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## Private & Special Law

123rd Legislature

First Regular Session

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### Chapter 22

S.P. 621 - L.D. 1754

## An Act To Incorporate the Greater Augusta Utility District

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

### PART A

**Sec. A-1. Territorial limits; corporate name, purpose.** The inhabitants and territory of the City of Augusta and the City of Hallowell constitute a body politic and corporate under the name of the Greater Augusta Utility District, referred to in this Part as "the district," for the following purposes:

1. To supply pure water for domestic and municipal purposes to the City of Augusta, the Town of Manchester and the Togus VA Medical Center. The district may also supply water to portions of the City of Hallowell as the trustees of the Hallowell Water District may consent and to portions of the Town of Chelsea as its municipal officers may consent. The district is authorized to supply water under the rights and duties established under this Act in that portion of the Town of Winthrop known as East Winthrop and along its existing pipeline;

2. To construct, maintain, operate and provide the sewers with all their appurtenances, but not stormwater drainage provided under subsection 3, inside the City of Augusta, the City of Hallowell, the Town of Chelsea and all that area in the Town of Farmingdale lying westerly of a line 1,000 feet easterly of and parallel to the Blaine Road beginning at the Hallowell-Farmingdale line and extending to a point 1,000 feet south of Bowman Street and lying northerly of a line that begins at the southerly end of the first line and extends at right angles to the west line of the Town of Farmingdale; to extend, increase, enlarge and improve the sewers; to extend the present system or systems to furnish sewerage facilities to portions of the City of Augusta, the City of Hallowell, the Town of Chelsea and that portion of the Town of Farmingdale described in this subsection not now served with sewerage facilities; to provide for removal of sewage and to provide for treatment of sewage in whole or in part before discharging it into rivers when and if sewage treatment becomes necessary; and generally to provide a system of sewerage for public purposes and for the health and comfort and convenience of the inhabitants of the district; and

3. To construct, maintain, operate and provide the stormwater drainage system with all its appurtenances in the City of Augusta only; to extend, increase, enlarge and improve the drains; to extend the present system or systems to furnish stormwater drainage facilities to only the portions of the City of Augusta not now served with stormwater drainage facilities; to provide for surface drainage; and to provide a system of stormwater drainage for public purposes and for the health and comfort and convenience of the inhabitants of the City of Augusta.

Notwithstanding the requirements of the Maine Revised Statutes, Title 35-A, section 6401, subsection 2, paragraphs A and B, the following provisions do not apply to the district: Title 35-A, section 6401, subsection 3; section 6410, subsection 5; and section 6416.

**Sec. A-2. Powers and authority.** The district has the following powers and authority.

1. The district is authorized for the purposes provided in section 1 to take and hold sufficient water of the Kennebec River, Carleton Pond and Lake Cobbosseecontee and from any other source within the authorized service area of the district and may take and hold by purchase or otherwise any land or real estate necessary for erecting dams, power stations and reservoirs and for preserving the purity of the water and watershed and for laying and maintaining aqueducts for the taking, discharging and disposing of water.

The district, for the purposes of its incorporation, is authorized to take and hold, by purchase or otherwise, any land, real estate or water rights necessary for dams, for flowage, for power, for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and watershed and for laying and maintaining aqueducts and other structures for taking, distributing, discharging and disposing of water and for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands.

The district is further authorized to increase the storage of Carleton Pond and to erect and maintain all proper structures for that purpose.

The district is authorized to lay in and through streets and highways and across private lands and to repair and replace all pipes, aqueducts and fixtures as may be necessary and convenient for its corporate purposes, and whenever the district lays any pipes or aqueducts in any street or highway it shall do so with as little obstruction as possible to the public travel and shall, at its own expense without unnecessary delay, cause the earth and pavement removed by it to be replaced in proper condition.

2. For the purpose of providing a system of sewers and drainage for the comfort, convenience and health of the inhabitants of the district, the district is authorized to take and hold by purchase, lease or the exercise of the right of eminent domain, as provided in section 4 or otherwise, any land or real estate or easement necessary for forming basins, reservoirs and outlets, for the erection of buildings for pumping works and sewage treatment and for laying pipes and maintaining those pipes and for laying and maintaining conduits for carrying and collecting, discharging and disposing of sewage matter and rain water and for other necessary objectives, convenient and proper for the purpose of this Act, and all of such property, wherever located, is exempt from taxation.

**Sec. A-3. Transfer of assets; assumption of liabilities and benefits.** Upon acceptance of this Act as provided in Part C, section 2:

1. Title to all personal property, real property, assets, benefits and liabilities of the Augusta Water District and the Augusta Sanitary District, including, without limitation, all lands, waters, water rights, buildings and improvements, reservoirs, appurtenant easements and other rights appurtenant to the real property, and all easements in gross and all other interests of the Augusta Water District and the Augusta Sanitary District, passes to and vests in the Greater Augusta Utility District, and the Greater Augusta Utility District shall assume, maintain and operate all personal property, real property, assets, benefits and liabilities of the Augusta Water District and the Augusta Sanitary District;

2. Title to all personal property, real property, assets, benefits and liabilities of the Hallowell Water District that are exclusively dedicated to its wastewater operations and service, including, without limitation, all lands, buildings and improvements that are exclusively dedicated to wastewater operations and service, appurtenant easements and other rights appurtenant to the real property that are exclusively dedicated to wastewater operations and service, and all easements in gross and all other interests of the Hallowell Water District that are exclusively used for wastewater operations and service, passes to and vests in the Greater Augusta Utility District, and the Greater Augusta Utility District shall assume, maintain and operate all personal property, real property, assets, benefits and liabilities of the Hallowell Water District that are exclusively dedicated to wastewater operations and service;

3. With respect to any easements held by the Hallowell Water District that are appurtenant to real property that is used for both its water and wastewater operations, and with respect to any easements in gross held by the Hallowell Water District that are used for both its water and wastewater operations, a common and undivided interest in the easements passes to and vests in the Greater Augusta Utility District only to the extent that the Hallowell Water District may retain the same easement rights subsequent to the conveyance. To the extent that the Hallowell Water District may not retain the same easement rights subsequent to the conveyance, the easements may not pass to or vest in the Greater Augusta Utility District pursuant to this section, and the parties shall make reasonable efforts to give the Greater Augusta Utility District limited access to the easements to the extent reasonably necessary to construct, maintain, operate and provide access to the sewer system transferred pursuant to this Act;

4. The Augusta Sanitary District and the Hallowell Water District shall assign all rights, and the Greater Augusta Utility District shall assume all obligations, under the so-called 1979 Trunk Line Agreement dated August 21, 1979, as amended, between the Augusta Sanitary District, Hallowell Water District, Manchester Sanitary District, Monmouth Sanitary District, Winthrop Water District and Carleton Woolen Mills, Inc.;

5. The Greater Augusta Utility District shall assume all obligations of the Hallowell Water District under the Hallowell Water District 1988 Farmer's Home Administration Refinancing Bond, and the Greater Augusta Utility District shall assume all obligations of the Augusta Water District and the Augusta Sanitary District, including, but not limited to, those obligations under the following bonds: bonds issued to the Maine Municipal Bond Bank by the Augusta Water District in 1990, 1991 and 1994; bonds issued by the Augusta Water District to TD BankNorth in 2001; bonds issued by the Augusta Sanitary District to the Maine Municipal Bond Bank in 1997, 2002, 2003, 2005 and 2006; and a bond issued by the Augusta Sanitary District to Kennebec Savings Bank in 2003; and

6. The district shall maintain its books and records in a manner that creates separate divisions for its water and wastewater operations. These divisions must maintain the assets, liabilities, operating revenues and expenses in a manner that allows the Public Utilities Commission to set rates for the district's water operations. The assets and liabilities of the Augusta Water District must be maintained in the books of the water division of the Greater Augusta Utilities District. The assets and liabilities of the Augusta Sanitary District and Hallowell Water District's wastewater division must be maintained in the books and records of the Greater Augusta Utility District's wastewater division.

**Sec. A-4. Right of eminent domain conferred.** The district is authorized and empowered to exercise the right of eminent domain in the area of the district set forth in section 1 to acquire and hold, for the purposes set forth in sections 1 and 2, any land, real estate or water rights.

The district may exercise the right of eminent domain vested in the district for the purposes of this Act after a hearing. Notice of the time and place of the hearing must be given by publication in a newspaper of general circulation in the City of Augusta once a week for 2 successive weeks, the last publication to be at least 2 weeks previous to the time appointed for the hearing. The clerk of the district shall keep a record of the hearing proceedings, and the determination and decision, which must set forth a description of the land or easement taken and the owners, if known, and the amount of damages awarded for it.

