

**AN ACT to Codify the Charter of the Portland Water District (Ch. 84, P. & S. L. 1975)**

Revised to include amendments: Ch. 623, P. & S.L. 1975  
Ch. 48, P. & S.L. 1977  
Ch. 26, P. & S.L. 1979  
Ch. 10, P. & S.L. 1981  
Ch. 97, P. & S.L. 1988  
Ch. 12, P. & S.L. 1991  
Ch. 89, P. & S.L. 1992  
Ch. 58, P. & S.L. 1994  
Ch. 15, P. & S.L. 1997  
Ch. 7, P. & S.L. 2001  
Ch. 25, P. & S.L. 2001  
Ch. 56, P. & S.L. 2002  
Ch. 18, P. & S.L. 2009

**Section 1**

**Territory**

The territory and people of the Cities of Portland, South Portland and Westbrook and the Towns of Cape Elizabeth, Cumberland, Falmouth, Gorham, Raymond, Scarborough, and Windham constitute the public municipal corporation named the Portland Water District.

**Section 2**

**Authority**

A. The District is authorized to supply the inhabitants of the Cities of Portland, South Portland and Westbrook and the Towns of Cape Elizabeth, Cumberland, Falmouth, Gorham, Raymond, Scarborough, Standish and Windham and said municipalities with pure water for domestic, sanitary and municipal services. The District is further authorized to sell water to the Yarmouth Water District and the North Yarmouth Water District. The District for the purposes of its incorporation is authorized to take, hold, divert, use and distribute water from Sebago Lake, Chaffin Pond, its existing well sites in Cumberland, Windham and the Steep Falls section of Standish in addition to any other available source within its territory.

B. The District is authorized to acquire, construct, maintain, control, operate, manage and provide facilities for the handling on a regional basis of wastewater and sewage consisting of domestic, commercial, municipal and industrial wastes; and for the handling of storm or surface waters entering a combined municipal sewer system, all as collected by the municipalities of the cities of Portland and Westbrook and the Towns of Cape Elizabeth, Cumberland, Falmouth, Gorham, Raymond, Standish and Windham, referred to in this Act as the "participating municipalities," all for the purpose of providing treatment facilities, trunk sewers, interceptor lines, force mains, outfalls, and pumping stations for the transmission and disposal of wastewater and sewage received from municipal collection systems. The authorization to service the

participating municipalities for the purposes herein granted shall be exclusive except for the wastewater and sewage facilities constructed within any participating municipality prior to the adoption of a regional plan by the trustees of the District, which occurred on November 8, 1971, and except for any wastewater and sewage facilities to be constructed within any participating municipality for which proposed construction plans had been approved by the appropriate governmental agencies or bids have been invited or construction contracts have been awarded or municipal financing of such construction has been finally authorized by such participating municipality prior to such date and such private wastewater and sewage facilities as approved by the Board of Environmental Protection.

It shall be the duty of the District to receive the wastewater and sewage from the local collection systems of the participating municipalities at such point or points as the District and the participating municipality shall agree, and it shall remain the duty of each participating municipality to perform the initial collection of wastewater and sewage within such participating municipality and to deliver it to the District at the agreed point or points. As used in this Act the term "wastewater and sewage system" refers to the wastewater and sewage system authorized under the terms of this Act.

In addition to the operation of the wastewater and sewage system, the District is also authorized to contract with persons, firms and corporations, including municipal corporations, upon such terms as may be agreed to manage, operate, construct and maintain wastewater and sewage collection and treatment systems, as well as storm drain facilities and systems, and in addition, to contract with municipal and quasi-municipal corporations to acquire, own and finance municipal collection and treatment systems and storm drain facilities and systems.

C. The District is authorized whenever the trustees of the District deem it necessary for the purpose of maintaining and preserving the purity of Sebago Lake to construct, maintain, operate and provide a wastewater and sewage system for the collection, treatment and disposal of all wastewater and sewage and incidental storm and surface water drainage within the watershed area of Sebago Lake lying within the Towns of Casco, Naples, Raymond, Sebago, Standish and Windham, provided, however, that any treated waste the District discharges into the Presumpscot River shall be discharged at a point below the North Gorham dam, so-called.

### **Section 3**

#### **Authority to Erect**

The District is authorized for the purposes of its incorporation to erect and maintain all dams, reservoirs and other structures necessary and convenient for the supplying of said pure water for domestic, sanitary and municipal purposes. In addition, the District is authorized to receive, hold, transmit, treat, purify, discharge and dispose of all wastewater and sewage collected by the participating municipalities, all in furtherance of the health, welfare, comfort and convenience of the inhabitants of the participating municipality. All incidental powers, rights, and privileges necessary to the accomplishment of the objects herein set forth are granted to the District.

In addition, the District is authorized to take, collect, hold, transmit, treat, purify, discharge and dispose of all wastewater and sewage within the watershed area defined in section 2, paragraph C, and all incidental powers, rights and privileges necessary to the accomplishment of the objects herein set forth are granted to the District. Before the District constructs, maintains or operates any facilities in furtherance of the authority granted pursuant to section 2, paragraph C, within said watershed area, the District shall first obtain the approval of a majority of the legal voters at a referendum, provided that at least 20% of the registered voters who voted at the last gubernatorial election vote at such referendum, of each municipality to be served by such facilities, prior to the initial construction in any such municipality and municipalities. After such approval, the District shall not be required to obtain any additional approval from such inhabitants or their governing body prior to any such construction, maintenance or operation.

