

**Title 38: WATERS AND NAVIGATION**  
**Chapter 10: STANDARD SEWER DISTRICT ENABLING ACT**

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**Maine Revised Statutes**  
**Title 38: WATERS AND NAVIGATION**  
**Chapter 10: STANDARD SEWER DISTRICT ENABLING ACT**

Subchapter 1: GENERAL PROVISIONS

**§1031. SHORT TITLE**

This chapter may be known and cited as "the Standard Sewer District Enabling Act." [ 2013, c. 555, §6 (NEW). ]

SECTION HISTORY  
2013, c. 555, §6 (NEW).

**§1032. DEFINITIONS**

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [ 2013, c. 555, §6 (NEW). ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

SECTION HISTORY  
2013, c. 555, §6 (NEW).

**§1033. SCOPE AND APPLICATION**

The provisions of this chapter apply as follows. [ 2013, c. 555, §6 (NEW). ]

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

A. Section 1036, subsection 7; [ 2013, c. 555, §6 (NEW). ]

- B. Section 1037; [2013, c. 555, §6 (NEW).]
- C. Section 1040; [2013, c. 555, §6 (NEW).]
- D. Section 1042; [2013, c. 555, §6 (NEW).]
- E. Section 1045; [2013, c. 555, §6 (NEW).]
- F. Section 1046, subsection 1 and subsection 4; [2013, c. 555, §6 (NEW).]
- G. Section 1048, subsection 1, paragraph B and subsection 5; [2017, c. 151, §1 (AMD).]
- H. Section 1050; and [2017, c. 151, §1 (AMD).]
- I. Section 1051. [2017, c. 151, §2 (NEW).]

[ 2017, c. 151, §§1, 2 (AMD) .]

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

- A. Section 1038; [2013, c. 555, §6 (NEW).]
- B. Section 1049; [2013, c. 555, §6 (NEW).]
- C. [2017, c. 151, §3 (RP).]
- D. Section 1054; and [2013, c. 555, §6 (NEW).]
- E. Section 1055. [2013, c. 555, §6 (NEW).]

[ 2017, c. 151, §3 (AMD) .]

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

[ 2013, c. 555, §6 (NEW) .]

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

- A. The corporate name of the standard district; [2013, c. 555, §6 (NEW).]
- B. The territorial limits of the standard district; [2013, c. 555, §6 (NEW).]
- C. The number of trustees of the standard district, which in accordance with section 1036 may not be less than 3; [2013, c. 555, §6 (NEW).]
- D. The appointing authority responsible for appointing or the method of electing the first board of trustees; [2013, c. 555, §6 (NEW).]
- E. The terms of the trustees who are elected or appointed subsequent to the first board. Terms of the first board are determined pursuant to section 1036, subsection 4; [2013, c. 555, §6 (NEW).]
- F. Whether the trustees, subsequent to the first board, are appointed or elected; and [2013, c. 555, §6 (NEW).]
- G. The procedures for the local referendum on the creation of the standard district. [2013, c. 555, §6 (NEW).]

[ 2013, c. 555, §6 (NEW) .]

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

- A. Special qualifications of trustees; [2013, c. 555, §6 (NEW).]

B. Election of trustees by other than at-large elections as provided in section 1036, subsection 1. Any provision for election of trustees by other than at-large elections must establish voting districts in conformance with the judicial principle of one person, one vote; [2013, c. 555, §6 (NEW).]

C. Additional purposes and powers of the standard district, such as authority to buy out an existing sewer company or to provide water or other utility services; [2013, c. 555, §6 (NEW).]

D. Areas outside the standard district's territory in which the standard district is authorized to provide sewer services or accept sewage or septage; [2013, c. 555, §6 (NEW).]

E. Areas outside the standard district's territory in which the standard district is authorized to locate facilities; [2013, c. 555, §6 (NEW).]

F. Notwithstanding section 1053, a specific debt limit; [2013, c. 555, §6 (NEW).]

G. Towns with which the standard district is authorized to contract to provide sewer service; and [2013, c. 555, §6 (NEW).]

H. Any other provisions or duties necessary to accomplish the legislative purposes for creating the standard district. [2013, c. 555, §6 (NEW).]

[ 2013, c. 555, §6 (NEW) .]

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

[ 2013, c. 555, §6 (NEW) .]

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

[ 2013, c. 555, §6 (NEW) .]

#### SECTION HISTORY

2013, c. 555, §6 (NEW). 2017, c. 151, §§1-3 (AMD).

### §1034. EXEMPTION FROM TAXATION

A standard district is a public municipal corporation within the meaning of Title 36, section 651 and the property of the district is exempt from taxation to the extent provided in that section. [2013, c. 555, §6 (NEW).]

#### SECTION HISTORY

2013, c. 555, §6 (NEW).

### §1035. LEGISLATIVE AMENDMENT OF CHARTERS

Prior to acting on a proposed sewer district charter amendment, the joint standing committee of the Legislature having jurisdiction over energy and utility matters shall request written comments from the municipalities that lie in whole or in part within the sewer district. [2013, c. 555, §6 (NEW).]

#### SECTION HISTORY

2013, c. 555, §6 (NEW).