In lieu of the notice for publication as specified in this section, the notice may be served in hand by an officer duly qualified to serve civil process in this State on the record owner or owners of the premises involved at least 14 days prior to the time appointed for the hearing.

Upon the signing of the record of the trustees and the filing of the record in the Registry of Deeds for Kennebec County, the trustees may enter upon the land and take possession of the land or an easement on the land, as the case may be, for the purposes of this Act.

A person aggrieved by the decision of the trustees, as it relates to the damages for land or easements on the land taken, has the same rights of appeal as provided in the case of the laying out of town ways pursuant to the Maine Revised Statutes, Title 23, chapter 304.

The district may not take by right of eminent domain any of the property or facilities of another public utility used, or acquired for future use by the owner in the performance of a public duty, unless expressly authorized in this Act or by a subsequent act of the Legislature.

#### **Sec. A-5. Authority to lay pipes and make all necessary repairs.**

1. The district is authorized, for the purposes of supplying water, to lay in and through the streets and highways of the authorized service area described in section 1, subsection 1 and to take up, repair and replace all pipes, aqueducts and fixtures as may be necessary, and when the district lays any pipes or aqueducts in a street or highway it shall do so with as little obstruction as possible to the public travel and shall, at its own expense and without unnecessary delay, cause the earth and pavement removed by it to be replaced in proper condition.

2. The district may lay pipes and construct conduits in and through the district and convey through the pipes and conduits sewage, surface water and the natural flowage of existing watercourses and secure and maintain basins, reservoirs and outlets; may build and maintain pumping stations and buildings convenient for the pumping stations; may construct and maintain treatment plants, flush tanks, manholes, stormwater inlets and the usual appliances for collecting, holding, distributing and disposing of sewage and stormwater; may supply water for the flush tanks and for flushing the system of sewers and for any other purposes the district may determine desirable and install all pipes and necessary structures and appliances to this end; may establish through and by its trustees regulations for the use of sewers and fix and collect the prices to be paid for entering the sewers and also the service charges for the use of the sewers; may enter into contracts with persons, corporations or municipalities to care for sewage or drainage through the district's system; and may, for the purposes provided in this Act, lay down, in and through the streets, highways and land of the district, and take up, replace and repair, all conduits, pipes and fixtures as may be necessary or desirable for the purposes of its incorporation, carry and lay conduits and pipes under any watercourse, public or private way or railroad, in the manner prescribed in this Act, and cross any water pipe, gas pipe, electric conduit, drain or sewer or, if necessary, change its direction in such a manner as not to obstruct its use by the construction of any of the works of the district, either during the construction or after the construction has been completed or while the construction is undergoing repairs or extensions are being made.

3. When crossing a public utility, unless consent is given by the company owning or operating the public utility as to place, manner and conditions of the crossing within 30 days after the consent is requested by the district, the Public Utilities Commission shall determine the place, manner and conditions of the crossing, and all work on the property of the public utility must be done under the supervision and to the satisfaction of the public utility, but at the expense of the district.

**Sec. A-6. Excavations and repair work; property to be left in good condition; closing of streets.** Whenever the district enters, digs up or excavates a street, way, highway or other land for any of the purposes set forth in this Act, the street, way, highway or other land must, at the completion of the work, be returned to the condition the street, way, highway or other land was in prior to the work of the district or to a condition equally as good.

When the work of the district endangers travel on a street or way, the cities or towns shall direct the temporary closing of the street or way and of intersecting streets or ways, upon request of the district, and the streets or ways must remain closed to public traffic until the work of the district is completed and the surfaces of the streets or ways are restored to a proper condition, as provided in this section.

**Sec. A-7. System extensions.**

1. All water line extensions must be made in accordance with the governing statutes and rules of the Public Utilities Commission.

2. The district has the right to determine whether extensions to its sewer system are made, with such discretion to be subject to review by the authority of local and state health officials and the Department of Environmental Protection. A sewer extension must be in conformity with adopted municipal plans and ordinances regulating land use.

3. A decision to invest funds in a specific sewer main extension requires a majority vote of the trustees and must include an affirmative vote of the voting representative from the City of Hallowell.

**Sec. A-8. Duty to serve; obligation to connect.**

1. The district's duty to provide water service is governed by the statutes and rules of the Public Utilities Commission.

2. The district, at all times after it commences receiving payments for the sewer facilities supplied by it, is bound to permit the owners of all premises abutting upon its lines of pipes and conduits to connect to the system with all proper sewage, upon conformity to the rules and regulations of the district and payments of the prices, assessments and rental established by the district.

Every building in the areas served by the district intended for human habitation or occupancy on premises abutting on a street in which there is a public sewer or such a building within 100 feet of a public sewer must have a house drainage system connected with the sewer by the owner or agent of the premises in the most direct manner possible. If feasible, each house or building must be connected with a separate connection, except that buildings that are already served by a satisfactory private sewage disposal system that meets and continues to meet the requirements of the plumbing code for the State are not required to connect with the public sewer.

**Sec. A-9. Assessment against lot benefited by drain or sewer.** When the district has constructed and completed a public drain or common sewer, the trustees shall determine what lots or parcels of land are benefited by the drain or sewer. The trustees shall estimate and assess upon the lots and parcels of land and against the owner, or person in possession, whether the person to whom the

assessment is made is the owner, tenant, lessee or agent, and whether the lot or parcel of land is occupied or not, a sum not exceeding the benefit as the trustees determine just and equitable towards defraying the expenses of constructing and completing the drain or sewer, together with the sewage disposal units and appurtenances as may be necessary.

The trustees shall file with the clerk of the district the location of the drain or sewer and sewage disposal unit, with a profile description of the location, a statement of the amount assessed upon each lot or parcel of land, a description of each lot or parcel and the name of the owner of the lots or parcels of land or person against whom the assessment is being made. The clerk of the district shall record the assessment in a book kept for that purpose. Within 10 days after filing the notice, each person assessed must be notified of the assessment by having an authentic copy of the assessment, with an order of notice signed by the clerk of the district, stating the time and place for a hearing upon the subject matter of the assessments, given to each person or left at the person's usual place of abode in the district. If the person has no place of abode in the district, then the notice must be given or left at the abode of the person's tenant or lessee if the person has one in the district. If the person has no tenant or lessee in the district, the person assessed must be notified by a posting of the notice in some conspicuous place in the vicinity of the lot or parcel of land assessed, at least 30 days before the hearing, or the notice may be given by publishing the notice once a week for 3 successive weeks in a newspaper of general circulation in the City of Augusta, the first publication to be at least 30 days before the hearing. A return made upon a copy of the notice by a constable in the City of Augusta or the production of the paper containing the notice is conclusive evidence that the notice has been given. At the hearing the trustees have power to revise, increase or diminish any of the assessments, and all revisions, increases or diminutions must be in writing and recorded by the clerk.

**Sec. A-10. Wastewater assessment; right of appeal.** A person aggrieved by the decision of the trustees as it relates to the assessment for sewer construction has the same rights of appeal as provided in the case of the laying out of town ways pursuant to the Maine Revised Statutes, Title 23, chapter 304.

**Sec. A-11. Lien for unpaid wastewater assessments.** All assessments made under the provisions of section 9 create a lien upon each lot or parcel of land assessed and the buildings upon the same, which takes effect when the trustees file with the clerk the completed assessment. Within 10 days after the date of hearing on the assessment, the clerk shall make out a list of all assessments, the amount of each and the names of the persons against whom the same are assessed and shall certify the list and deliver it to the treasurer of the district. If the assessments are not paid within 3 months from the date of filing of the completed assessment, the treasurer may proceed to collect the assessment in the following manner:

1. After the expiration of 3 months and within 18 months after the date the assessment is filed with the treasurer, if a person is a resident in the town where assessed, the treasurer shall give to the person against whom the assessment is made or leave at the person's last and usual place of abode a notice in writing signed by the treasurer stating the amount of the assessment, describing the real estate upon which the lien is claimed, stating that a lien is claimed on the real estate to secure the payment of the assessment and demanding the payment of the assessment within 10 days after the service of the notice. The treasurer in one notice may incorporate several delinquent rates that are in default at least 3 months and not over 18 months.