#### **Section 4**

##### **Authority to construct and maintain.**

The District is authorized to lay in, along, under and through the streets, roads, ways and highways and tidal waters, lakes, ponds, rivers and water courses in the Cities of Portland, South Portland and Westbrook and the Towns of Cape Elizabeth, Cumberland, Falmouth, Gorham, Raymond, Scarborough, Standish and Windham and across private lands in those cities and towns and to maintain, repair and replace all the pipes, aqueducts, lines, drains, conduits, interceptor lines, trunk sewers, force mains, outfalls, outlets, and fixtures and appurtenances and to construct, operate, maintain and replace the pure water, disposal, treatment and purification facilities and appurtenances as may be necessary and convenient for the District in carrying out the purpose of this Act.

#### **Section 5**

##### **Excavation and repair work; property to be left in good condition**

Whenever the District shall enter, dig up or excavate any street, way or highway, or other land, within the Cities of Portland, South Portland and Westbrook, and the Towns of Cape Elizabeth, Cumberland, Falmouth, Gorham, Scarborough, Standish, Windham, Casco, Naples, Raymond and Sebago, for water or sewer purposes, it shall cause the same to be done with as little obstruction as possible to the public travel, and shall cause the earth and pavement removed by it to be replaced in proper condition without unnecessary delay.

#### **Section 6**

##### **Authority to acquire and hold property; eminent domain**

The District is authorized and empowered to acquire and hold real and personal property necessary or convenient for the purposes of this Act.

The District is authorized and empowered to exercise the right of eminent domain in the cities of Portland, South Portland and Westbrook, and the Towns of Cape Elizabeth, Cumberland,

Falmouth, Gorham, Scarborough, Standish, Windham, Casco, Naples, Raymond and Sebago as hereinafter provided, to acquire and hold for such purposes either by purchase or exercise of its right of eminent domain any land, real estate, easements or interest therein or water rights or interests therein for all of the purposes herein stated.

In exercising any rights of eminent domain that are conferred upon it, the District shall provide for a hearing to determine the necessity of such taking and the damages sustained by the owner of the land or interest in land to be taken. Notice of the time and place of such hearing shall be given by personal service upon the record owner or owners of the land or interest in land to be taken.

If such owner or owners cannot be served personally by due diligence, then such service shall be made by certified mail to the last known address and by publication in a newspaper of general circulation in the municipality in which such land is located once a week for 2 weeks prior to the time appointed for said hearing. The clerk of the District shall keep an accurate record of the proceedings and the determination and decision. If the trustees decide to acquire such land or interest in land, the clerk of the District shall file a notice in the registry of deeds stating that the land or interest in land shall be taken, which notice shall contain an adequate description of the property, the owners thereof, if known, and the amount of damages awarded therefor. Upon the filing of said notice, the title to the land or interest in land shall vest in the District.

If any person sustaining damages by any taking as aforesaid shall not agree with the trustees of said District upon the sum to be paid therefor, either party, within 45 days of the filing of such notice in the registry of deeds, upon petition to the Land Damage Board, may have said damages assessed by them. The expenses of the board in connection with any such determination shall be paid for by the District. The procedure and all subsequent proceedings and the rights of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be prescribed in the case of damages by lying out of highways.

## **Section 7**

### **Crossing a public utility**

In case of a crossing of any land, interest in land or water right owned by a company operating any public utility, for any of the purposes herein contained, unless written consent is given by such company as to place, manner and conditions of the crossing within 30 days after such consent is requested in writing by the District, the Public Utilities Commission upon petition by the District shall determine the place, manner and conditions of such crossing, and all work on the property of such company shall be done under the supervision and to the satisfaction of such company, or as prescribed by the Public Utilities Commission, but at the expense of the District.

## **Section 8**

### **Authorized to acquire property of municipalities devoted to sewage system**

The District is authorized to acquire, otherwise than by eminent domain, all or part of the wastewater and sewage facilities existing or for which proposed construction plans had been approved all as of November 8, 1971, including but not limited to, pumping stations, treatment plants, interceptor lines, trunk sewers, force mains and outfalls located within the participating municipalities which are appropriate to the wastewater and sewage purposes of the District; and the consideration to be paid shall be agreed upon by the District and such participating municipality acting by and through its municipal officers, without vote of its inhabitants. The consideration shall include the assumption or payment of any outstanding indebtedness incurred by such participating municipality in connection with the property acquired.

The participating municipalities acting by and through their respective municipal officers, without the vote of their inhabitants, are authorized to transfer and convey to the District any property necessary, convenient or useful in furtherance of the wastewater and sewage purposes of the District.

## **Section 9**

### **Authorized to borrow money to issue bonds and notes**

The District, through its trustees and without vote of its inhabitants, is authorized to issue from time to time bonds or notes of the District in connection with accomplishing any of the purposes set forth in this Act, including to finance any necessary expenses and liabilities incurred in acquiring properties, renovating properties, laying pipes, aqueducts, conduits, drains, interceptor lines, trunk sewers, force mains, and outfalls, construction of treatment plants, laboratories and other water and wastewater and sewer facilities; and making renewals, additions, extensions and improvements to finance, any of the regional costs as defined in section 12, to provide funds to assist any participating municipality with respect to its financing costs assessed pursuant to section 13, subsection (B), and to fund the establishment of a reasonable reserve for future payments of debt service.

