting at the referendum does not prevent
24 subsequent referenda from being held for the same purpose. The costs of referenda are
25 borne by the standard district.

26 **4. Total debt.** Trustees may not issue any bond, note or other evidence of
27 indebtedness payable within a period of more than 12 months after the date of issuance
28 unless the total amount of the debt issued by the trustees is no more than the amount
29 approved by referendum under this section.

30 **§1054. Authority to increase debt limits; sewer districts**

31 **1. Debt limit.** Notwithstanding any provision of a sewer district's charter to the
32 contrary, a sewer district may increase its debt limit by referendum in accordance with
33 this section. A sewer district is not required to use the procedure provided by this section
34 and may seek to increase its debt limit by any other lawful means, including pursuant to
35 any other means described in the sewer district's charter or by seeking legislative
36 amendment to its charter.

37 **2. Referendum.** If a sewer district chooses to increase its debt limit pursuant to this
38 section, the governing body of the sewer district shall propose a new debt limit and
39 submit the proposal for approval at a districtwide referendum. The referendum must be
40 called, advertised and conducted according to the law relating to municipal elections in
41 Title 30-A, chapter 121, except the registrar of voters is not required to prepare or the

1 clerk to post a new list of voters. The referendum may be held outside the territory of the
2 sewer district if the usual voting place for persons located within the sewer district is
3 located outside the territory of the sewer district. For the purpose of registering voters,
4 the registrar of voters must be in session on the regular work day preceding the election.
5 The question presented must conform to the following:

6 "Do you favor changing the debt limit of the (insert name of sewer district) from
7 (insert current debt limit) to (insert proposed debt limit)?"

8 The voters shall indicate by a cross or check mark placed against the word "Yes" or "No"
9 their opinion on the question.

10 The results must be declared by the governing body of the sewer district and entered upon
11 the sewer district's records. Due certificate of results must be filed by the clerk with the
12 Secretary of State.

13 **3. Approval.** A debt limit proposal becomes effective upon its acceptance by a
14 majority of the legal voters within the sewer district voting at the referendum. Failure of
15 approval by the majority of legal voters voting at the referendum does not prevent
16 subsequent referenda from being held for the same purpose. The cost of referenda are
17 borne by the sewer district.

18 **§1055. Mutual funds; sewer districts**

19 A sewer district may invest its funds, including sinking funds, reserve funds and trust
20 funds, to the extent that the term of any instrument creating the funds does not prohibit
21 the investment, in shares of an investment company registered under the federal
22 Investment Company Act of 1940, whose shares are registered under the United States
23 Securities Act of 1933, only if the investments of the investment company are limited to
24 obligations of the United States or any agency or instrumentality, corporate or otherwise,
25 of the United States or repurchase agreements secured by obligations of the United States
26 or any agency or instrumentality, corporate or otherwise, of the United States. This
27 section is in addition to, and not in limitation of, any power of a sewer district to invest its
28 funds.

29 **Sec. 7. 38 MRSA c. 12,** as amended, is repealed.

30 **SUMMARY**

31 This bill creates a model standard sewer district charter in statute. It includes standard
32 language for the common provisions included in a sewer district charter. It also includes
33 the mandatory requirements of the Maine Revised Statutes, Title 38, chapter 12, except
34 the requirement that a new sewer district be formed under the Sanitary District Enabling
35 Act and that a proposed amendment to extend the boundaries of a sewer district be
36 approved by referendum before the amendment is presented to the Legislature.

37 This bill repeals Title 38, chapter 12. The bill also fixes cross-references.