After the expiration of the 10 days and within 10 days after the 10-day expiration, if a person is a resident of the district, and in all other cases within one year from the date of service of notice, the treasurer shall record in the Kennebec County Registry of Deeds a certificate signed by the treasurer stating the amount of the assessment, a description of the real estate on which the lien is claimed, an allegation that a lien is claimed on the real estate to secure the payment of the assessment, that a demand for the payment of the assessment has been made in accordance with the provisions of this section and that the assessment remains unpaid.

If a person is not a resident of the district, the notice of lien and demand for payment must be given by registered or certified mail or by publication in a newspaper of general circulation inside the City of Augusta once a week for 2 successive weeks and must demand payment within 10 days after the date of mailing of the notice or the date of last publication of notice. After the expiration of the 10 days, the treasurer shall record the certificate.

At the time of the recording of the certificate in the Kennebec County Registry of Deeds as provided in this section, in all cases the treasurer shall file in the office of the district a true copy of the certificate. At the time of recording of the certificate, the treasurer shall mail a true copy of the certificate by registered or certified mail to each record holder of a mortgage on the real estate, addressed to the record holder at the record holder's last and usual place of abode. The fee charged by the district to the assessed party for the notice and filing is determined by the trustees and must include at a minimum the amount charged to the district for the recording of the certificate in the Kennebec County Registry of Deeds. Upon redemption, the district shall prepare and record a discharge of the sewer lien upon collecting from the assessed party the charge for recording the discharge.

The filing of the certificate in the Kennebec County Registry of Deeds pursuant to this section is deemed to create and creates a mortgage on the real estate to the district, having priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and gives the district all the rights usually incident to a mortgagee, except that the district has no right of possession of the real estate until the right of redemption provided for in this section has expired. If the mortgage, together with interest and costs, is not paid within 18 months after the date of filing of the certificate in the Kennebec County Registry of Deeds as provided in this section, the mortgage is deemed foreclosed and the right of redemption has expired. The filing of the certificate in the Kennebec County Registry of Deeds is sufficient notice of the existence of the mortgage provided for in this section. In the event that the assessment, interest and costs are paid within the period of redemption provided for in this section, the treasurer of the district shall discharge the mortgage in the same manner as is provided for discharge of real estate mortgages; or

2. After the expiration of 3 months after the date the assessment is filed with the treasurer, the treasurer may bring a civil action for the collection of the assessment in the name of the district against the person against whom the assessment is made and for the enforcement of the lien. The civil action may be commenced without the filing of a certificate of lien in the Kennebec County Registry of Deeds pursuant to subsection 1. The complaint in an action must contain a statement of the assessment, a description of the real estate against which the assessment is made and an allegation that a lien is claimed on the real estate to secure the payment of the assessment. If service is not made upon the defendant or if it appears that other persons have an interest in the real estate, the court shall order further notice of the action as the court determines proper and shall allow the other persons to become parties to the action.

If it appears upon trial of the action that the assessment was legally made against the real estate, the assessment is unpaid and there is an existing lien on the real estate for the payment of the assessment, judgment must be rendered for the assessment, interest and costs of suit against the defendants and against the real estate upon which the assessment was made and execution issued on the judgement to be enforced by sale of the real estate in the manner provided for a sale on execution of real estate attached on original process. In making the sale, the officer shall follow the procedure in selling and conveying the real estate and shall provide the same rights of redemption as provided in the Maine Revised Statutes, Title 36, section 941.

**Sec. A-12. Additional methods of collection of wastewater assessments.** If assessments under the provisions of section 9 are not paid and the district does not proceed to collect unpaid assessments by a sheriff's sale of the real estate upon which the assessments are made under section 11 or does not collect or is in any manner delayed or defeated in collecting the assessments by a sheriff's sale of the real estate under section 11, then the district, in the name of the district, may maintain an action against the party assessed for the amount of the assessment, for money paid, laid out and expended, in any court competent to try the suit, and in the suit may recover the amount of the assessment with 10% interest on the assessments from the date of the assessments and costs.

**Sec. A-13. Assessments paid by other than owner; recovered.** When an assessment under the provisions of section 9 is paid by a person against whom the assessment has been made who is not the owner of the lot or parcel of land, then the person paying the assessment has a lien on the lot or parcel of land with the buildings on the lot or parcel of land for the amount of the assessment paid by the person and incidental charges. The lien may be enforced in the way and manner provided for the enforcement of liens in section 11.

**Sec. A-14. Penalty for violation.**

1. The liability and penalties for a person who violates the provisions of this Act relating to the district's authority to provide water service or the regulations of the district adopted in accordance with the authority granted under this Act relating to water service must be in accordance with the governing statutes and rules of the Public Utilities Commission.

2. A person who violates the provisions of this Act or the regulations of the district adopted in accordance with the authority granted under this Act relating to the district's authority to provide sewer service is liable to pay twice the amount of the damage to the district, to be recovered in a proper action. The penalty for violation of a pretreatment standard or requirement by an industrial user is governed by the Maine Revised Statutes, Title 38, section 1252, subsection 8.

A person who places, discharges or leaves an offensive or injurious matter or material on or in the sewer conduits, sewer catch basins or sewer receptacles of the district contrary to its sewer use regulations, or knowingly injures a conduit, pipe, reservoir, flush tank, catch basin, manhole, drain, outlet, engine, pump or other property held, owned or used by the district for sewer purposes, is guilty of a Class E crime. In addition to sentencing alternatives provided under the Maine Revised Statutes, Title 17-A, a person is also liable to pay twice the amount of the damage to the district, to be recovered in a proper action.

**Sec. A-15. Free access to premises.**

1. The district's rights of access to water customer premises are governed by the Maine Revised Statutes, Title 35-A and rules of the Public Utilities Commission.



2. The officers or agents of the district have free access to all premises served by its sewers, at all reasonable hours to permit the inspection of plumbing and sewerage fixtures, to ascertain the amount of sewage discharged and the manner of discharge and to enforce the provisions of this Act and any rules and regulations that may be prescribed by the district.

**Sec. A-16. Payments of rates required; purpose of revenue generally.**

1. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of the district the rates established by the trustees pursuant to the Maine Revised Statutes, Title 35-A for water used by the individuals, firms or corporations. The water rates must be uniform throughout the territory established in section 1.

2. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of the district the rates and assessments established by the trustees to pay for the cost of the wastewater works and for the wastewater service used by the individuals, firms or corporations. Except as provided in subsection 4, the wastewater rates must be uniform throughout the territory established in section 1. The wastewater rates may include a readiness-to-serve charge against owners or persons in possession, or against whom taxes are assessed, of all buildings or premises intended for human habitation or occupancy, whether the buildings or premises are occupied or not, that abut on a street through which the district has a sewerage main or that abut a location through which the district has a sewerage main by which service of the buildings or premises is feasible, as long as in either instance the property line of the premises is within 100 feet of the sewerage main whether or not the premises are actually connected to the sewerage main.

The wastewater rates must be established to provide revenue for the following purposes:

- A. To pay the current expenses of operating and maintaining the sewerage, drainage and treatment systems of the district;
- B. To provide for the payment of the interest and principal on the indebtedness created or assumed by the district;
- C. To provide funds for paying the cost of all necessary repairs, replacements or renewals of the sewerage, drainage and treatment systems of the district; and
- D. To pay or provide for all amounts that the district may be obligated to pay or provide by law or contract, including any resolution or contract with or for the benefit of the holders of its bonds and notes.

3. For purposes of establishing water and wastewater rates, all of the district's costs of service must be equitably allocated between water and wastewater operations to minimize any cross-subsidies between water ratepayers and wastewater ratepayers. The district shall maintain records supporting and documenting the methods used to allocate all costs between the water and wastewater operations.

4. For the purpose of establishing wastewater rates, all of the district's costs of service must be equitably allocated between sewerage service and stormwater service and the costs of stormwater service must be borne by the ratepayers of the City of Augusta. The district shall maintain records supporting and documenting the methods used to allocate all costs between sewerage service and stormwater service.

**Sec. A-17. Lien to secure payment of rates; procedure.**

1. There is a lien on real estate served by the district to secure the payment of water rates established and due under the provisions of section 16 and the lien takes precedence over all other claims on the real estate, except claims for taxes and sewer liens. In addition to other methods established by law for the collection of the water rates, the lien created in this subsection may be enforced in the manner set forth in the Maine Revised Statutes, Title 35-A, section 6111-A.

2. There is a lien on real estate served by the several sewers and drains of the district to secure the payment of wastewater rates established and due under the provisions of section 16 and the lien takes precedence over all other claims on the real estate, except claims for taxes. In addition to other methods previously established by law for the collection of the rates, the lien created in this subsection may be enforced in the manner set forth in the Maine Revised Statutes, Title 38, section 1208.