The bonds or notes must be issued in an amount or amounts as the District, acting through its trustees and without vote of its inhabitants, may determine. The bonds or notes may be issued to mature serially, in annual installments of principal, which need not be equal, the first of which must be payable not later than 3 years from the date of the bonds or notes and the last of which must be payable not later than 40 years from that date. The bonds or notes may also be issued for a term of years not exceeding 40 years or in a combination to mature serially and for a term of years not exceeding 40 years, as the trustees determine, and in the case of such term bonds, or combination of term bonds and serial bonds, the bonds in combination mature or are subject to an annual mandatory sinking fund redemption starting no later than 3 years after the bonds' date of issuance. The bonds may be callable with or without premium and must contain such terms and conditions and be sold in such manner, at public or private sale, with or without provisions for prepayment in advance of maturity, at par, at a discount or at a premium, as the trustees determine.

The trustees may determine or may authorize the treasurer or a committee of 2 or more trustees to determine the selling price and rate or rates of interest to be paid on bonds or notes and, if specifically authorized by the trustees, the rate of interest may vary.

If the trustees vote to issue bonds or notes, the trustees may authorize the issuance, in the name of the District, of temporary notes for a period not to exceed 5 years in anticipation of the money to be received from the sale of such bonds or notes. The time within which the temporary notes must be payable need not be included in determining the period for which bonds or notes may be issued.

For the purpose of paying preliminary expenses with respect to the investigation and planning for a wastewater and sewage system or the improvement of an existing system for the benefit of a participating municipality not served or to be served by an existing system of the District, including without limitation expenses related to or incurred in connection with engineering, design, acquisition of rights of way, legal fees or financing, the District through its trustees and without vote of its inhabitants is authorized to borrow by the issuance of temporary notes, including notes authorized under section 10, for a period of not more than one year and to renew the notes. Notes authorized under the authority of this paragraph must be paid from the proceeds of government grants, funded by bonds or notes issued to finance the particular system or improvement if and when the bonds or notes have been authorized or paid from sums apportioned as financing costs pursuant to section 13 on the municipality or municipalities for whose benefit the proposed system or improvement was intended. Any borrowing under this paragraph must be paid or funded as provided in this Act.

If the system for which such expenses were paid by the District does not become operational prior to such amount being funded, the District shall assess the participating municipality for whose benefit such expenses were incurred for the repayment of such expenses together with any interest attributable thereto. Such assessment shall be payable over a 5-year period in substantially equal installments. The amounts assessed hereunder shall be in addition to any amount otherwise apportioned pursuant to section 13 hereof.

For the purpose of paying expenses of operation, including, without limitation, any principal or interest due or about to become due on any bond or note issued by the District for which funds are not available, the District, through its trustees and without vote of its inhabitants, is authorized to issue from time to time temporary notes of the District in anticipation of revenues or assessments levied or to be levied against the participating municipalities.

The District may refund from time to time in one or in separate series its bonds, notes or other evidences of indebtedness. All water bonds must have inscribed upon their face "Portland Water District" and "Water Bond" and must be executed as the trustees determine. All sewer bonds must have inscribed upon their face "Portland Water District" and "Sewer Bond" and must be executed as the trustees determine. All bonds issued in the exercise of the authorization of section 2, paragraph C, must have inscribed upon their face "Portland Water District" and "Purification" and must be executed as the trustees determine.

All bonds, notes and evidences of indebtedness issued by the District pursuant to this section are legal obligations of the District, which is declared to be a quasi-municipal corporation within the meaning of the Maine Revised Statutes, Title 30-A, section 5701, and all provisions of section 5701 are applicable. All bonds, notes and evidences of indebtedness issued by the District pursuant to this Act are legal investments for savings banks in the State of Maine, and are exempt from Maine income tax.

## **Section 10**

### **Governmental grants and loans**

The District is authorized to enter into agreements with federal, state and local governments or any agency thereof, or any corporation, commission or board authorized by federal, state or local governments to grant or loan money to or otherwise assist in the financing of projects for accomplishing any of the purposes of this Act, and to accept grants and borrow money from any such government, agency, corporation, commission or board as may be necessary or desirable for the purposes of this Act.

In addition to the authority granted in Section 9, the District may borrow by the issuance of temporary notes in anticipation of the receipt of the proceeds of any such grant, provided, however, that said notes shall not be issued for longer than one year but may be renewed by the issuance of other notes until receipt of the grant in anticipation of which such notes are issued and provided further that payments on account of such grant when received shall be held in a separate account and used only to pay such notes to the extent then outstanding.

In addition, the District is authorized to collect from industrial users of the wastewater and sewage services accepting payment either directly or through the participating municipality, that portion of any federal grant amount allocable to the treatment of such users' wastewater and sewage and to maintain said amounts in accordance with the applicable federal statute. The District is also authorized to enter into agreements with municipalities other than the participating municipalities to provide for the payment to the District of the amounts paid or payable to such municipalities pursuant to any federal legislation under which an allocable share of the costs of such municipalities for wastewater and sewage treatment facilities may be recovered from industrial users benefited by the facilities and the District is authorized to pay to municipalities amounts which the District has received pursuant to such legislation.

## **Section 11**

### **Water rates**

All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of said District the rates established by said trustees for the water used by them, but said rates shall be uniform within the territory supplied by the District wherever the installation and maintenance of mains and the cost of service is substantially uniform, but nothing herein shall preclude the District from establishing higher rates where for any reason its costs exceed the average but such higher rates shall be uniform throughout the section where they apply.