Subchapter 2: GOVERNANCE

**§1036. TRUSTEES**

All of the affairs of a standard district must be managed by a board of trustees whose members must be residents of the standard district. The number of trustees must be specified in the standard district's charter and may not be less than 3. After selection of the first board, each trustee is nominated and elected or appointed as provided in the charter creating the standard district and in accordance with subsection 1 or 2, as applicable. If the charter does not indicate whether trustees are appointed or elected, after the selection of the first board the trustees must be elected in accordance with subsection 1. [ 2013, c. 555, §6 (NEW) . ]

**1. Nominations and elections; vacancies.** Nominations and elections of trustees must be conducted in accordance with the laws relating to municipal elections in Title 30-A, chapter 121, and all elections must be conducted by secret ballot in accordance with Title 30-A, section 2528.

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

The trustees shall acquire a complete list of all the registered voters residing in the standard district. The trustees may acquire this list or portions of the list from the registrar of any town within the standard district. The town may charge a fee for providing the list. The list acquired by the trustees governs the eligibility of a voter. Voters who reside outside the territorial limits of the standard district, as defined in its charter, are not eligible voters. All warrants issued for elections by the trustees must show that only the voters residing within the territorial limits of the standard district are entitled to vote.

[ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

Total number of trustees	1 year	2 years	3 years
3	1	1	1
4	1	1	2
5	1	2	2
6	2	2	2
7	2	2	3
8	2	3	3

9	3	3	3
10	3	3	4
11	3	4	4
12	4	4	4
13	4	4	5
14	4	5	5
15	5	5	5

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.

[ 2013, c. 555, §6 (NEW) . ]

**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.

[ 2013, c. 555, §6 (NEW) . ]

**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.

[ 2013, c. 555, §6 (NEW) . ]

**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.

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

[ 2013, c. 555, §6 (NEW) . ]

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

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

[ 2013, c. 2, §50 (COR) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

**10. Recall.** A trustee may be recalled under the following provisions.

A. The eligible voters of a standard district may petition for the recall of any trustee after the first year of the term for which the trustee is elected by filing a petition with the municipal clerk, or the county commissioners in the case of unorganized territory, demanding the recall of the trustee. A trustee may be subject to recall for misfeasance, malfeasance or nonfeasance in office. The petition must be signed by eligible voters of that portion of the standard district that that trustee represents equal to at least 25% of the vote cast for the office of Governor at the last gubernatorial election within that portion of the standard district. The recall petition must state the reason for which removal is sought. [ 2013, c. 555, §6 (NEW) . ]

B. Within 3 days after the petition is offered for filing, the official with whom the petition is left shall determine by careful examination whether the petition is sufficient and so state in a certificate attached to the petition. If the petition is found to be insufficient, the certificate must state the particulars creating the insufficiency. The petition may be amended to correct any insufficiency within 5 days following the affixing of the original certificate. Within 2 days after the offering of the amended petition for filing, the petition must again be carefully examined to determine sufficiency and a certificate stating the findings must be attached. Immediately upon finding an original or amended petition sufficient, the official shall file the petition and call a special election to be held not less than 40 days nor more than 45 days from the filing date. The official shall notify the trustee against whom the recall petition is filed of the special election. [ 2013, c. 555, §6 (NEW) . ]

C. The trustee against whom the recall petition is filed must be a candidate at the special election without nomination, unless the trustee resigns within 10 days after the original filing of the petition. There may not be a primary. Candidates for the office may be nominated under the usual procedure of nomination for a primary election by filing nomination papers, not later than 5 p.m., 4 weeks preceding the election and have their names placed on the ballot at the special election. [ 2013, c. 555, §6 (NEW) . ]

D. The trustee against whom a recall petition has been filed shall continue to perform the duties of the trustee's office until the result of the special election is officially declared. The person receiving the highest number of votes at the special election is declared elected for the remainder of the term. If the incumbent receives the highest number of votes, the incumbent continues in office. If another receives the highest number of votes, that person succeeds the incumbent, if that person qualifies, within 10 days after receiving notification. [ 2013, c. 555, §6 (NEW) . ]

E. After one recall petition and special election, no further recall petition may be filed against the same trustee during the term for which the trustee was elected. [2013, c. 555, §6 (NEW).]

[ 2013, c. 555, §6 (NEW) .]

#### SECTION HISTORY

RR 2013, c. 2, §50 (COR). 2013, c. 555, §6 (NEW).

### **§1037. COORDINATION WITH MUNICIPAL PLANNING; APPLICABLE TO ALL SEWER DISTRICTS**

The following provisions facilitate coordination of municipal planning and sewer extension planning. [2013, c. 555, §6 (NEW).]

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

[ 2013, c. 555, §6 (NEW) .]

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

[ 2013, c. 555, §6 (NEW) .]

This section is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this section is void, unless the sewer district's charter expressly references this section or former section 1252, subsection 9 and specifically provides that this section or former section 1252, subsection 9 does not apply. [2013, c. 555, §6 (NEW).]

#### SECTION HISTORY

2013, c. 555, §6 (NEW).

### **§1038. REORGANIZATION AS SANITARY DISTRICTS**

A sewer district existing on January 1, 2013 may, but is not required to, reorganize as a sanitary district under the Maine Sanitary District Enabling Act by referendum in accordance with section 1101, subsection 1-A. The referendum may be initiated by the voters or by a majority of the trustees. [2013, c. 555, §6 (NEW).]