**Sec. A-18. Authority to borrow money.** For accomplishing the purposes of this Act and for other expenses that may be necessary for the carrying out of the purposes of this Act, the district, through its trustees, without district vote, is authorized to issue its notes and bonds in one series or in separate series from time to time and to make subsequent renewals of the notes and bonds in whole or in part.

The notes and bonds are a legal obligation of the district, are a legal investment for savings banks in the State and are exempt from all present taxes. The district is declared to be a quasi-municipal corporation for the purposes of the Maine Revised Statutes, Title 30-A, section 5701 and all the provisions of that section.

Each bond or note must have inscribed on its face the words "Greater Augusta Utility District Bond" or "Greater Augusta Utility District Note," as the case may be, and must bear interest at such rates as the trustees determine.

Bonds or notes may be issued from time to time and each authorized issue constitutes a separate loan.

The bonds or notes must contain such terms and conditions, bear such a rate or rates of interest and be sold in such a manner, at public or private sale, at par, at a discount or at a premium, all as the trustees determine.

**Sec. A-19. Board of Trustees; tenure; duties.**

1. All the affairs of the Greater Augusta Utility District are managed by a Board of Trustees comprised of 7 voting members, one nonvoting representative of the City of Augusta and one nonvoting representative of the City of Hallowell. Six voting members are appointed by the mayor of the City of Augusta, with the approval of a majority of the Augusta City Council. One voting member is appointed by the mayor of the City of Hallowell, with the approval of a majority of the Hallowell City Council. One nonvoting member must be the mayor of the City of Augusta or the mayor's designee, and the other nonvoting member must be the mayor of the City of Hallowell or the mayor's designee.

A member of the Augusta City Council or the Hallowell City Council, an employee of the City of Augusta or the City of Hallowell or an employee of the Greater Augusta Utility District or the Hallowell Water District may not be chosen as a voting member of the Board of Trustees during the councilor's term on the city council or the employee's term of employment. All trustees must be residents of the city from which they are appointed.

Trustees are appointed to 3-year terms. Terms are to be staggered. If a vacancy occurs due to death or other cause, the mayor of the city from which the vacancy occurs shall appoint, with the approval of a majority of the relevant city council, a new member to fill out the unexpired term.

The term of a trustee continues until the trustee's successor is appointed and qualified.

2. Meetings of the trustees must be held monthly at a time and place to be determined by the trustees. A quorum consists of 4 voting trustees.

The trustees may engage the services of engineers and laborers, purchase all necessary material and supplies and construct the drains and sewers under their own supervision, or they may, if they determine it advantageous, contract with a responsible person, firm or corporation for the construction of the drains and sewers, but the district is not released from liability by reason of having contracted with a person, firm or corporation as provided in this subsection for the construction of any sewer, drain or other structure.

The trustees shall adopt a corporate seal and all bylaws and regulations necessary to operate the district.

The trustees shall publish an annual report of the district's finances.

A trustee of the district may not have an interest, either directly or indirectly, in any contract or agreement entered into by the district for the construction of a sewer, drain or other structure in the area served by the district. The district may enter upon or take land or any easement on the land of an officer of the district while the person is an officer and award damages to the officer for the land if in the opinion of the trustees the entering or taking is necessary for the purposes of the district.

3. The trustees shall annually elect a chair, a clerk, a treasurer and any other officer or agent as the trustees consider necessary. The trustees shall elect an assistant treasurer, who must be a trustee or an employee of the district.

4. Notwithstanding the Maine Revised Statutes, Title 35-A, section 6410, subsection 7 and Title 38, section 1252, subsection 5, the trustees are entitled to compensation at the same levels established for councilors and officers of the Augusta City Council or the councilors and officers of the Hallowell City Council, whichever is greater.

**Sec. A-20. Incidental powers, rights and privileges.** All incidental powers, rights and privileges necessary to the accomplishment of this Act are granted to the district.

**Sec. A-21. Monmouth to Augusta trunk sewer; authority, powers of districts, inhabitants; property exempt from taxation.** The district is authorized and empowered to own, operate and maintain a sewer line from the Town of Monmouth to the City of Augusta through the Town of Manchester, the City of Hallowell and the Town of Winthrop, in order to receive domestic, commercial, municipal and industrial wastes and sewerage from the Town of Monmouth and areas along the sewer line and treat the wastes and sewerage prior to discharge of the effluent into the Kennebec River at the City of Augusta. The district's authority to provide wastewater service outside the service area limits set forth in section 1 is limited to the provision of wholesale wastewater service to other utilities in those municipalities where another utility or municipality provides wastewater service.

The district is authorized to use its rights, powers and privileges under this Act for the purpose of owning, operating and maintaining a sewer line from the Town of Monmouth to the City of Augusta, including, but not limited to, the right to acquire and hold real estate and personal estate necessary and convenient for the purpose of this section; to take and hold by purchase, lease or the exercise of the right of eminent domain or otherwise any land or real estate or easement in land or real estate inside or outside the area served by the district necessary for forming basins, reservoirs and outlets, for erection of

buildings for pumping works and sewage treatment, for laying pipes and maintaining the buildings and pipes, for laying and maintaining conduits and appurtenances for carrying and collecting, discharging and disposing of sewage matter and for other objectives necessary, convenient and proper for the purposes of this section; to establish through and by its trustees regulations for the use of the sewers and to fix and collect the prices to be paid for entering the sewers and the service charges for the use of the sewers; to enter into contracts with persons, corporations or municipalities inside or outside the area served by the district including the Winthrop Utilities District, the Manchester Sanitary District, the Monmouth Sanitary District and any quasi-municipal corporation or district formed or to be formed in order to care for or treat sewage or drainage from lateral sewers or otherwise through the district's system; to lay down, in and through the streets and highways inside or outside the area served by the district and to take up, replace and repair all conduits, pipes and fixtures that may be necessary or desirable for the purpose; to carry and lay conduits and pipes under any watercourse, lake, public or private way or railroad and to cross any water pipe, gas pipe, electric conduit, drain or sewer pursuant to this Act; to make and file assessments and liens for the cost of the assessments; to issue notes and bonds through its trustees without district vote in one series or in separate series from time to time and to make subsequent renewals of the notes and bonds in whole or in part to provide for the financing of the notes and bonds; to establish and collect rates and enforce the collection of rates by lien and otherwise; to apply for and receive state and federal loans, grants and other forms of aid; and in general to use all of its rights, powers and privileges under this Act along the sewer line as though the sewer line were solely within the area set forth in section 1 as the service area limits of the district. Wherever located, the property, both real and personal, rights and franchises used in connection with the wastewater system are exempt from taxation. All incidental powers, rights and privileges necessary to the accomplishment of the objectives set forth in this section are granted to the district.

The Winthrop Utilities District, the Manchester Sanitary District, the Monmouth Sanitary District, any quasi-municipal corporation or district, formed or to be formed, and any other persons or corporations are authorized to enter into contracts with the district for sharing in the capital cost and operation and maintenance cost of the sewer line and any facilities in connection with the sewer line, including facilities for secondary treatment of wastes and any lateral sewers or other systems that may connect to the sewer line.

**Sec. A-22. P&SL 1903, c. 334**, as amended by P&SL 1975, c. 87, §§1 to 5, is repealed.

**Sec. A-23. P&SL 1921, c. 75, §10, first sentence**, as amended by P&SL 1971, c. 83, §19, is repealed and the following enacted in its place:

All the affairs of the district must be managed by a board of trustees composed of 3 members to be appointed by the mayor and confirmed by the City Council of the City of Hallowell. The 3 members must be selected from the present members in office as of the effective date of this Act, and the mayor shall delegate one to hold office for one year, the 2nd to hold office for 2 years and the 3rd to hold office for 3 years.