Said rates shall be so established as to provide revenue for the water system for the following purposes.

- A. To pay the current expenses of the District.
- B. To provide for the payment of the interest on the indebtedness created or assumed by the District for water purposes.
- C. To provide each year a sum equal to not less than 1% of the entire indebtedness created or assumed by the District other than indebtedness which matures serially or which has mandatory sinking fund payments, for the water system. That sum must be turned into a sinking fund and there kept to provide for the extinguishment of the indebtedness, or, if serial bonds, notes or term bonds with mandatory sinking fund payments are issued for water purposes, to pay the principal of the bonds, notes or term bonds payable in that year. The money set aside for the sinking fund must be devoted to the retirement of the obligations of the District or invested in such securities as savings banks are allowed to hold.

## **Section 12**

### **Determination of annual sewer costs**

The fiscal year of the District for the waste water and sewage operations shall be the calendar year, and the trustees shall, prior to January 15th of each year, determine the total anticipated amount to be raised from the participating municipalities based on the trustees' best estimate to provide for the operation of the wastewater and sewage system for that fiscal year and such amount shall be apportioned as provided in section 13. The amounts so apportioned for each municipality shall forthwith be certified by the trustees to the appropriate municipal officials of each participating municipality. In the event that the amount apportioned and certified as herein provided shall by reason of erroneous estimates or otherwise be insufficient to provide for the operation of the wastewater and sewage system for the remainder of a fiscal year, as shown by the budget or amended budget of the District, any additional amount required for such operation may be apportioned and certified as herein provided and the amounts thereafter paid to the District by the participating municipalities affected may, at the option of the respective municipalities assessed, be adjusted so as to result in the payment over the remainder of the year of the additional amount so certified. No such additional amount shall be certified after October 1st in any year. The assessors of the respective participating municipalities shall without further vote include the amount so certified in those amounts to be raised in the subject calendar year by municipal tax or assessment or in the case of a supplemental certification to the extent if any that the same is not paid from funds otherwise available, in the first levy of municipal tax or assessment thereafter made. The respective city or town treasurers shall pay the amount so certified to the treasurer of the District in substantially equal monthly installments with the first monthly installment to be payable in January after receipt of such certification.

A participating municipality may raise all or a portion of the amounts certified annually by the District through equitable and proportional charges against its inhabitants, corporations and other users of the wastewater and sewage system of the District in each such municipality. The



participating municipalities shall be subject to such rules and regulations imposed or required by law as a condition of receipt of governmental grants and loans, as described in section 10.

The amount anticipated to be raised in a fiscal year and apportioned as provided in this section shall be the total of regional costs, financing costs and operating and maintenance costs less, with respect to regional costs, any funds on hand or in the judgment of the trustees to be received during said year from other than the participating municipalities and available to pay regional costs, and with respect to financing costs and operating and maintenance costs, funds on hand or in the judgment of the Trustees to be received during said year from other than participating municipalities and available to pay financing costs and operating and maintenance costs, as the case may be. As used in this Act, the following terms shall have the following meanings.

A. "Regional costs" shall mean: all regional, organizational and development costs: namely, costs incurred by the District to enable it to provide wastewater and sewage disposal services on a regional basis and all expenses incidental to such costs. Regional costs shall not include any costs related to facilities or services provided by the District, for the benefit of one or more, but less than all, of the participating municipalities. The accounting for regional costs shall be in accordance with generally accepted accounting practices.

B. "Financing costs" shall include:

- (1) Payment of unfunded capital outlay: namely, capital outlay items the cost of which is not to be funded or paid from the proceeds of a government grant or other donation;
- (2) Payment of interest: namely, interest due and payable in such year on indebtedness created or assumed by the District in providing a waste water and sewage system, exclusive of interest on temporary notes in anticipation of assessments;
- (3) Payment of principal: namely, principal due and payable in such year on indebtedness created or assumed by the District in providing a wastewater and sewage system and not to be refunded and for the payment of which indebtedness funds are not in the judgment of the trustees otherwise available; and
- (4) Sinking fund payments; namely, a sum equal to not less than 2% of:
  - (a) that portion of the final installment of principal of any issue of serial sewer bonds or notes or term sewer bonds or notes, with mandatory sinking fund payments, created or assumed by the District in connection with its wastewater and sewage system, that for any such issue exceeds the average annual payment of principal paid or payable in each year excluding the last installment of principal from the calculation of the average annual payment; and

(b) the amount of principal of any term bonds issued without mandatory sinking fund payments assumed or issued by the District for the wastewater and sewage system, which must be turned into a separate sinking fund and there kept together with any earnings on the sinking fund to provide for the extinguishment of that portion of said indebtedness.

The money set aside for the sinking fund must be devoted to the retirement of the obligations of the District resulting from its wastewater and sewage system, and meanwhile may be invested in such securities as savings banks in the state of Maine are now or hereafter allowed to hold.

C. "Operating and Maintenance costs" shall include:

(1) Operating expenses: namely, the current expenses of operating the wastewater and sewage system, and including interest on notes issued in anticipation of assessments;

(2) Deficit: namely, any deficit incurred in the operation of said wastewater and sewage system outstanding at the end of the prior calendar year for the payment of which funds are not, or in the judgment of the trustees will not be, available in the calendar year;

(3) Current expenses: namely, the current expenses of repairing and maintaining the wastewater and sewage system, including renewals and replacements and all other expenses not otherwise specifically provided herein; and

(4) Collection expenses: namely, the expenses of collecting rates, fees and other charges for participating municipalities under contracts authorized under section 14 including any adjustment required to render the budgeted collection expenses in prior years equal to the actual costs for such prior years.