#### SECTION HISTORY

2013, c. 555, §6 (NEW).

## Subchapter 3: POWERS

### **§1039. POWERS**

Except as otherwise provided by law, for the purposes of its incorporation, a standard district may locate, construct and maintain pipes, drains, sewers, conduits, treatment plants, pumping stations and other necessary structures and equipment for the collection, interception and treatment of sewerage, commercial and industrial waste and storm and surface water for the health, welfare, comfort and convenience of the inhabitants of the standard district. [2013, c. 555, §6 (NEW).]

All incidental powers, rights and privileges necessary to accomplish the objectives of this chapter are granted to a standard district. [2013, c. 555, §6 (NEW).]

SECTION HISTORY

2013, c. 555, §6 (NEW).

## **§1040. RIGHT OF EMINENT DOMAIN; APPLICABLE TO ALL SEWER DISTRICTS**

The authority and procedures for the exercise of eminent domain by a sewer district must conform to sections 1152, 1152-A, 1153 and 1154. In addition, a sewer district may not take by right of eminent domain any of the property or facilities of any other public utility used or acquired for future use by the owner of the public utility in the performance of a public duty, unless expressly authorized by a special Act of the Legislature. [2013, c. 555, §6 (NEW).]

This section is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this section is void, unless the sewer district's charter expressly references this section or former section 1252, subsection 2 and specifically provides that this subsection or former section 1252, subsection 2 does not apply. [2013, c. 555, §6 (NEW).]

SECTION HISTORY

2013, c. 555, §6 (NEW).

## **§1041. CROSSING OTHER PUBLIC UTILITIES AND RAILROAD CORPORATIONS**

If a standard district, in constructing, maintaining or replacing any of its facilities, must cross property of another public utility or railroad corporation, the standard district must obtain the consent of the other public utility or railroad corporation and undertake the work in accordance with conditions established by agreement. If, within 30 days after requesting consent, the standard district fails to reach an agreement with the public utility or railroad corporation the standard district may petition as follows. [2013, c. 555, §6 (NEW).]

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

[ 2013, c. 555, §6 (NEW) .]

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

[ 2013, c. 555, §6 (NEW) .]

All work under this section must be done at the expense of the standard district. [2013, c. 555, §6 (NEW).]

SECTION HISTORY

2013, c. 555, §6 (NEW).

## §1042. SEWER EXTENSIONS; APPLICABLE TO ALL SEWER DISTRICTS

Sewer extensions are governed by this section. [2013, c. 555, §6 (NEW).]

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

- A. Any development, lot or unit intended to be served by the sewer extension is in conformity with any adopted municipal plans and ordinances regulating land use; and [2013, c. 555, §6 (NEW).]
- B. The sewer extension is consistent with adopted municipal plans and ordinances regulating land use. [2013, c. 555, §6 (NEW).]

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

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

[2013, c. 555, §6 (NEW).]

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

- A. The Department of Agriculture, Conservation and Forestry may request any additional information from the sewer district, the municipality or the department. All information requested must be submitted within 30 days of the request, unless an extension is granted by the Department of Agriculture, Conservation and Forestry. [2013, c. 555, §6 (NEW).]
- B. Within a reasonable time, the Department of Agriculture, Conservation and Forestry shall hold a hearing. The Department of Agriculture, Conservation and Forestry shall give at least 7 days' written notice of the hearing to the sewer district, the municipality and the party that requested the hearing. The hearing is informal and the Department of Agriculture, Conservation and Forestry may receive any information it considers necessary. [2013, c. 555, §6 (NEW).]
- C. Within 15 days of the hearing and within 60 days of the request for review, the Department of Agriculture, Conservation and Forestry shall make a decision that must include findings of fact on whether the sewer extension proposal is inconsistent with adopted municipal plans and ordinances regulating land use. The decision of the Department of Agriculture, Conservation and Forestry constitutes final agency action. [2013, c. 555, §6 (NEW).]
- D. Notwithstanding section 1, if the Department of Agriculture, Conservation and Forestry determines that the sewer extension proposal is not inconsistent with adopted municipal plans and ordinances regulating land use, the Department of Agriculture, Conservation and Forestry shall issue written assurance that the proposal is consistent with adopted municipal plans and ordinances regulating land use and the sewer district may construct the sewer extension. [2013, c. 555, §6 (NEW).]

[2013, c. 555, §6 (NEW).]

This section is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this section is void, unless the sewer district's charter expressly references this section or former section 1252, subsection 7 and specifically provides that this subsection or former section 1252, subsection 7 does not apply. [2013, c. 555, §6 (NEW).]

SECTION HISTORY

2013, c. 555, §6 (NEW).

### **§1043. CONDITIONS FOR CARRYING OUT WORK**

When a standard district enters, digs up or excavates any public way or other land to lay or maintain its sewers, drains or pipes, constructing manholes or catch basins or other appurtenances or for any other purpose, the work must be done expeditiously. On completion of the work the standard district shall restore the public way or land to its condition prior to such work or to a condition equally good. If the work is being undertaken in a municipality and could potentially endanger travel on a public way, the municipal officers of the municipality in which the work is being done may order a temporary closing of the public way and of any intersecting way. Upon request of the standard district, the public way must remain closed to public travel until the municipal officers of the unit of local government determines the public way is restored to a condition safe for traffic. If the work is being undertaken in an unorganized territory and could potentially endanger travel on a public way, the commissioners of the county where the public way is located may order a temporary closing of the public way and of any intersecting way. Upon request of the standard district, the public way must remain closed to public travel until the county commissioners determine the public way is restored to a condition safe for traffic. [2013, c. 555, §6 (NEW).]

