

Approved Chapter

May 2 '67 92

State of Maine

By Governor P&S Law

In the Year of Our Lord Nineteen Hundred
Sixty-Seven

H.P. 535 --- L.D. 770

AN ACT Establishing the Lewiston-Auburn Water Pollution Control
Authority.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF MAINE, AS FOLLOWS:

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

Sec. 2. Acquisition of property; right of eminent domain. The authority may acquire by purchase or otherwise, or through the exercise of the power of eminent domain, such real property, personal property, easements or other interests therein as may be necessary or convenient to accomplish its purpose. The authority is also authorized to lay and maintain its pipes and equipment in the public highways of Lewiston and Auburn and across other public lands where such construction and repair would not unduly interfere with some other existing public purpose of either city. If public highways are entered for said purposes, the work shall be done expeditiously and with as little obstruction to the public traffic as possible. At the completion of the work, the highway or other public land shall be restored as nearly as practicable to its previous condition. The authority shall assume responsibility for all costs of such work and shall indemnify the cities for any liability which they may incur to 3rd persons from negligent performance of the work.

Sec. 3. Crossing public utilities. Where it is proposed that the sewer lines or other installations of the authority shall cross or otherwise occupy property of a public utility and where consent of said utility to such crossing or installation is refused, application

shall be made to the Public Utilities Commission to determine the place, manner and condition of such crossing or installation. Such crossing or installation shall thereafter be made only to the extent permitted and subject to conditions imposed by the Public Utilities Commission and such work shall be performed under its supervision.

Sec. 4. Procedure in eminent domain proceedings. When property is to be taken through the exercise of the power of eminent domain, the authority shall cause to be recorded in the Androscoggin County Registry of Deeds a description identifying the property to be taken with reasonable accuracy and indicating the names of the owners thereof, if known, together with a notice that the same is to be taken by the authority, signed by a majority of the members of the board of the authority as hereinafter constituted and defined in section 14. Copies of the notice and description shall also be sent at the same time by registered mail to all persons whose whereabouts are known having an interest of record in such property. No entry shall be made upon private lands so taken within 10 days after such recording except to make surveys. At the end of said 10-day period, title to said property shall vest in the authority and possession of the same may be taken. After the expiration of said 10-day period, the authority shall promptly submit in writing to the persons or corporations whose property is taken an offer in writing to pay an amount found by the board to represent fair compensation therefore. The offer of the authority as to the amount of damages due shall be final and binding upon all parties having an interest in the property unless, within 60 days from the date on which such offer is made, an appeal is taken from the authority's determination of damages to the Androscoggin County Superior Court. Such appeal shall be taken in the manner prescribed by rule 80B of the Maine Rules of Civil Procedure and any amendments thereto, except in those respects in which proceeding under the rule would be inconsistent with the express provisions of this act. In the event of such appeal, any person having an interest in the property to be taken may petition any justice of the Superior or Supreme Judicial Court to order that the authority furnish security to be deposited with the clerk of the Superior Court in an amount found to represent the value of such person's interest. Such judge or justice may hear such evidence as he may require to reach an initial determination of the value of such interest. The amount so deposited may be used to satisfy any judgment recovered against the authority, the excess, if any, to be returned to the authority.

Sec. 5. Disposal of surplus property. When the authority determines that any real or personal property or interests therein in its possession are no longer needed in the accomplishment of the purposes of the authority, it may dispose of the same on such terms as it shall judge to be in the best interest of the authority.

Sec. 6. Inspection, rules and regulations. The authority shall prevent, as much as practicable, the discharge into the sewers of substances which might damage the sewage treatment facilities or interfere with their maintenance and operation, pass through to the receiving waters, or endanger the health and safety of any authority employee. The authority's officers and agents have free access to all premises served by the sewage treatment facilities at reasonable times in order to inspect the sewers, drains, sewage pumping stations, tanks or treatment works, and determine the amount and character of sewage, drainage or other wastes flowing from the sewers, drains, sewage pumping

stations, tanks or treatment works and whether such sewage, drainage or other waste do, or are likely to, damage or impair the sewage treatment facilities, interfere with their maintenance and operation, pass through to the receiving water or endanger the health and safety of any authority employee.