D. The words "assess or assessment" as used in this Act mean, except when the context otherwise requires: the amount apportioned or allocated to a participating municipality that has been certified by the trustees as hereinbefore provided or with respect to which a participating municipality has otherwise been notified hereunder that such amount is to be paid to the District.

If a surplus exists at the end of a calendar year, the surplus must be transferred to a sewer surplus account, which may not exceed 3%, unless otherwise approved by the trustees, of the net book value of the assets of the District attributable to the wastewater and sewage system. The Trustees may add to the sinking fund so much of any excess over the 3% as they determine advisable, and any remainder must be credited against sums otherwise to be assessed upon the participating municipalities on an equitable basis.

## **Section 13**

### **Apportionment of annual costs; annual sewer assessments to municipalities; obligation of municipalities to pay same**

The Trustees shall annually apportion the amount determined under section 12 among the participating municipalities on the following basis:

A. Regional costs:

(1) All the regional costs shall be apportioned among all the participating municipalities, 1/2 according to the ratio of their respective populations to the total population of all the participating municipalities, according to the latest state or federal census, and the remainder according to the ratio of the state valuation of each participating municipality to the total state valuation of all participating municipalities.

B. Apportionment of financing costs:

(1) All financing costs of facilities used or to be used by only one of the participating municipalities must be apportioned to such municipality.

(2) All financing costs of any facility designed to be jointly used must be apportioned by the trustees between or among the participating municipalities for whose benefit the facilities were designed in the ratio of the percentage of use capability of the facility attributed to each participating municipality in the original design of the facility. If in the judgment of the trustees the actual use of this facility by one or more of the participating municipalities will not occur within 24 months of the actual use of the first participating municipality, financing costs must be apportioned under this paragraph to only those participating municipalities whose use or joint use of the facilities is expected to take place within the 24-month period. Except as otherwise provided in this paragraph, when a participating municipality makes first use of a facility that had previously been used by one or more participating municipalities, that participating municipality must also be assessed for its fair share of the financing cost of the jointly used facility that had been previously assessed up to the time of the first use of the facility by the joining municipality. The additional share must be determined by the trustees on the same formula set forth in this paragraph. The trustees shall apportion the additional share and, in addition, if the trustees determine that it is appropriate and reasonable, an annual interest component at a rate to be determined by the trustees to the joining municipality over a period of years equal to the term for which the original bonded indebtedness was issued. The Trustees shall make corresponding annual adjustments in the assessments of the participating municipalities previously using the facility by crediting the amount of the additional share to the participating municipalities in proportion to their respective total payments to the District on

account of the financing costs of the facility made by the participating municipalities up to the time of first use of the facility by the joining municipality.

Any participating municipality has the right to prepay any portion of the original bonded indebtedness allocable to the participating municipality.

C. Apportionment of operating and maintenance costs:

(1) All operating and maintenance costs of facilities used by only one of the participating municipalities shall be apportioned to such municipality.

(2) All operating and maintenance costs of any facility jointly used shall be apportioned by the trustees according to the estimated use of such facility to be made by each participating municipality until such jointly used facility has been in operation for one calendar year. Such apportionment shall be based on the engineering estimates prepared for the trustees of the initial use of such facility by each of the participating municipalities. When any jointly used facility shall have been in operation for a calendar year, the apportionment thereafter shall be based upon the measured flow of wastewater and sewage and, if necessary, estimates or measurements of pollutant loadings, entering such jointly used facility during the previous year from each participating municipality making use of such facility.

Until a participating municipality which makes its first use of a facility, which had previously been used by one or more other participating municipalities, shall have used such facility for a period of a calendar year, the apportionment of its cost for such use shall be calculated by the trustees from engineering estimates prepared for the trustees of the use by such municipality compared with the use during the prior calendar year by the other participating municipalities, and the remaining costs shall be apportioned among the participating municipalities previously using such facility in the manner described in this section.

Any participating municipality claiming to be aggrieved by an assessment shall, within 60 days from receipt of said assessment, commence an action in the Superior Court of Cumberland County requesting the review of said assessment or any part thereof. The Superior Court shall hear and determine the cause and shall be authorized to enter such judgments and orders, including the power to remand for further findings, as it shall deem appropriate.

The court may appoint a committee of one or three disinterested persons who, having been sworn, shall give such notice as designated by the court, shall hear the parties and shall make a report to the court as soon as practicable, whether the assessment of the trustees should be in whole or in part affirmed or reversed, which, being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the District.

A participating municipality requesting review of any assessment shall, nevertheless, remain obligated to pay and shall pay its said assessment in full within the prescribed times. If the court, commission or agency orders an adjustment in said assessment it shall also prescribe the manner and method by which such adjustment shall be made.

## **Section 14**

### **Water use and records; billing agency**

The District at cost, shall provide to any participating municipality upon written request, sufficient water use records to enable the municipality to determine sewer rates and charges and for other municipal purposes.

A participating municipality that has established a schedule of rates, fees and charges for the services furnished or to be furnished by its sewer system any of which are computed at least in part according to the amount of water consumed may, by resolution of its legislative body, request the District to collect the user charges on its behalf.