**Sec. A-24. P&SL 1955, c. 139**, as amended by P&SL 1991, c. 10, §§1 and 2, is repealed.

**Sec. A-25. P&SL 1971, c. 83, §1** is repealed.

**Sec. 1.**

**Sec. A-26. P&SL 1971, c. 83, §2** is repealed.

**Sec. 2.**

**Sec. A-27. P&SL 1971, c. 83, §3,** as amended by P&SL 1999, c. 15, §1, is repealed.

**Sec. 3.**

**Sec. A-28. P&SL 1971, c. 83, §4** is repealed.

**Sec. 4.**

**Sec. A-29. P&SL 1971, c. 83, §5** is repealed.

**Sec. 5.**

**Sec. A-30. P&SL 1971, c. 83, §6** is repealed.

**Sec. 6.**

**Sec. A-31. P&SL 1971, c. 83, §7** is repealed.

**Sec. 7.**

**Sec. A-32. P&SL 1971, c. 83, §7-A,** as enacted by P&SL 1999, c. 15, §2, is repealed.

**Sec. 7-A.**

**Sec. A-33. P&SL 1971, c. 83, §8** is repealed.

**Sec. 8.**

**Sec. A-34. P&SL 1971, c. 83, §9** is repealed.

**Sec. 9.**

**Sec. A-35. P&SL 1971, c. 83, §10,** as amended by P&SL 1983, c. 11, is repealed.

**Sec. 10.**

**Sec. A-36. P&SL 1971, c. 83, §11** is repealed.

**Sec. 11.**

**Sec. A-37. P&SL 1971, c. 83, §12** is repealed.

**Sec. 12.**

**Sec. A-38. P&SL 1971, c. 83, §13** is repealed.

**Sec. 13.**

**Sec. A-39. P&SL 1971, c. 83, §14** is repealed.

**Sec. 14.**

**Sec. A-40. P&SL 1971, c. 83, §15** is repealed.

**Sec. 15.**

**Sec. A-41. Existing trustees.** The commissioners of the Augusta Sanitary District and the trustees of the Augusta Water District holding office on the effective date of this Act hold office as trustees of the Greater Augusta Utility District for the terms for which they were appointed, and as each term expires one trustee must be selected by the appointing authority to serve for a term of 3 years.

## PART B

**Sec. B-1. Territorial limits.** The inhabitants and territory of the City of Augusta constitute a body politic and corporate under the name of the Greater Augusta Utility District, referred to in this part as "the district," for the following purposes:

1. To supply pure water for domestic and municipal purposes to the City of Augusta, the Town of Manchester and the Togus VA Medical Center. The district may also supply water to portions of the City of Hallowell as the trustees of the Hallowell Water District may consent and to portions of the Town of Chelsea as its municipal officers may consent. The district is authorized to supply water under the rights and duties established under this Act in that portion of the Town of Winthrop known as East Winthrop and along its existing pipeline;

2. To construct, maintain, operate and provide the sewers with all their appurtenances inside the City of Augusta; to extend, increase, enlarge and improve the sewers; to extend the present system or systems to furnish sewerage facilities to portions of the City of Augusta not now served with such facilities; to provide for removal of sewage and to provide for treatment of sewage in whole or in part before discharging it into rivers when and if such treatment becomes necessary; and to provide a system of sewerage for public purposes and for the health and comfort and convenience of the inhabitants of the district; and

3. To construct, maintain, operate and provide the stormwater drainage system with all its appurtenances in the City of Augusta; to extend, increase, enlarge and improve the drains; to extend the present system or systems to furnish stormwater drainage facilities to portions of the City of Augusta not now served with such facilities; to provide for surface drainage; and to provide a system of stormwater drainage for public purposes and for the health and comfort and convenience of the inhabitants of the City of Augusta.

Notwithstanding the requirements of the Maine Revised Statutes, Title 35-A, section 6401, subsection 2, paragraphs A and B, the following provisions of Title 35-A do not apply to the district: section 6401, subsection 3; section 6410, subsection 5; and section 6416.

**Sec. B-2. Powers and authority.** The district has the following powers and authority.

1. The district is authorized for the purposes provided in section 1 to take and hold sufficient water of the Kennebec River, Carleton Pond and Lake Cobbosseecontee and from any other source within the authorized service area of the district and may take and hold by purchase or otherwise any land or real estate necessary for erecting dams, power stations and reservoirs and for preserving the purity of the water and watershed and for laying and maintaining aqueducts for the taking, discharging and disposing of water.

The district, for the purposes of its incorporation, is authorized to take and hold, by purchase or otherwise, any land, real estate or water rights necessary for dams, for flowage, for power, for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and watershed and for laying and maintaining aqueducts and other structures for taking, distributing, discharging and disposing of water and for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands.

The district is further authorized to increase the storage of Carleton Pond and to erect and maintain all proper structures for that purpose.

The district is authorized to lay in and through streets and highways and across private lands and to repair and replace all pipes, aqueducts and fixtures as may be necessary and convenient for its corporate purposes, and whenever the district lays any pipes or aqueducts in any street or highway it shall do so with as little obstruction as possible to the public travel and shall, at its own expense without unnecessary delay, cause the earth and pavement removed by it to be replaced in proper condition.

2. For the purpose of providing a system of sewers and drainage for the comfort, convenience and health of the inhabitants of the district, the district is authorized to take and hold by purchase, lease or the exercise of the right of eminent domain, as provided in section 4 or otherwise, any land or real estate or easement necessary for forming basins, reservoirs and outlets, for the erection of buildings for pumping works and sewage treatment and for laying pipes and maintaining those pipes and for laying and maintaining conduits for carrying and collecting, discharging and disposing of sewage matter and rain water and for other necessary objectives, convenient and proper for the purpose of this Act, and all of such property, wherever located, is exempt from taxation.

**Sec. B-3. Transfer of assets; assumption of liabilities and benefits.** Upon acceptance of this Act as provided in Part C, section 3:

1. Title to all personal property, real property, assets, benefits and liabilities of the Augusta Water District and the Augusta Sanitary District, including, without limitation, all lands, waters, water rights, buildings and improvements, reservoirs, appurtenant easements and other rights appurtenant to the real property, and all easements in gross and all other interests of the Augusta Water District and the Augusta Sanitary District, passes to and vests in the Greater Augusta Utility District, and the Greater Augusta Utility District shall assume, maintain and operate all personal property, real property, assets, benefits and liabilities of the Augusta Water District and the Augusta Sanitary District;

2. The Greater Augusta Utility District shall assume all obligations of the Augusta Water District and the Augusta Sanitary District, including, but not limited to, those obligations under the following bonds: bonds issued to the Maine Municipal Bond Bank by the Augusta Water District in 1990, 1991 and 1994; bonds issued by the Augusta Water District to TD BankNorth in 2001; bonds issued by the Augusta Sanitary District to the Maine Municipal Bond Bank in 1997, 2002, 2003, 2005 and 2006; and a bond issued by the Augusta Sanitary District to Kennebec Savings Bank in 2003; and

3. The district shall maintain its books and records in a manner that creates separate divisions for its water and wastewater operations. These divisions must maintain the assets, liabilities, operating revenues and expenses in a manner that allows the Public Utilities Commission to set rates for the district's water operations. The assets and liabilities of the Augusta Water District must be maintained in the books of the water division of the Greater Augusta Utilities District. The assets and liabilities of the Augusta Sanitary District must be maintained in the books and records of the Greater Augusta Utility District's wastewater division.

**Sec. B-4. Right of eminent domain conferred.** The district is authorized and empowered to exercise the right of eminent domain in the area of the district set forth in section 1 to acquire and hold, for the purposes set forth in sections 1 and 2, any land, real estate or water rights.

The district may exercise the right of eminent domain vested in the district for the purposes of this Act after a hearing. Notice of the time and place of the hearing must be given by publication in a newspaper of general circulation in the City of Augusta once a week for 2 successive weeks, the last publication to

be at least 2 weeks previous to the time appointed for the hearing. The clerk of the district shall keep a record of the hearing proceedings, and the determination and decision, which must set forth a description of the land or easement taken and the owners, if known, and the amount of damages awarded for it.

In lieu of the notice for publication as specified in this section, the notice may be served in hand by an officer duly qualified to serve civil process in this State on the record owner or owners of the premises involved at least 14 days prior to the time appointed for the hearing.

Upon the signing of the record of the trustees and the filing of the record in the Registry of Deeds for Kennebec County, the trustees may enter upon the land and take possession of the land or an easement on the land, as the case may be, for the purposes of this Act.

A person aggrieved by the decision of the trustees, as it relates to the damages for land or easements on the land taken, has the same rights of appeal as provided in the case of the laying out of town ways pursuant to the Maine Revised Statutes, Title 23, chapter 304.

The district may not take by right of eminent domain any of the property or facilities of another public utility used, or acquired for future use by the owner in the performance of a public duty, unless expressly authorized in this Act or by a subsequent act of the Legislature.

### **Sec. B-5. Authority to lay pipes and make all necessary repairs.**

1. The district is authorized, for the purposes of supplying water, to lay in and through the streets and highways of the authorized service area described in section 1, subsection 1 and to take up, repair and replace all pipes, aqueducts and fixtures as may be necessary, and when the district lays any pipes or aqueducts in a street or highway it shall do so with as little obstruction as possible to the public travel and shall, at its own expense and without unnecessary delay, cause the earth and pavement removed by it to be replaced in proper condition.