SECTION HISTORY

2013, c. 555, §6 (NEW).

### **§1044. CONTRACTS**

A standard district, through its trustees, in order to carry out the purposes of its incorporation, may contract with a person, standard district, utility or corporation or with a municipality, the State or other governmental entity whether located inside or outside the boundaries of the standard district. [2013, c. 555, §6 (NEW).]

SECTION HISTORY

2013, c. 555, §6 (NEW).

### **§1045. LEASE OF PROPERTY; APPLICABLE TO ALL SEWER DISTRICTS**

A sewer district may enter into a lease and leaseback transaction with respect to some or all of its real or personal property, other than land, and may take all other necessary action, including, but not limited to, the granting of mortgages and liens, to effectuate the transaction. For purposes of this section, "lease" includes a lease of any length, including leases that may be defined as sales for income tax purposes. [2013, c. 555, §6 (NEW).]

This section is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this section is void, unless the sewer district's charter expressly references this section or former section 1252, subsection 10 and specifically provides that this subsection or former section 1252, subsection 10 does not apply. [2013, c. 555, §6 (NEW).]

SECTION HISTORY

2013, c. 555, §6 (NEW).

## §1046. ENFORCEMENT

Sewer districts have enforcement powers as specified in this section. [ 2013, c. 555, §6 (NEW) . ]

**1. Violation of standards by an industrial user; applicable to all sewer districts.** A sewer district may seek in a civil action injunctive relief from an industrial user that violates a pretreatment standard or requirement, administered by the sewer district. The sewer district may seek a civil penalty of up to \$1,000 per day for each violation by an industrial user of a pretreatment standard or requirement.

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

[ 2013, c. 555, §6 (NEW) . ]

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

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

[ 2013, c. 555, §6 (NEW) . ]

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

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

[ 2013, c. 555, §6 (NEW) . ]

**4. Connections not required; applicable to all sewer districts.** An existing building that is already served by a private sewer system is not required to connect with a sewer or drain of a sewer district as long as the private sewer or drainage system functions in a satisfactory and sanitary manner and does not violate applicable law or ordinance applicable to the connection with a sewer or drain or a sewer district or any applicable requirements of the state plumbing code, as determined by the municipal plumbing inspector or the municipal plumbing inspector's alternate, or, in the event that both are trustees or employees of the sewer district, the Department of Health and Human Services, Division of Health Engineering.

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

[ 2013, c. 555, §6 (NEW) .]

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

A. If construction of the standard district's sewer is complete at the proposed point of entry of the private sewer and the standard district has established an entrance charge for entry at that location, the person seeking to connect the private sewer at that location shall pay the entrance charge before the connection is undertaken. [2013, c. 555, §6 (NEW).]

B. If the standard district's sewer is under construction and not completed at the point of the proposed entry of the private sewer, the person seeking to connect the private sewer at that location is not required to pay an entrance charge. [2013, c. 555, §6 (NEW).]

[ 2013, c. 555, §6 (NEW) .]

#### SECTION HISTORY

2013, c. 555, §6 (NEW).

## §1047. INSPECTION OF SEWERS

The officers or agents of a standard district have free access to all premises served by the standard district's sewers, at all reasonable hours, for inspection of plumbing and sewage fixtures, to ascertain the quality and quantity of sewage discharged and the manner of discharge, and to enforce this chapter and the rules prescribed by the trustees of the standard district. [2013, c. 555, §6 (NEW).]

#### SECTION HISTORY

2013, c. 555, §6 (NEW).

### Subchapter 4: RATES AND FEES

## §1048. RATES AND FEES

A person, firm and corporation, whether public, private or municipal, shall pay to the treasurer of a standard district the rates established by the trustees for the sewer or drainage service used or available with respect to their real estate as long as those rates are consistent with this section. [2013, c. 555, §6 (NEW) .]

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

A. A standard district may establish a higher rate in sections where, for any reason, the cost to the standard district of construction and maintenance, or the cost of service, exceeds the average as long as the higher rates are uniform throughout the sections where the rates apply; and [2013, c. 555, §6 (NEW) .]

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

This paragraph is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this paragraph is void, unless the sewer district's charter expressly references this paragraph or former section 1252, subsection 12 and specifically provides that this paragraph or former section 1252, subsection 12 does not apply. [ 2013, c. 555, §6 (NEW). ]

[ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

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

[ 2013, c. 555, §6 (NEW) . ]

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

- A. Pay the current expenses of operating and maintaining the sewerage, drainage and treatment system of the standard district; [ 2013, c. 555, §6 (NEW) . ]
- B. Pay the principal of, premium, if any, and interest on all bonds and notes issued by the standard district under this chapter as they become due and payable; [ 2013, c. 2, §51 (COR) . ]
- C. Create and maintain reserves as may be required by any trust agreement or resolution securing bonds and notes; [ 2013, c. 555, §6 (NEW) . ]
- D. Provide funds for paying the cost of all necessary repairs, replacements and renewals of the sewerage, drainage and treatment systems of the standard district; and [ 2013, c. 555, §6 (NEW) . ]
- E. Pay or provide for all amounts that the standard district may be obligated to pay or provide for by law or contract, including any resolution or contract with or benefit of the holders of its bonds and notes. [ 2013, c. 555, §6 (NEW) . ]

[ 2013, c. 2, §51 (COR) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

**9. Disconnection of water service for nonpayment of sewer services.** If a standard district is part of a multidistrict utility that is a consumer-owned water utility, the utility may disconnect water service for failure to pay for sewer service in accordance with Title 35-A, section 6111-C.