Upon receipt of a request, the District shall enter into a contract with the participating municipality that provides for the following:

- A. The date when collections under the contract period must begin, which may not be earlier than July 1st nor later than December 31st next succeeding the year in which the request is made, and with respect to the manner in which the contract may be amended and terminated;
- B. That the participating municipality shall during the period of the contract keep in force a schedule of rates, fees and charges sufficient to produce each year funds required to pay the costs apportioned or to be apportioned to the participating municipality for that year pursuant to sections 12 and 13;
- C. That to the extent the District does not maintain such records in the ordinary course of its business, the participating municipality shall provide the District with a list of the users of its sewer system responsible for payment of the rates, fees and charges and keep the same up-to-date;
- D. That the District shall on behalf of the participating municipality collect from the users the amounts due from time to time according to the schedule of rates, fees and charges and keep the sums collected in a separate account;
- E. That the District shall keep its accounts and records showing the sums collected, payments made from the collected sums and charges remaining to be collected up to date at all times and shall provide for an audit of the accounts and records at least annually;

F. That the District may deduct at such times as stated in the contract, which must be at least monthly, that portion of such sums collected that represent the amounts due to the District from the participating municipality pursuant to sections 12 and 13 and pay the balance of funds to the participating municipality, and that to the extent the portions retained by the District fail to equal the portion of District costs then due from the participating municipality, the deficit must be paid to the District by the participating municipality;

G. For a method of resolving disagreements concerning operations under the contract, which may be by arbitration, except that the obligations of each of the parties to the contract with respect to the payment of money to the other must be unconditional and that neither party may withhold payment to the other of funds due under the contract during the pendency of any dispute; and

H. For such other related matters as determined appropriate by the parties to the contract.

A participating municipality with respect to fixing a schedule of rates, fees and other charges for the services furnished or to be furnished by or through its sewer system has such authority as may be granted by its charter, if any, by any private and special laws and by the Maine Revised Statutes, including, without limitation, Title 30-A, chapters 161 and 213, to the extent applicable. Notwithstanding any provision of law to the contrary, a participating municipality may by vote of its legislative body authorize the exercise by the District on behalf of the participating municipality of any or all of the powers granted to the participating municipality to collect such rates and charges from the users of the sewer system of the participating municipality as provided in this Act, however, nothing in this section may be construed to permit the transfer by a participating municipality to the District of the right to make or collect assessments authorized by Title 30-A, chapter 161, subchapter 1, or any private and special law authorizing a participating municipality to make or collect such assessments.

In the event the user of the sewer system of the District or municipality fails within reasonable time to pay the statement of rates, fees or charges submitted by the District to the user, the District has the power to disconnect the water service of the user, notwithstanding any rule or statute to the contrary, as long as the action by the District is accomplished in accordance with the procedures set forth in applicable statutes and rules for the disconnection of utility services.

Nothing in the contract authorized under this section may affect in any way the unconditional obligation of the participating municipality to pay its share of the District's costs apportioned and certified as provided in section 13.

## **Section 15**

### **Allocation of charges between water system and wastewater and sewage system**

The trustees shall maintain records and accounts in such a manner that all costs and charges are clearly defined as between the water system and the wastewater and sewage systems, all in accordance with generally accepted accounting practices and procedures.

## **Section 16**

### **Right to inspect; rules and regulations; injunctive relief**

The officers or agents of the District shall have the right to enter all premises from which any sewer or drain is connected with any part of the system or with any sewage system connecting with the system of the District, at all reasonable hours, for inspection of plumbing and sewage fixtures, to ascertain the quantity and character of sewage discharged and the manner of discharge; and to enforce the provisions of this Act and the rules and regulations prescribed by the trustees of the District.

The trustees shall, for the proper and reasonable operation of the water system and the wastewater and sewage system, adopt reasonable rules and regulations relative to the water system and the wastewater and sewage system, including without limitation, regulations as to the quantity and character of any sewage, drainage or other wastes discharged into any sewage system connecting with the system of the District, but such regulations shall at least meet the minimum standards prescribed by the Department of Environmental Protection and applicable plumbing codes. Rules and regulations adopted by the trustees shall be published, from time to time, in suitable form and distributed to the participating municipalities.

The trustees may require industrial pretreatment of wastes discharged into its sewer system or into any system connecting with its system if the trustees determine such wastes may interfere with or cause damage to its wastewater and sewage system.

In addition to any other remedy, the Superior Court shall have jurisdiction upon a complaint filed by the District to restrain or enjoin any person, firm, corporation or municipality from committing any act which may damage or impair its wastewater and sewage system or which is prohibited by any rule or regulation of the District. It is the intention of the Legislature that the District may seek the injunction set forth in this section without first resorting to any other form of proceedings or procedure as a condition precedent to the granting of such injunction.

Any user of the wastewater system who violates any provision of the laws administered by the District pertaining to pretreatment standards and requirements, including without limitation a violation of the terms or conditions of any rule or regulation of the District pertaining to pretreatment standards and requirements, is subject to a civil penalty payable to the District of not less than \$1,000 nor more than \$2,000 for each day of that violation. The District may recover the civil penalty by civil action in the District Court or Superior Court.

## **Section 17**

### **Property Tax Exempt**

Wherever located, the property, both real and personal, rights and franchises, used in connection with said wastewater and sewage system shall be forever exempt from taxation.