The authority may, for the proper operation of the sewage treatment facilities, issue administrative orders, rules and regulations which are binding on the Auburn Sewerage District and the City of Lewiston and the inhabitants of each, as to the quantity and character of any sewage, drainage or other waste distribution into any sewer connected with the plant.

These orders, rules and regulation may incorporate industrial pretreatment requirements including, without limitation, reporting, monitoring and other requirements imposed on the authority by federal or state law or regulations or requirements adopted by the authority, and the authority may require industrial pretreatment of wastes discharged into the sewage treatment facilities or into any systems connecting with the sewage treatment facilities.

Sec. 7. Contracts. In the performance of its purposes, the authority is authorized to enter binding contracts with other persons, corporations, governmental bodies or agencies thereof, and to negotiate for, receive and use grants and loans from any governmental body or agency which are available for use in furtherance of any of the purposes of the authority.

Sec. 7-A. Permits. The authority may, through its rules and regulations, issue permits or other control mechanisms to individual users of the sewage treatment facilities, for the purposes of controlling the amount and character of the wastes discharged into the sewage treatment plant, and for other requirements imposed on the authority by federal or state law, rules or regulations.

Sec. 8. Bonds. For the purpose of financing construction of a sewage treatment plant and related facilities together with all necessary organizational expenses of the authority whether incurred by it or by someone else on its behalf, the authority is authorized to borrow money and issue, from time to time, bonds, notes or other evidences of indebtedness of the authority in one series, or in separate series, in such amounts and bearing interest at such rates as it shall determine to be advisable.

The authority is authorized to borrow money and issue, from time to time, bonds, notes or other evidence of indebtedness as aforesaid for the purpose of paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness issued under the authority of this section and for the purpose of financing necessary improvements to or extensions of the sewage treatment plant and related facilities. In anticipation of any such permanent borrowing permitted by this section, the authority is authorized to issue its temporary notes payable from the proceeds of the bonds or other evidence of indebtedness.

Any such notes, bonds or other evidences of indebtedness may be issued to mature serially or made to run for such periods as the board of the authority may determine and each authorized issue shall constitute a separate loan. When bonds are issued to mature on a fixed date after issuance rather than serially, they shall be retired, in whole or in part, through the creation of a sinking fund in which the authority shall annually deposit a sum equal to at least 1% of the indebtedness secured by said bonds. The sinking fund shall be invested in such investments as are authorized for savings banks of this State and shall be held, together with accumulated income thereon, for the sole purpose of paying the principal of said bonds. Bonds, notes, or other evidences of indebtedness may be issued with or without provision for calling the same prior to maturity, and if callable, may be made callable at par or at such premises as the board of the authority may determine. All bonds, notes, or other evidences of indebtedness shall be signed by the treasurer and countersigned by the chairman of the board of the authority, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer of the board. All bonds, notes, or other evidences of indebtedness shall be signed by the treasurer and countersigned by the chairman of the board of the authority, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer of the authority.

All such bonds, notes and other evidences of indebtedness of the authority shall be legal obligations of the authority enforceable against all property of whatever kind owned by it.

In the event of default in the payment of any of the bonds or the coupons attached thereto, any holder thereof may petition any Justice of the Supreme Judicial Court, for the benefit of himself as well as for the benefit of all other holders of bonds, to declare the authority insolvent and enforce the lien of the bonds by appointment of a receiver for the authority and by sale of its property according to the usual practice in the case of insolvent private corporations.

Sec. 9. Temporary borrowing. The authority is authorized to issue from time to time its temporary notes and renewal notes in anticipation of assessments to be paid by the City of Lewiston and the Auburn Sewerage District pursuant to sections law. The aggregate amount of such temporary notes shall not exceed the total of the assessments made for the fiscal year in which such temporary notes are issued, and any such temporary notes shall be payable in such fiscal year; provided, however, that if the assessments for the existing fiscal year have not yet been made, the aggregate amount of such temporary notes shall not exceed the estimated assessments for such fiscal year as determined by the board.