[ 2013, c. 555, §6 (NEW) . ]

SECTION HISTORY

RR 2013, c. 2, §51 (COR). 2013, c. 555, §6 (NEW).

**§1049. WAIVER OF SEWER DISTRICT LIEN FORECLOSURE**

A sewer district, including but not limited to a qualified sewer district subject to section 1050, may use the following provisions to waive a lien foreclosure. [2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

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

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

[ 2013, c. 555, §6 (NEW) . ]

SECTION HISTORY

2013, c. 555, §6 (NEW) .

**§1050. QUALIFIED SEWER DISTRICTS; COLLECTION OF UNPAID RATES**

The provisions of this section apply only to a qualified sewer district. [2013, c. 555, §6 (NEW) . ]

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

A. "Eligible sewer district" means a sewer district whose charter does not establish, or authorize the district to establish, a lien on real estate served by the district. [2013, c. 555, §6 (NEW).]

B. "Qualified sewer district" means an eligible sewer district that has satisfied the requirements of subsection 4; or a standard district unless this section is expressly excluded from the standard district's charter. [2013, c. 555, §6 (NEW).]

C. "Real estate" means an identified parcel of land and its improvements, if any, including, but not limited to, a mobile home. [2013, c. 555, §6 (NEW).]

[ 2013, c. 555, §6 (NEW) . ]

**2. Lien.** There is a lien on real estate served or benefited by the sewers of the qualified sewer district to secure the payment of the qualified sewer district's rates. The lien established under this section arises and is perfected as services are provided and takes precedence over all other claims on such real estate, except claims for taxes.

[ 2015, c. 174, §3 (AMD) . ]

**3. Collection.** The treasurer of the qualified sewer district has full and complete authority and power to collect rates and fees established under section 1048 or otherwise authorized by law. The treasurer may, after demand for payment, sue in the name of the qualified sewer district in a civil action in any court of competent jurisdiction for any rates remaining unpaid. In addition to other methods established by law for the collection of rates and without waiver of the right to sue for the collection of rates, the lien created under subsection 2 may be enforced in the following manner.

A. The treasurer may, after the expiration of 3 months and within one year after the date when the rates became due and payable, give to the owner of the real estate served, leave at the owner's last and usual place of abode or send by certified mail, return receipt requested, to the owner's last known address a notice in writing signed by the treasurer or bearing the treasurer's facsimile signature, stating the amount of the rates due, describing the real estate upon which the lien is claimed and stating that a lien is claimed on the real estate to secure the payment of the rates and demanding the payment of the rates within 30 days after service or mailing, with \$1 added to the demanded rate for the treasurer and an additional fee to cover mailing the notice by certified mail, return receipt requested. The notice must contain a statement that the qualified sewer district is willing to arrange installment payments of the outstanding debt. [2017, c. 151, §4 (AMD).]

B. After the expiration of 30 days and within one year after giving notice pursuant to paragraph A, the treasurer of the qualified sewer district shall record in the registry of deeds of the county in which the property of the person is located a certificate signed by the treasurer setting forth the amount of the rates due, describing the real estate on which the lien is claimed and stating that a lien is claimed on the real estate to secure payment of the rates and that a notice and demand for payment has been given or made in accordance with this section and stating further that the rates remain unpaid. At the time of the recording of the certificate in the registry of deeds, the treasurer shall file in the office of the qualified sewer district a true copy of the certificate and shall mail a true copy of the certificate by certified mail, return receipt requested, to each record holder of any mortgage on the real estate, addressed to the record holder at the record holder's last and usual place of abode. [2013, c. 555, §6 (NEW).]

C. The filing of the certificate in the registry of deeds creates a mortgage held by the qualified sewer district on the real estate described in the certificate that has priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and gives to the qualified sewer district all the rights usually possessed by mortgagees, except that the qualified sewer district as mortgagee does not have any right to possession of that real estate until the right of redemption has expired. [2013, c. 555, §6 (NEW).]