2. The district may lay pipes and construct conduits in and through the district and convey through the pipes and conduits sewage, surface water and the natural flowage of existing watercourses and secure and maintain basins, reservoirs and outlets; may build and maintain pumping stations and buildings convenient for the pumping stations; may construct and maintain treatment plants, flush tanks, manholes, stormwater inlets and the usual appliances for collecting, holding, distributing and disposing of sewage and stormwater; may supply water for the flush tanks and for flushing the system of sewers and for any other purposes the district may determine desirable and install all pipes and necessary structures and appliances to this end; may establish through and by its trustees regulations for the use of sewers and fix and collect the prices to be paid for entering the sewers and also the service charges for the use of the sewers; may enter into contracts with persons, corporations or municipalities to care for sewage or drainage through the district's system; and may, for the purposes provided in this Act, lay down, in and through the streets, highways and land of the district, and take up, replace and repair, all conduits, pipes and fixtures as may be necessary or desirable for the purposes of its incorporation, carry and lay conduits and pipes under any watercourse, public or private way or railroad, in the manner prescribed in this Act, and cross any water pipe, gas pipe, electric conduit, drain or sewer or, if necessary, change its direction in such a manner as not to obstruct its use by the construction of any of the works of the district, either during the construction or after the construction has been completed or while the construction is undergoing repairs or extensions are being made.



3. When crossing a public utility, unless consent is given by the company owning or operating the public utility as to place, manner and conditions of the crossing within 30 days after the consent is requested by the district, the Public Utilities Commission shall determine the place, manner and conditions of the crossing, and all work on the property of the public utility must be done under the supervision and to the satisfaction of the public utility, but at the expense of the district.

**Sec. B-6. Excavations and repair work; property to be left in good condition; closing of streets.** Whenever the district enters, digs up or excavates a street, way, highway or other land for any of the purposes set forth in this Act, the street, way, highway or other land must, at the completion of the work, be returned to the condition the street, way, highway or other land was in prior to the work of the district or to a condition equally as good.

When the work of the district endangers travel on a street or way, the cities or towns shall direct the temporary closing of the street or way and of intersecting streets or ways, upon request of the district, and the streets or ways must remain closed to public traffic until the work of the district is completed and the surfaces of the streets or ways are restored to a proper condition, as provided in this section.

**Sec. B-7. System extensions.**

1. All water line extensions must be made in accordance with the governing statutes and rules of the Public Utilities Commission.

2. The district has the right to determine whether extensions to its sewer system are made, with such discretion to be subject to review by the authority of local and state health officials and the Department of Environmental Protection. A sewer extension must be in conformity with adopted municipal plans and ordinances regulating land use.

**Sec. B-8. Duty to serve; obligation to connect.**

1. The district's duty to provide water service is governed by the statutes and rules of the Public Utilities Commission.

2. The district, at all times after it commences receiving payments for the sewer facilities supplied by it, is bound to permit the owners of all premises abutting upon its lines of pipes and conduits to connect to the system with all proper sewage, upon conformity to the rules and regulations of the district and payments of the prices, assessments and rental established by the district.

Every building in the areas served by the district intended for human habitation or occupancy on premises abutting on a street in which there is a public sewer or such a building within 100 feet of a public sewer must have a house drainage system connected with the sewer by the owner or agent of the premises in the most direct manner possible. If feasible, each house or building must be connected with a separate connection, except that buildings that are already served by a satisfactory private sewage disposal system that meets and continues to meet the requirements of the plumbing code for the State are not required to connect with the public sewer.

**Sec. B-9. Assessment against lot benefited by drain or sewer.** When the district has constructed and completed a public drain or common sewer, the trustees shall determine what lots or parcels of land are benefited by the drain or sewer. The trustees shall estimate and assess upon the lots and parcels of land and against the owner, or person in possession, whether the person to whom the assessment is made is the owner, tenant, lessee or agent, and whether the lot or parcel of land is occupied

or not, a sum not exceeding the benefit as the trustees determine just and equitable towards defraying the expenses of constructing and completing the drain or sewer, together with the sewage disposal units and appurtenances as may be necessary.

The trustees shall file with the clerk of the district the location of the drain or sewer and sewage disposal unit, with a profile description of the location, a statement of the amount assessed upon each lot or parcel of land, a description of each lot or parcel and the name of the owner of the lots or parcels of land or person against whom the assessment is being made. The clerk of the district shall record the assessment in a book kept for that purpose. Within 10 days after filing the notice, each person assessed must be notified of the assessment by having an authentic copy of the assessment, with an order of notice signed by the clerk of the district, stating the time and place for a hearing upon the subject matter of the assessments, given to each person or left at the person's usual place of abode in the district. If the person has no place of abode in the district, then the notice must be given or left at the abode of the person's tenant or lessee if the person has one in the district. If the person has no tenant or lessee in the district, the person assessed must be notified by a posting of the notice in some conspicuous place in the vicinity of the lot or parcel of land assessed, at least 30 days before the hearing, or the notice may be given by publishing the notice once a week for 3 successive weeks in a newspaper of general circulation in the City of Augusta, the first publication to be at least 30 days before the hearing. A return made upon a copy of the notice by a constable in the City of Augusta or the production of the paper containing the notice is conclusive evidence that the notice has been given. At the hearing the trustees have power to revise, increase or diminish any of the assessments, and all revisions, increases or diminutions must be in writing and recorded by the clerk.

**Sec. B-10. Wastewater assessment; right of appeal.** A person aggrieved by the decision of the trustees as it relates to the assessment for sewer construction has the same rights of appeal as provided in the case of the laying out of town ways pursuant to the Maine Revised Statutes, Title 23, chapter 304.

**Sec. B-11. Lien for unpaid wastewater assessments.** All assessments made under the provisions of section 9 create a lien upon each lot or parcel of land assessed and the buildings upon the same, which takes effect when the trustees file with the clerk the completed assessment. Within 10 days after the date of hearing on the assessment, the clerk shall make out a list of all assessments, the amount of each and the names of the persons against whom the same are assessed and shall certify the list and deliver it to the treasurer of the district. If the assessments are not paid within 3 months from the date of filing of the completed assessment, the treasurer may proceed to collect the assessment in the following manner:

1. After the expiration of 3 months and within 18 months after the date the assessment is filed with the treasurer, if a person is a resident in the town where assessed, the treasurer shall give to the person against whom the assessment is made or leave at the person's last and usual place of abode a notice in writing signed by the treasurer stating the amount of the assessment, describing the real estate upon which the lien is claimed, stating that a lien is claimed on the real estate to secure the payment of the assessment and demanding the payment of the assessment within 10 days after the service of the notice. The treasurer in one notice may incorporate several delinquent rates that are in default at least 3 months and not over 18 months.

After the expiration of the 10 days and within 10 days after the 10-day expiration, if a person is a resident of the district, and in all other cases within one year from the date of service of notice, the treasurer shall record in the Kennebec County Registry of Deeds a certificate signed by the treasurer stating the amount of the assessment, a description of the real estate on which the lien is claimed, an allegation that a lien

is claimed on the real estate to secure the payment of the assessment, that a demand for the payment of the assessment has been made in accordance with the provisions of this section and that the assessment remains unpaid.

If a person is not a resident of the district, the notice of lien and demand for payment must be given by registered or certified mail or by publication in a newspaper of general circulation inside the City of Augusta once a week for 2 successive weeks and must demand payment within 10 days after the date of mailing of the notice or the date of last publication of notice. After the expiration of the 10 days, the treasurer shall record the certificate.

At the time of the recording of the certificate in the Kennebec County Registry of Deeds as provided in this section, in all cases the treasurer shall file in the office of the district a true copy of the certificate. At the time of recording of the certificate, the treasurer shall mail a true copy of the certificate by registered or certified mail to each record holder of a mortgage on the real estate, addressed to the record holder at the record holder's last and usual place of abode. The fee charged by the district to the assessed party for the notice and filing is determined by the trustees and must include at a minimum the amount charged to the district for the recording of the certificate in the Kennebec County Registry of Deeds. Upon redemption, the district shall prepare and record a discharge of the sewer lien upon collecting from the assessed party the charge for recording the discharge.