## **Section 18**

### **Board of Trustees**

The affairs of the District are managed by a board of trustees composed of 11 members, 4 of whom are elected by a plurality of the voters of the City of Portland, 2 by a plurality of the voters of the City of South Portland and the Town of Cape Elizabeth, one by a plurality of the voters of the City of Westbrook, one by a plurality of the voters of the Town of Gorham, one by a plurality of the voters of the Town of Raymond and the Town of Windham, one by a plurality of the voters of the Town of Scarborough and one by a plurality of the voters of the Town of Falmouth and the Town of Cumberland.

Trustees are elected for a term of 5 years at elections as described in this paragraph. Trustees elected from the City of Portland, the City of South Portland, the Town of Cape Elizabeth, the City of Westbrook, the Town of Gorham, the Town of Scarborough, the Town of Windham and the Town of Raymond are elected at elections on the first Tuesday after the first Monday of November. The trustee elected from the Town of Cumberland and the Town of Falmouth is elected on a mutually coincident municipal election date in the Town of Cumberland and the Town of Falmouth in June, but, if there is not a mutually coincident municipal election date, then on the 2nd Tuesday of June. Costs for any trustee election held concurrently with a federal, state or municipal election are divided between the municipality and the District. When there is a division of costs, the District is responsible for the costs proportional to the total number of offices and referenda issues voted upon at the election. If an election for a trustee results in a tie vote, the other trustees shall select the person who becomes a trustee.

All nominations of candidates to be elected from the cities of Portland or Westbrook must be made by nomination papers signed in the aggregate for each candidate by not fewer than 100 nor more than 150 qualified voters of such city. All nominations of candidates to be elected from the area consisting of South Portland and Cape Elizabeth must be made by nomination papers signed in the aggregate for each candidate by not fewer than 35 nor more than 50 of the qualified voters of Cape Elizabeth and not fewer than 100 nor more than 150 qualified voters of the City of South Portland. All nominations of candidates to be elected from Gorham or Scarborough must be made by nomination papers signed in the aggregate for each candidate by not fewer than 35 nor more than 50 of the qualified voters of each of the towns. All nominations of candidates to be elected from the area consisting of either Cumberland and Falmouth or Raymond and Windham must be made by nomination papers signed in the aggregate for each candidate by not fewer than 35 nor more than 50 of the voters of each of the towns within that area. Each voter signing a nomination paper shall make the voter's signature in person and add to it the voter's place of residence, and each voter may subscribe to as many nominations as there are trustees to be elected



in the voter's area and no more. Nomination papers must be submitted to each municipal clerk of the municipalities in that area coterminously with the municipal filing date.

Transition: Trustees of the Portland Water District elected prior to the effective date of this Act and serving on the effective date of this Act continue to serve until their successors are elected and take office in accordance with this Act. When the current trustee's term representing the towns of Cape Elizabeth, Gorham and Scarborough expires in 2002, that seat must be filled by a person representing the Town of Gorham only. When the current trustee's term representing the towns of Cape Elizabeth, Gorham and Scarborough expires in 2003, that seat must be filled by a person representing the Town of Scarborough only. When the current trustee's term representing the City of South Portland expires in 2004, that seat must be filled by a person representing the City of South Portland and the Town of Cape Elizabeth. When the current trustee's term representing the City of South Portland expires in 2005, that seat must be filled by a person representing the City of South Portland and the Town of Cape Elizabeth. When the current trustee's term representing the towns of Cumberland, Falmouth, Windham and Raymond expires in 2006, that seat must be filled by a person representing the towns of Falmouth and Cumberland. The current trustee's term representing the towns of Cumberland, Falmouth, Windham and Raymond that expires in 2002 must be filled by a person representing those towns. When that trustee's term expires in 2007, the seat must be filled by a person representing the towns of Windham and Raymond. The trustee elected from the Town of Cumberland, the Town of Falmouth, the Town of Raymond and the Town of Windham in 2002 must be elected on a mutually coincident municipal election date in the Town of Cumberland, the Town of Falmouth and the Town of Windham in June, but, if there is not a mutually coincident municipal election date, then on the 2nd Tuesday of June. The Town of Raymond shall hold a special town meeting to elect the trustees on the same day that the Town of Cumberland, the Town of Falmouth and the Town of Windham hold their coincident municipal elections to elect the trustees from those towns. All nominations of candidates to be elected from the area consisting of Cumberland, Falmouth, Raymond and Windham must be made by nomination papers signed in the aggregate for each candidate by not fewer than 35 nor more than 50 of the voters of each of the towns within that area. Each voter signing a nomination paper shall make the voter's signature in person and add to it the voter's place of residence, and each voter may subscribe to as many nominations as there are trustees to be elected in the voter's area and no more. Nomination papers must be submitted to each municipal clerk of the municipalities in that area coterminously with the municipal filing date.

Immediately thereafter, such clerk shall notify the clerk of the District of the names of the candidates nominated for trustee for the area within which such municipality is located and shall notify the clerk of any other municipality within such area. With such nomination papers there shall be filed the consent in writing of the person or persons nominated agreeing to accept the nomination if nominated, not to withdraw, and if elected at the election to qualify as a trustee.

Each municipality shall prepare, under the direction of its municipal clerk, ballots containing the names of the properly nominated candidates arranged in alphabetical order by last name. It shall contain no other names. At the end of the list of candidates, there shall be left as many blank spaces as there are vacancies to be filled, in which a voter may insert the name of any person for whom he desires to vote. A square shall be printed at the right of the name of each candidate, and 2 squares shall be printed at the right of any question submitted with "yes" above

one and "no" above the other, so that a voter may designate his choice clearly by a cross mark (X) or a check mark ( / ). Words of explanation such as, "Vote for one" may be printed on the ballot. Before distribution, the ballot shall be folded in marked creases to measure, when folded, from 4 to 5 inches wide and from 6 to 13-1/2 inches long. On the back and outside, when folded, shall be printed "Official Ballot for the Portland Water District," the date of election, and a facsimile of the signature of the clerk of the municipality. In the alternative, the municipality may prepare ballots or, if voting machines are used, ballot labels in accordance with the law governing municipal elections.