D. If the mortgage created under paragraph C, together with interest and costs, has not been paid within 18 months after the date of filing the certificate in the registry of deeds in accordance with paragraph B, the mortgage is foreclosed and the right of redemption expires. The filing of the certificate in the registry

of deeds is sufficient notice of the existence of the mortgage. In the event that the rate, with interest and costs, is paid within the period of redemption, the treasurer of the qualified sewer district shall discharge the mortgage in the same manner as provided for discharge of real estate mortgages. [ 2013 , c . 555 , §6 (NEW) . ]

E. The owner of the real estate shall pay the sum of the fees for receiving, recording and indexing the lien, or its discharge, as established by Title 33, section 751, plus \$13, plus all certified mail, return receipt requested, fees. [ 2013 , c . 555 , §6 (NEW) . ]

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

*STATE OF MAINE*  
*..... SEWER DISTRICT*  
*NOTICE OF IMPENDING AUTOMATIC FORECLOSURE*  
*SEWER LIEN*  
*M.R.S.A., Title 38, section 1050*  
*IMPORTANT: DO NOT DISREGARD THIS NOTICE*  
*YOU WILL LOSE YOUR PROPERTY UNLESS*  
*YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH*  
*A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE*  
*..... SEWER DISTRICT.*

*TO: .....*

*IF THE LIEN FORECLOSES,*  
*THE ..... SEWER DISTRICT WILL OWN*  
*YOUR PROPERTY, SUBJECT ONLY TO*  
*MUNICIPAL TAX LIENS.*

*.....*  
*District Treasurer*

[ 2013 , c . 555 , §6 (NEW) . ]

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. [ 2013 , c . 555 , §6 (NEW) . ]

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. [ 2013 , c . 555 , §6 (NEW) . ]

[ 2017 , c . 151 , §4 (AMD) . ]

**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.

[ 2013, c. 555, §6 (NEW) . ]

#### SECTION HISTORY

2013, c. 555, §6 (NEW). 2015, c. 174, §3 (AMD). 2017, c. 151, §4 (AMD).

### **§1051. LANDLORD ACCESS TO TENANT BILL PAYMENT INFORMATION; APPLICABLE TO ALL SEWER DISTRICTS**

If a tenant is billed for sewer service provided to property rented by the tenant and nonpayment for the service may result in a lien against the property, the sewer district shall provide to the landlord or the landlord's agent, on request of the landlord or the landlord's agent, the current status of the tenant's account, including any amounts due or overdue. [ 2013, c. 555, §6 (NEW) . ]

This section is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this section is void, unless the sewer district's charter expressly references this section or former section 1252, subsection 11 and specifically provides that this subsection or former section 1252, subsection 11 does not apply. [ 2013, c. 555, §6 (NEW) . ]

#### SECTION HISTORY

2013, c. 555, §6 (NEW).

## Subchapter 5: BONDS, INVESTMENT AND DEBT LIMIT

### **§1052. AUTHORIZED TO RECEIVE GOVERNMENT AID, BORROW MONEY AND ISSUE BONDS AND NOTES**

A standard district is authorized to receive government aid, borrow money and issue bonds and notes in accordance with this section. [ 2013, c. 555, §6 (NEW) . ]

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

- A. Paying and refunding its indebtedness; [ 2013, c. 555, §6 (NEW) . ]
- B. Paying any necessary expenses and liabilities incurred under this chapter, including organizational and other necessary expenses and liabilities, whether incurred by the standard district or any municipality within the standard district or any person residing in unorganized territory encompassed by the standard district. The standard district may reimburse any municipality within the standard district or any person residing in unorganized territory encompassed by the standard district for any expenses incurred or paid by the municipality or person; [ 2013, c. 555, §6 (NEW) . ]
- C. Paying costs directly or indirectly associated with acquiring properties, paying damages, laying sewers, drains and conduits, constructing, maintaining and operating sewage and treatment plants or systems and making renewals, additions, extensions and improvements to the same and to cover interest payments during the period of construction and for any period after construction as the trustees may determine; [ 2013, c. 555, §6 (NEW) . ]
- D. Providing reserves for debt service, repairs and replacements or other capital or current expenses as may be required by a trust agreement or resolution securing bonds; and [ 2013, c. 555, §6 (NEW) . ]
- E. Any combination of these purposes. [ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

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

[ 2013, c. 555, §6 (NEW) . ]

**3. Maturity; interest; form; temporary bonds.** The bonds issued under this section must be dated, must mature at such time or times not exceeding 40 years from their date or dates and must bear interest at such rate or rates as may be determined by the trustees, and may be made redeemable before maturity, at the option of the standard district, at the price or prices and under the terms and conditions as fixed by the trustees prior to the issuance of the bonds. The trustees shall determine the form of the bonds, including any interest coupons to be attached to the bonds, and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company inside or outside the State. Bonds must be executed in the name of the standard district by the manual or facsimile signature of the officer or officers as authorized in the resolution to execute the bonds, but at least one signature on each bond must be a manual signature. Coupons, if any, attached to the bonds must be executed with the facsimile signature of the officer or officers of the standard district designated in the resolution. In case any officer, whose signature or a facsimile of whose signature appears on any bonds or coupons, ceases to be such officer before the delivery of the bonds, the signature or its facsimile is valid and sufficient for all purposes as if the officer had remained in office until the delivery.