Sec. 10. Apportionment of capital cost.

With respect to the costs of the planning and construction of improvements and additions to the sewage treatment plant and related facilities, the board of the authority shall issue a determination as to the proportionate shares of the cost to be borne by the City of Lewiston and by the Auburn Sewerage District., based upon the estimated benefit which that each will receive from the use of said proposed new facility. Such determination

must include consideration of such reliable estimates as to the annual volume of sewage and other waterborne wastes produced by the respective sewage systems and of the types of sewage which each system is expected to produce and the relative expense of treating the same as may be available to the board and such other factors as the board considers necessary or appropriate.

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

Sec. 11. Estimating annual expenses of the authority. The authority shall annually prepare an itemized budget for its coming fiscal year itemizing expenses of operation, maintenance and repair, costs of contemplated capital construction and payments of principal and interest on fixed indebtedness and other borrowings. Such budget must include such other details as to present assets, surplus, expenses, and liabilities as the board determines to be advisable and as the City of Lewiston and the Auburn Sewerage District may reasonably require.

Sec. 12 Assessment of expenses. The board of the authority shall determine the proportionate share of the expense of operation, maintenance, and repair be allocated to the City of Lewiston and the Auburn Sewerage District on the basis of the average inflow of sewage and other waterborne wastes metered at the sewage treatment facilities from the respective sewer systems and shall submit an assessment to the City of Lewiston and to the Auburn Sewerage District for each entity's proportionate share of the expenses.

In the event of default in the payment of any such assessments, the authority shall be entitled to exercise the remedies provided by the Maine Revised Statutes, Title 30-A, section 5701 and any amendments thereto, in collecting the same.

Sec. 13. Property tax exempt. The real and personal property, rights and franchises of the authority shall forever be exempt from taxation.

Sec. 14.. Lewiston-Auburn Water Pollution Control Board. The authority is under the management and direction of a board of directors, which is known as the Lewiston-Auburn Water Pollution Control Board, also referred to as "the board" or "the board of the authority" The board consist of 7 members. The director of the Lewiston Department of Public Works, the City Administrator or acting City Administrator of the City of Lewiston or another employee of the City of Lewiston designated by the City Administrator, the superintendent and the president of the Auburn Sewerage District and the City Manager or acting City Manager of the City of Auburn or another employee of the City of Auburn designated by the City Manager, are members of the board by virtue of their respective offices. If the president of the Auburn Sewerage District Trustees declines to serve or resigns as a member of the board of the authority, the president shall select, subject to confirmation by the Auburn Sewerage District Trustees, another trustee

or resident of Auburn to serve for the remainder of the term. Notice of the appointment must be given in writing by the clerk of the Auburn Sewerage District to the board of the authority. The Mayor of Lewiston shall appoint, subject to confirmation of the city council, a qualified voter of the City of Lewiston to serve for a 2-year term on the board of the authority and thereafter until a successor takes office. In the event that either the Lewiston resident so selected or the appointee of the president of the Auburn Sewerage District ceases to be a resident of that person's respective city, or dies, becomes incapacitated, or otherwise ceases to be a member of the Auburn Sewerage District Trustees, or if the president of the Auburn Sewerage District dies or becomes incapacitated while serving on the board of the authority, a successor must be elected to serve out the remainder of the term by the Mayor and City Council of Lewiston or the Auburn Sewerage District Trustees, as the case may be.

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

At the initial meeting for organization of the authority, or as soon after the initial meeting as practicable, the 6 members of the board shall elect a 7th member who must be a resident of Auburn or Lewiston but may not hold any public municipal office or be a member of any municipal board or committee. If the 6 members are unable to agree upon the naming of a 7th member of the board, any Justice of the Superior Court or Supreme Judicial Court, shall, on petition of any 4 of the members, select the 7th member of the board. The 7th member of the board serves for a 3-year term and until the member's successor is appointed, and may be elected to serve additional 3-year terms of office. When a vacancy occurs in the position of the 7th member of the board, a replacement must be elected by the remaining members of the board to serve for the remainder of the term in the same manner as initial elections are held. The members of the board serve without compensation, but are reimbursed for their actual expenses incurred in the performance of their duties, on approval of the board.