The filing of the certificate in the Kennebec County Registry of Deeds pursuant to this section is deemed to create and creates a mortgage on the real estate to the district, having priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and gives the district all the rights usually incident to a mortgagee, except that the district has no right of possession of the real estate until the right of redemption provided for in this section has expired. If the mortgage, together with interest and costs, is not paid within 18 months after the date of filing of the certificate in the Kennebec County Registry of Deeds as provided in this section, the mortgage is deemed foreclosed and the right of redemption has expired. The filing of the certificate in the Kennebec County Registry of Deeds is sufficient notice of the existence of the mortgage provided for in this section. In the event that the assessment, interest and costs are paid within the period of redemption provided for in this section, the treasurer of the district shall discharge the mortgage in the same manner as is provided for discharge of real estate mortgages; or

2. After the expiration of 3 months after the date the assessment is filed with the treasurer, the treasurer may bring a civil action for the collection of the assessment in the name of the district against the person against whom the assessment is made and for the enforcement of the lien. The civil action may be commenced without the filing of a certificate of lien in the Kennebec County Registry of Deeds pursuant to subsection 1. The complaint in an action must contain a statement of the assessment, a description of the real estate against which the assessment is made and an allegation that a lien is claimed on the real estate to secure the payment of the assessment. If service is not made upon the defendant or if it appears that other persons have an interest in the real estate, the court shall order further notice of the action as the court determines proper and shall allow the other persons to become parties to the action.

If it appears upon trial of the action that the assessment was legally made against the real estate, the assessment is unpaid and there is an existing lien on the real estate for the payment of the assessment, judgment must be rendered for the assessment, interest and costs of suit against the defendants and against the real estate upon which the assessment was made and execution issued on the judgement to be enforced

by sale of the real estate in the manner provided for a sale on execution of real estate attached on original process. In making the sale, the officer shall follow the procedure in selling and conveying the real estate and shall provide the same rights of redemption as provided in the Maine Revised Statutes, Title 36, section 941.

**Sec. B-12. Additional methods of collection of wastewater assessments.** If assessments under the provisions of section 9 are not paid and the district does not proceed to collect unpaid assessments by a sheriff's sale of the real estate upon which the assessments are made under section 11 or does not collect or is in any manner delayed or defeated in collecting the assessments by a sheriff's sale of the real estate under section 11, then the district, in the name of the district, may maintain an action against the party assessed for the amount of the assessment, for money paid, laid out and expended, in any court competent to try the suit, and in the suit may recover the amount of the assessment with 10% interest on the assessments from the date of the assessments and costs.

**Sec. B-13. Assessments paid by other than owner; recovered.** When an assessment under the provisions of section 9 is paid by a person against whom the assessment has been made who is not the owner of the lot or parcel of land, then the person paying the assessment has a lien on the lot or parcel of land with the buildings on the lot or parcel of land for the amount of the assessment paid by the person and incidental charges. The lien may be enforced in the way and manner provided for the enforcement of liens in section 11.

**Sec. B-14. Penalty for violation.**

1. The liability and penalties for a person who violates the provisions of this Act relating to the district's authority to provide water service or the regulations of the district adopted in accordance with the authority granted under this Act relating to water service must be in accordance with the governing statutes and rules of the Public Utilities Commission.

2. A person who violates the provisions of this Act or the regulations of the district adopted in accordance with the authority granted under this Act relating to the district's authority to provide sewer service is liable to pay twice the amount of the damage to the district, to be recovered in a proper action. The penalty for violation of a pretreatment standard or requirement by an industrial user is governed by the Maine Revised Statutes, Title 38, section 1252, subsection 8.

A person who places, discharges or leaves an offensive or injurious matter or material on or in the sewer conduits, sewer catch basins or sewer receptacles of the district contrary to its sewer use regulations, or knowingly injures a conduit, pipe, reservoir, flush tank, catch basin, manhole, drain, outlet, engine, pump or other property held, owned or used by the district for sewer purposes, is guilty of a Class E crime. In addition to sentencing alternatives provided under the Maine Revised Statutes, Title 17-A, a person is also liable to pay twice the amount of the damage to the district, to be recovered in a proper action.

**Sec. B-15. Free access to premises.**

1. The district's rights of access to water customer premises are governed by the Maine Revised Statutes, Title 35-A and rules of the Public Utilities Commission.

2. The officers or agents of the district have free access to all premises served by its sewers, at all reasonable hours to permit the inspection of plumbing and sewerage fixtures, to ascertain the amount of sewage discharged and the manner of discharge and to enforce the provisions of this Act and any rules and regulations that may be prescribed by the district.

**Sec. B-16. Payment of rates required; purpose of revenue generally.**

1. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of the district the rates established by the trustees pursuant to the Maine Revised Statutes, Title 35-A for the water used by the individuals, firms or corporations. The water rates must be uniform throughout the territory established in section 1.

2. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of the district the rates and assessments established by the trustees to pay for the cost of the wastewater works and for the wastewater service used by the individuals, firms or corporations. The wastewater rates must be uniform throughout the territory established in section 1. The wastewater rates may include a readiness-to-serve charge against owners or persons in possession, or against whom taxes are assessed, of all buildings or premises intended for human habitation or occupancy, whether the buildings or premises are occupied or not, that abut on a street through which the district has a sewerage main or that abut a location through which the district has a sewerage main by which service of the buildings or premises is feasible, as long as in either instance the property line of the premises is within 100 feet of the sewerage main whether or not the premises are actually connected to the sewerage main.

The wastewater rates must be established to provide revenue for the following purposes:

- A. To pay the current expenses of operating and maintaining the sewerage, drainage and treatment systems of the district;
- B. To provide for the payment of the interest and principal on the indebtedness created or assumed by the district;
- C. To provide funds for paying the cost of all necessary repairs, replacements or renewals of the sewerage, drainage and treatment systems of the district; and
- D. To pay or provide for all amounts that the district may be obligated to pay or provide by law or contract, including any resolution or contract with or for the benefit of the holders of its bonds and notes.

3. For purposes of establishing water and wastewater rates, all of the district's costs of service must be equitably allocated between water and wastewater operations to minimize any cross-subsidies between water ratepayers and wastewater ratepayers. The district shall maintain records supporting and documenting the methods used to allocate all costs between the water and wastewater operations.

**Sec. B-17. Lien to secure payment of rates; procedure.**

1. There is a lien on real estate served by the district to secure the payment of water rates established and due under the provisions of section 16 and the lien takes precedence over all other claims on the real estate, except claims for taxes and sewer liens. In addition to other methods established by law for the collection of the water rates, the lien created in this subsection may be enforced in the manner set forth in the Maine Revised Statutes, Title 35-A, section 6111-A.

2. There is a lien on real estate served by the several sewers and drains of the district to secure the payment of wastewater rates established and due under the provisions of section 16 and the lien takes precedence over all other claims on the real estate, except claims for taxes. In addition to other methods previously established by law for the collection of the rates, the lien created in this subsection may be enforced in the manner set forth in the Maine Revised Statutes, Title 38, section 1208.

**Sec. B-18. Authority to borrow money.** For accomplishing the purposes of this Act and for other expenses that may be necessary for the carrying out of the purposes of this Act, the district, through its trustees, without district vote, is authorized to issue its notes and bonds in one series or in separate series from time to time and to make subsequent renewals of the notes and bonds in whole or in part.

The notes and bonds are a legal obligation of the district, are a legal investment for savings banks in the State and are exempt from all present taxes. The district is declared to be a quasi-municipal corporation for the purposes of the Maine Revised Statutes, Title 30-A, section 5701 and all the provisions of that section.

Each bond or note must have inscribed on its face the words "Greater Augusta Utility District Bond" or "Greater Augusta Utility District Note," as the case may be, and must bear interest at such rates as the trustees determine.

Bonds or notes may be issued from time to time and each authorized issue constitutes a separate loan.

The bonds or notes must contain such terms and conditions, bear such a rate or rates of interest and be sold in such a manner, at public or private sale, at par, at a discount or at a premium, all as the trustees determine.

**Sec. B-19. Board of Trustees; tenure; duties.**

1. All the affairs of the Greater Augusta Utility District are managed by a Board of Trustees comprised of 5 voting members and one nonvoting representative of the City of Augusta. The 5 voting members must be appointed by the mayor of the City of Augusta, with the approval of a majority of the Augusta City Council. The nonvoting member must be the mayor of the City of Augusta or the mayor's designee.

A member of the Augusta City Council, an employee of the City of Augusta or an employee of the Greater Augusta Utility District may not be chosen as a voting member of the Board of Trustees during the councilor's term on the city council or the employee's term of employment. All trustees must be residents of the City of Augusta.