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

[ 2013, c. 555, §6 (NEW) . ]

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

A. The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other money held or to be received by the standard district and any accounts and contract or other rights to receive the revenues of the money, whether then existing or coming into existence and whether then held or acquired by the standard district, and the proceeds of the revenues or the money, but may not convey or mortgage the sewer system or any other properties of the standard district. The resolution may also contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the standard district and the trustees in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of its sewer system or any of its other properties, the fixing and revising of rates, fees and charges, the application of the proceeds of bonds, the custody, safeguarding and application of revenues, defining defaults and providing for remedies in the event of defaults that may include the acceleration of maturities, the establishment of reserves and the making and amending of contracts. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, the resolution or trust agreement may contain such other provisions as the trustees determine reasonable and proper for the security of the

bondholders. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any resolution or trust agreement is valid and binding and is deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, money, rights and proceeds so pledged and received by the standard district are immediately subject to the lien of the pledge without any physical delivery or segregation of the revenues and proceeds or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the standard district irrespective of whether those parties have notice of the lien. [ 2013, c. 555, §6 (NEW) . ]

B. The resolution authorizing the issuance of bonds under this section or any trust agreement securing those bonds may provide that all or a sufficient amount of revenues, after providing for the payment of the cost of repair, maintenance and operation and reserves as may be provided in the resolution or trust agreement, must be set aside at regular intervals as provided in the resolution or trust agreement and deposited in a fund for the payment of the interest on and the principal of bonds issued under this section as the interest and principle become due and for the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of money of the fund are subject to any regulations provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund must be a fund for the benefit of all bonds without distinction or priority of one over another. [ 2013, c. 555, §6 (NEW) . ]

[ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

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

[ 2013, c. 555, §6 (NEW) . ]

**7. Refunding bonds.** A standard district by resolution of its board of trustees, without district vote, may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued at a time prior to the maturity or redemption of the refunded bonds that the board of trustees determines to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium, any interest accrued or to accrue to the date of payment of the bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and any reserves for debt service or

other capital or current expenses from the proceeds of the refunding bonds that may be required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the maturities and other details of those bonds, the security for those bonds, the rights of the holders and the rights, duties and obligations of the standard district in respect to those bonds are governed by the applicable provisions of the standard district charter relating to the issue of bonds other than refunding bonds.

[ 2013, c. 555, §6 (NEW) .]

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

[ 2013, c. 555, §6 (NEW) .]

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

[ 2013, c. 555, §6 (NEW) .]

#### SECTION HISTORY

2013, c. 555, §6 (NEW) .

### §1053. DEBT LIMIT; APPROVAL BY VOTERS OF A STANDARD DISTRICT

**1. Debt limit proposed.** Prior to issuing on behalf of a standard district any bond, note or other evidence of indebtedness payable within a period of more than 12 months after the date of issuance, the trustees shall propose a debt limit for the standard district that the trustees must submit 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 standard district's 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 standard district if the usual voting place for persons located in the standard district is located outside the territory of the standard district. For the purpose of registering voters, the registrar of voters must be in session on the regular workday preceding the election. The question presented must be in substantially the following form:

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

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

[ 2013, c. 555, §6 (NEW) .]

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

[ 2013, c. 555, §6 (NEW) .]

**3. Effective date.** A debt limit proposal becomes effective upon its acceptance by a majority of the legal voters within the standard 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 standard district.

[ 2013, c. 555, §6 (NEW) .]

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

[ 2013, c. 555, §6 (NEW) .]

#### SECTION HISTORY

2013, c. 555, §6 (NEW).

## §1054. AUTHORITY TO INCREASE DEBT LIMITS; SEWER DISTRICTS

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

[ 2013, c. 555, §6 (NEW) .]

**2. Referendum.** If a sewer district chooses to increase its debt limit pursuant to this section, the governing body of the sewer district shall propose a new debt limit and submit the proposal for approval at 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 sewer district if the usual voting place for persons located within the sewer district is located outside the territory of the sewer 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:

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

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

[ 2013, c. 555, §6 (NEW) .]

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

[ 2013, c. 555, §6 (NEW) .]

#### SECTION HISTORY

2013, c. 555, §6 (NEW) .

## §1055. INVESTMENTS

A sewer district may invest its funds, including sinking funds, reserve funds and trust funds in accordance with this section. This section is in addition to, and not in limitation of, any power of a sewer district to invest its funds. [2017, c. 151, §5 (AMD) .]

**1. Deposit or investment of funds.** A sewer district may invest all district funds, including reserve funds and trust funds, if the terms of the instrument, order or article creating the fund do not prohibit the investment, as follows:

A. In accounts or deposits of institutions insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the successors to these federal programs.

(1) Accounts and deposits exceeding an amount equal to 25% of the capital, surplus and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank or state or federal savings and loan association on deposit at any one time must be secured by the pledge of certain securities as collateral or fully covered by insurance.

(a) The collateral must be in an amount equal to the excess deposit. The trustees shall determine the value of the pledged securities on the basis of market value and shall review the value of the pledged securities on the first business day of January and July of each year.

(b) The collateral may consist only of securities in corporate bond and Maine corporate bond. The securities must be held in a depository institution approved by the trustees and pledged to indemnify the sewer district against any loss. The depository institution shall notify the trustees of the pledging when the securities are deposited; [2017, c. 151, §5 (NEW) .]

B. In repurchase agreements with respect to obligations of the United States Government, as described in Title 30-A, section 5712, subsection 1, as long as the market value of the underlying obligation is equal to or greater than the amount of the sewer district's investment and either the sewer district's security entitlement with respect to the underlying obligation is created pursuant to the provisions of Title 11, Article 8-A and other applicable law or the sewer district's security interest is perfected pursuant to Title 11, Article 9-A and other applicable law, except that, if the term of the repurchase agreement is not in excess of 96 hours, the sewer district's security interest with respect to the underlying obligation need not be perfected as long as an executed Public Securities Association form of master repurchase agreement is on file with the counterparty prior to the date of the transaction; [2017, c. 151, §5 (NEW) .]