The municipal clerks shall present the returns of their respective municipalities to the clerk of the District not later than 5 days after the elections. The trustees shall at the first regular business meeting after the election determine and declare the successful candidates of each area.

If any vacancy arises in the membership of the trustees, it shall be filled by a special election to be called in the city or the town wherein such election is to be held. When any trustee ceases to be a resident of the city or the area of towns from which he was elected, he vacates such trusteeship. All such trustees shall be eligible for reelection, but no person holding state, county or municipal office shall be eligible for election as trustee. For the purposes of this paragraph, a person holding a municipal office is a municipal officer as defined in the Maine Revised Statutes, Title 30-A, section 2001, subsection 10 or a full-time municipal employee who has authority to exercise policymaking or financial responsibility on behalf of the municipality. Each trustee shall receive in full compensation for his services the sum of \$1,200 annually.

## **Section 19**

### **Officers**

The trustees shall elect a president, a vice president, a treasurer and a clerk together with such other officers and agents as they deem necessary for the proper conduct of their affairs. The trustees may establish and from time to time amend such bylaws as are necessary for the proper management of its affairs.

## **Section 20**

### **Payment in lieu of taxes to the Town of Gorham**

The Portland Water District shall pay to the Town of Gorham in lieu of taxes annually the sum of \$2,150, said sum to be payable on or before October 1st of each year to the municipal treasurer of the Town of Gorham.

## **Section 21**

### **Annual Report**

After the close of each fiscal year, the trustees shall cause to be made a detailed report of the District's receipts and expenditures, of its financial and physical condition and of such other

matters as the trustees deem necessary. Such annual report shall be filed with the municipal officers of each municipality to which the District serves water or engages in wastewater and sewage service.

## **Section 22**

### **1913 P&SL, c. 157, Para. 2\* is amended by adding a new paragraph at the end to read:**

During daylight hours from June 15th to September 15th, residents of the Town of Standish shall have the right to cross the land of the Portland Water District bordering Sebago Lake outside the 2-mile limit referred to in and described in the paragraph above, to make reasonable use of the shoreline of said land for swimming and related recreational activities and to utilize parking areas on said lands to be designated by the trustees, provided that the District shall not be liable for damages arising from the use of said lands by such persons. All costs which may be incurred by the District in carrying out the purposes of this paragraph, including but not limited to the construction of sanitary facilities for the use of said residents, shall be the responsibility of the Town of Standish. The District shall not make any expenditure without the prior written approval of the municipal officers of Standish. Rights of access granted herein may be limited to such specific times and locations and by such reasonable regulations as may be determined by agreement between the trustees of the District and the municipal officers of the Town of Standish. The rights granted herein shall be in addition to any existing rights of access for fishing and other purposes and nothing contained herein shall be construed to limit such rights in any way.

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\*Chapter 157, Para.2: "A person may not have bodily contact with the waters of Sebago Lake within 2 miles of the intakes of the Portland Water District, nor may any person wash linen or other articles of personal apparel in the waters of the lake. . . . . Any person violating the provisions of this section is liable to a fine, payable to the State, of \$500 for a first offense, \$1,000 for a second offense and \$2,500 for each subsequent offense."

## **Section 23**

### **Notes deemed issued**

Temporary notes of the District, the proceeds of which were used to pay preliminary expenses for the investigation and planning for wastewater and sewage systems in participating municipalities not served or to be served by a wastewater and sewage treatment facility existing or under construction on the effective date of this Act, shall be deemed to have been issued under and pursuant to section 9, 4th paragraph, as amended, and any renewals of such temporary notes shall be in accordance with the applicable provisions of said section as amended.

## **Section 24**

### **Renewals of outstanding temporary notes issued for regional costs and preliminary expenses**

Temporary notes of the District, the proceeds of which were used to pay regional costs and preliminary expenses as set forth in section 9, 4th paragraph, as amended, all incurred in connection with the establishment of the District's wastewater and sewage system may, to the

extent not paid from the proceeds of assessments upon the participating municipalities, be renewed as hereinafter in this section provided. In the case of a participating municipality for whose benefit a wastewater and sewage treatment facility is being financed under section 9, such temporary renewal notes may be consolidated with and issued as a part of any issue of notes or bonds being issued under said section 9. Renewal notes authorized by this section shall be issued in accordance with the provisions of Section 9 of the charter so far as apt and shall mature not later than one year from their date and in no event later than December 31, 1982. There shall be a separately designated issue of renewal notes representing the sums allocated or allocable to each participating municipality.

## **Section 25**

### **Preexisting contracts with participating municipality**

The rights of the parties under a contract between the District and a participating municipality in force on the effective date of this Act shall not be adversely affected by this Act.

## **Section 26**

### **Provision of administrative services to non-participating municipalities**

The District is authorized to enter into contracts with non-participating municipalities, governmental entities or water and sewer utilities for the purposes of providing administrative services. Services may include but are not limited to billing services, accounting services and other administrative services related to water and sewer operations.