Trustees are appointed to 3-year terms. Terms are to be staggered. If a vacancy occurs due to death or other cause, the mayor shall appoint, with the approval of a majority of the city council, a new member to fill out the unexpired term.

The term of a trustee continues until the trustee's successor is appointed and qualified.

2. Meetings of the trustees must be held monthly at a time and place to be determined by the trustees. A quorum consists of 3 voting trustees.

The trustees may engage the services of engineers and laborers, purchase all necessary material and supplies and construct the drains and sewers under their own supervision, or they may, if they determine it advantageous, contract with a responsible person, firm or corporation for the construction of the drains and sewers, but the district is not released from liability by reason of having contracted with a person, firm or corporation as provided in this subsection for the construction of any sewer, drain or other structure.

The trustees shall adopt a corporate seal and all bylaws and regulations necessary to operate the district.

The trustees shall publish an annual report of the district's finances.

A trustee of the district may not have an interest, either directly or indirectly, in any contract or agreement entered into by the district for the construction of any sewer, drain or other structure in the area served by the district. The district may enter upon or take land or any easement on the land of any officer of the district while the person is an officer and award damages to the officer for the land if in the opinion of the trustees the entering or taking is necessary for the purposes of the district.

3. The trustees shall annually elect a chair, a clerk, a treasurer and any other officer or agent as the trustees consider necessary. The trustees shall elect an assistant treasurer, who must be a trustee or an employee of the district.

4. Notwithstanding the Maine Revised Statutes, Title 35-A, section 6410, subsection 7 and Title 38, section 1252, subsection 5, the trustees shall establish the level of compensation each year, not to exceed the level established for councilors and officers of the Augusta City Council.

**Sec. B-20. Incidental powers, rights and privileges.** All incidental powers, rights and privileges necessary to the accomplishment of this Act are granted to the district.

**Sec. B-21. Monmouth to Augusta trunk sewer; authority, powers of districts, inhabitants; property exempt from taxation.** The district is authorized to own, operate and maintain a sewer line from the Town of Monmouth to the City of Augusta through the Town of Manchester, the Town of Winthrop and the Town of Monmouth in order to receive domestic, commercial, municipal and industrial wastes and sewerage from the Town of Monmouth and areas along the sewer line and treat the wastes and sewerage prior to discharge of the effluent into the Kennebec River at the City of Augusta. The district's authority to provide wastewater service outside the service area limits set forth in section 1 is limited to the provision of wholesale wastewater service to other utilities in those municipalities where another utility or municipality provides wastewater service.

The district is authorized to use its rights, powers and privileges under this Act for the purpose of owning, operating and maintaining a sewer line from the Town of Monmouth to the City of Augusta, including, but not limited to, the right to acquire and hold real estate and personal estate necessary and convenient for the purpose of this section; to take and hold by purchase, lease or the exercise of the right of eminent domain or otherwise any land or real estate or easement in land or real estate inside or outside the area served by the district necessary for forming basins, reservoirs and outlets, for erection of buildings for pumping works and sewage treatment, for laying pipes and maintaining the buildings and pipes, for laying and maintaining conduits and appurtenances for carrying and collecting, discharging and disposing of sewage matter and for other objectives necessary, convenient and proper for the purposes of this section; to establish through and by its trustees regulations for the use of the sewers and to fix and collect the prices to be paid for entering the sewers and the service charges for the use of the sewers; to enter into contracts with persons, corporations or municipalities inside or outside the area served by the district including the Winthrop Utilities District, the Manchester Sanitary District, the Monmouth Sanitary District, the City of Hallowell, the Hallowell Water District and any quasi-municipal corporation or district formed or to be formed in order to care for or treat sewage or drainage from lateral sewers or otherwise through the district's system; to lay down, in and through the streets and highways inside or outside the area served by the district and to take up, replace and repair all conduits, pipes and fixtures that may be necessary or desirable for the purpose; to carry and lay conduits and pipes under any watercourse, lake, public or private way or railroad and to cross any water pipe, gas pipe, electric conduit, drain or sewer pursuant to this Act; to make and file assessments and liens for the cost of the assessments; to issue notes and bonds through its trustees without district vote in one series or in separate series from time

to time and to make subsequent renewals of the notes and bonds in whole or in part to provide for the financing of the notes and bonds; to establish and collect rates and enforce the collection of the rates by lien and otherwise; to apply for and receive state and federal loans, grants and other forms of aid; and in general to use all of its rights, powers and privileges under this Act along the sewer line as though the sewer line were solely within the area set forth in section 1 as the service area limits of the district. Wherever located, the property, both real and personal, rights and franchises used in connection with the wastewater system are exempt from taxation. All incidental powers, rights and privileges necessary to the accomplishment of the objectives set forth in this section are granted to the district.

The Winthrop Utilities District, the Manchester Sanitary District, the Monmouth Sanitary District, the City of Hallowell, the Hallowell Water District, any quasi-municipal corporation or district, formed or to be formed, and any other persons or corporations are authorized to enter into contracts with the district for sharing in the capital cost and operation and maintenance cost of the sewer line and any facilities in connection with the sewer line, including facilities for secondary treatment of wastes and any lateral sewers or other systems that may connect to the sewer line.

**Sec. B-22. P&SL 1903, c. 334**, as amended by P&SL 1975, c. 87, §§1 to 5, is repealed.

**Sec. B-23. P&SL 1955, c. 139**, as amended by P&SL 1991, c. 10, §§1 and 2, is repealed.

**Sec. B-24. Existing trustees.** The commissioners of the Augusta Sanitary District and the trustees of the Augusta Water District holding office on the effective date of this Act hold office as trustees of the Greater Augusta Utility District for the terms for which they were appointed, and as each term expires one trustee must be selected by the appointing authority to serve for a term of 3 years.

## PART C

**Sec. C-1. Referendum; effective date.** This Act takes effect when approved only for the purpose of permitting its submission to the legal voters of the City of Augusta and the City of Hallowell on November 6, 2007. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the boards of registration in the City of Augusta and the City of Hallowell are not required to prepare for posting or the city clerks to post, a new list of voters, and for the purpose of registration of voters, the boards of registration are required to be in session the 3 secular days preceding the election, of which the first 2 days must be devoted to registration of the voters and the last day to verification of the lists and completion of the records of the sessions. A checklist of the names of legal voters must be used at the election. The city clerks shall prepare the required ballots.

1. The subject matter of this Act is reduced to the following 2 questions for the City of Augusta:

Question A. "Do you favor merging the Augusta Water District and the Augusta Sanitary District to form the Greater Augusta Utility District?"

Question B. "Do you favor including the sewer functions of the Hallowell Water District in the Greater Augusta Utility District?"

The voters of the City of Augusta shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

2. The subject matter of this Act is reduced to the following question for the City of Hallowell:



"Do you favor including the sewer functions of the Hallowell Water District in the Greater Augusta Utility District?"

The voters of the City of Hallowell shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

The results of the City of Augusta and the City of Hallowell elections pursuant to this Part must be declared by the municipal officers and due certificate of the results filed by the city clerks with the Secretary of State. This Act takes effect for all other purposes as provided in sections 2 and 3.

**Sec. C-2. Election results; full consolidation.** Part A, providing for the merger of the Augusta Water District, the Augusta Sanitary District and the sewer service provided by the Hallowell Water District to create the Greater Augusta Utility District, takes effect upon:

1. The acceptance of both of the 2 questions specified in section 1, subsection 1 by a majority of the legal voters voting at the City of Augusta election pursuant to section 1 if the total number of votes cast for and against the acceptance of each question equals or exceeds 20% of the total vote for all candidates for Governor cast in the City of Augusta at the next previous gubernatorial election; and

2. The acceptance of the question specified in section 1, subsection 2 by a majority of the legal voters voting at the City of Hallowell election pursuant to section 1 if the total number of votes cast for and against the acceptance of the question equals or exceeds 20% of the total vote for all candidates for Governor cast in the City of Hallowell at the next previous gubernatorial election.

**Sec. C-3. Election results; Augusta consolidation only.** Part B, providing for the merger of the Augusta Water District and the Augusta Sanitary District to create the Greater Augusta Utility District, takes effect upon the acceptance of the question specified in section 1, subsection 1, question A by a majority of the legal voters voting at the City of Augusta election pursuant to section 1 if the total number of votes cast for and against the acceptance of the question equals or exceeds 20% of the total vote for all candidates for Governor cast in the City of Augusta at the next previous gubernatorial election and if the question specified in section 1, subsection 2 is not accepted by a majority of the legal voters voting at the City of Hallowell election pursuant to section 1.

Effective pending referendum.