C. In the shares of an investment company registered under the United States Investment Company Act of 1940, Public Law 76-768, whose shares are registered under the United States Securities Act of 1933, Public Law 73-22, if the investments of the fund are limited to bonds and other direct obligations of the United States Government, as described in Title 30-A, section 5712, subsection 1, or repurchase agreements secured by bonds and other direct obligations of the United States Government, as described in Title 30-A, section 5712, subsection 1; or [2017, c. 151, §5 (NEW) .]

D. The trustees may enter into an agreement with any financial institution with trust powers authorized to do business in the State for the safekeeping of the reserve funds, or trust funds, of the sewer district. Services must consist of the safekeeping of the funds, collection of interest and dividends and any other fiscal service that is normally covered in a safekeeping agreement. Investment of reserve funds or trust funds deposited under a safekeeping agreement may be managed either by the financial institution with which the funds are deposited or by an investment advisor registered with the National Association of Securities Dealers, federal Securities and Exchange Commission or other governmental agency or instrumentality with jurisdiction over investment advisors, to act in such capacity pursuant to an investment advisory agreement providing for investment management and periodic review of portfolio investments. Investment of funds on behalf of the district under this paragraph is governed by the rule of prudence, according to Title 18-B, sections 802 to 807 and Title 18-B, chapter 9. The contracting parties shall give assurance of proper safeguards that are usual to these contracts and shall furnish insurance protection satisfactory to both parties. [2017, c. 151, §5 (NEW).]

[ 2017, c. 151, §5 (NEW) .]

**2. Government unit bonds.** A sewer district may invest in:

A. The bonds and other direct obligations of the United States, or the bonds and other direct obligations or participation certificates issued by any agency, association, authority or instrumentality created by the United States Congress or any executive order; [2017, c. 151, §5 (NEW).]

B. The bonds and other direct obligations issued or guaranteed by any state or by any political subdivision, instrumentality or agency of any state, if the securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Financial Institutions; [2017, c. 151, §5 (NEW) .]

C. The bonds and other direct obligations issued or guaranteed by this State, or issued by any instrumentality or agency of this State, or any political subdivision of the State that is not in default on any of its outstanding funded obligations; or [2017, c. 151, §5 (NEW) .]

D. Prime bankers' acceptances and prime commercial paper. [2017, c. 151, §5 (NEW) .]

Investments made pursuant to this subsection are limited to direct obligations of the issuer in which the sewer district directly owns the underlying security. Obligations created from, or whose value depends on or is derived from, the value of one or more underlying assets or indexes of asset values in which the sewer district owns no direct interest do not qualify as investments under this subsection.

[ 2017, c. 151, §5 (NEW) .]

**3. Corporate securities.** A sewer district may invest in:

A. The bonds and other obligations of any United States or Canadian corporation if the securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Financial Institutions and are payable in United States funds. Not more than 2% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in the securities of any one such corporation; and [2017, c. 151, §5 (NEW) .]

B. The bonds and other obligations of any Maine corporation, actually conducting in this State the business for which that corporation was created, that, for a period of 3 successive fiscal years or for a period of 3 years immediately preceding the investment, has earned or received an average net income of not less than 2 times the interest on the obligations in question and all prior liens or, in the case of water companies subject to the jurisdiction of the Public Utilities Commission, an average net income of not less than 1 1/2 times the interest on the obligations in question and all prior liens. Not more than 20%

of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in these securities of Maine corporations and not more than 2% of that fund may be invested in the securities of any single corporation. [2017, c. 151, §5 (NEW).]

[ 2017, c. 151, §5 (NEW) .]

**4. Retention of unauthorized securities.** Sewer districts may acquire and hold securities not authorized by law but that have been acquired in settlements, reorganizations, recapitalizations, mergers or consolidations or by receipt of stock dividends or the exercise of rights applicable to securities held by sewer districts and may continue to hold these securities at the discretion of the trustees. Sewer districts may continue to hold at the discretion of the trustees securities under authorization of law.

[ 2017, c. 151, §5 (NEW) .]

**5. Standard of prudence.** All investments made under this section must be made with the judgment and care that persons of prudence, discretion and intelligence, under circumstances then prevailing, exercise in the management of their own affairs, not for speculation but for investment, considering:

A. The safety of principal and preservation of capital in the overall portfolio; [2017, c. 151, §5 (NEW) .]

B. Maintenance of sufficient liquidity to meet all operating and other cash requirements with which a fund is charged that are reasonably anticipated; and [2017, c. 151, §5 (NEW) .]

C. The income to be derived throughout budgetary and economic cycles, taking into account prudent investment risk constraints and the cash flow characteristics of the portfolio. [2017, c. 151, §5 (NEW) .]

This standard must be applied to the overall investment portfolio of the sewer district and not to individual items within a diversified portfolio.

[ 2017, c. 151, §5 (NEW) .]

#### SECTION HISTORY

2013, c. 555, §6 (NEW). 2017, c. 151, §5 (AMD).

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