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

The board may appoint, and may at the board's pleasure remove, a treasurer and clerk who are not members of the board, and both offices, if the board determines it advisable, may be held by the same person. The treasurer shall furnish the board with a bond payable to the authority issued by a surety company authorized to transact business in the State and satisfactory to the board as surety, in such sum as the board may prescribe and

conditioned on the faithful performance of the treasurer's duties. The duties of the treasurer and clerk are those usually appertaining to those offices, respectively, and in addition such duties as may from time to time be prescribed by the board. The compensation of the treasurer and of the clerk is determined by the board. The General Manager, with the approval of the board, shall from time to time appoint or employ such engineers and such experts, agents, officers, clerks and other employees as the General Manager determines necessary, and shall determine their duties. The salaries and compensation of all persons appointed or employed under this section, together with other expenses, are paid by the authority and are considered a part of the expense of operation of the authority.

Sec.16. Office, records, seal. The board shall establish a fiscal year for the authority and shall adopt and may thereafter amend bylaws for the conduct of its affairs.

The authority shall establish an office at the site of the sewage treatment facilities in which its business may be conducted and in which maps, plans, documents, records and other papers relating to its business, land and other works and property in its charge, shall be kept. It shall at all times keep full and accurate accounts of its receipts, expenditures, disbursements, assets and liabilities, which shall at all reasonable times be open to inspection by representatives of the Cities of Auburn or Lewiston or of the Auburn Sewerage District.

The authority shall make an annual report of its activities for the preceding year and shall submit a copy thereof to the City of Lewiston, the president of the Auburn Sewerage District trustees.

The authority shall have a seal consisting of a circular die bearing the words "Lewiston-Auburn Water Pollution Control Authority, 1967" which may be used whenever deemed advisable by the board on papers and documents issued or executed by it or its officers or employees on its behalf.

Sec. 17. Injury to property of the authority or interference with the operation of the authority. Any person who places, discharges, spills, leaks or leaves any offensive or injurious matter or material on or in the conduits, catch basins or receptacles of or served by the authority contrary to the authority's regulation is liable to pay twice the amount of damages to the authority, to be recovered in any proper action.

Any person who knowingly injures any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet, engine, pump or other property held, owned or used by the authority is guilty of a Class E crime.

The authority may seek, in a civil action, injunctive relief and civil penalties pursuant to the Maine Revised Statutes, Title 38, section 1252, subsection 8 against an industrial user of the authority that violates any pretreatment standard or requirement administered by the authority.

Notwithstanding other civil or criminal penalties provided by and imposed under federal or state law, except penalties sought by the authority pursuant to Title 38, section 1252, subsection 8, the Lewiston-Auburn Water Pollution Control Board may assess administrative penalties of not more than \$1,000 per day for each violation by an industrial user of any pretreatment standard or requirement administered by the authority. In assessing any penalties under this paragraph, the board must conduct its proceedings in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. A person aggrieved by any action by the board under this paragraph is entitled to judicial review in the Superior Court in the manner provided in Title 5, chapter 375, subchapter VII. The authority may by rule provide for assessment and collection of the administrative penalties as well as procedures for notification to industrial users of the penalties and enforcement of the administrative penalties provided these rules are in accordance with the Maine Administrative Procedure Act as specified in this paragraph. The authority may not seek civil monetary penalties under Title 38, section 1252, subsection 8 if the board has assessed administrative penalties under this section. Nothing in this paragraph prohibits the authority from seeking injunctive relief pursuant to Title 38, section 1252, subsection 8 in addition to administrative penalties imposed pursuant to this paragraph.

This copy of our Charter includes the original Act H.P. 535 – L.D. 77 and all amendments enacted in 1969, 1975, 1980, 1993, 2001, 2012, 2023.