

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-NINTH LEGISLATURE
SPECIAL SESSION

SENATE

NO. 311

In Senate, Nov. 6, 1919.

Reported by Mr. Gurney, From Committee on Legal Affairs,
and laid on the Table to be printed under Joint Rules.

P. F. CRANE, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND
NINE HUNDRED AND NINETEEN

AN ACT to Amend Chapter Eighty-four of the Private and
Special Laws of Nineteen Hundred Nineteen, Entitled: "An
Act to Provide for the Building of Public Wharves and for
the Establishment of Adequate Port Facilities and for the
Advancement of Commerce."

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

Section one of chapter eighty-four of the private and spe-
2 cial laws of nineteen hundred nineteen, entitled: "An Act
3 to Provide for the Building of Public Wharves and for the
4 Establishment of Adequate Port Facilities and for the Ad-
5 vancement of Commerce" is hereby amended as follows:
6 By striking out in the twentieth, twenty-first, twenty-second

7 and twenty-third lines of said section one the words:

“The governor shall designate the chairman, who shall
2 receive as annual salary four thousand dollars and shall
3 devote his whole time to the work of the directors. The
4 other directors shall each receive an annual salary of five
5 hundred dollars.”

6 and by inserting in place therefor the following:

‘The directors may elect from their own number a presi-
2 dent and a secretary of the board. Each director shall
3 receive an annual salary of five hundred dollars, payable
4 by the treasurer of state quarterly, and shall be reimbursed
5 for all expenses incurred in the discharge of his duties as
6 such director’

7 so that said section one, as amended, will read as follows:

‘The governor, with advice and consent of the council,
2 shall appoint four persons and the mayor of the city of
3 Portland shall appoint one person, and the five persons so
4 appointed, shall constitute a board to be known as the
5 Directors of the Port of Portland, hereinafter called the
6 directors. The terms of office of the persons first ap-
7 pointed by the governor shall be so arranged and desig-
8 nated at the time of their appointment that the term of
9 one member shall expire in four years, one in three years,
10 one in two years and one in one year from the first day
11 of August, nineteen hundred and nineteen, and the term
12 of office of the member appointed by the mayor shall expire
13 in three years from the first day of August, nineteen hun-

14 dred and nineteen. The governor shall appoint annually
15 thereafter one member to serve for three years, as the term
16 of any member appointed by him shall expire; and at the
17 expiration of the term of the member appointed by the
18 mayor, the mayor shall appoint a member to serve for three
19 years. Any vacancy occurring among the directors shall
20 be filled for the unexpired term by the governor or by the
21 mayor, according as the vacancy occurs among the mem-
22 bers originally appointed by the governor or by the mayor
23 respectively. In all cases a member shall continue to serve
24 until his successor is appointed and qualified. The directors
25 may elect from their own number a president and a secre-
26 tary of the board. Each director shall receive an annual
27 salary of five hundred dollars, payable by the treasurer of
28 state quarterly and shall be reimbursed for all expenses
29 incurred in the discharge of his duties as such director.'

Section two of said act is hereby amended by striking out
2 the entire section and substituting in place thereof the fol-
3 lowing:

'The term, "Port of Portland" shall include the land and
2 waters within the limits of the cities of Portland and South
3 Portland, together with the land and waters of Portland
4 harbor. The directors of the port of Portland shall cause
5 to be made all necessary plans for the comprehensive de-
6 velopment of the harbor and they shall have immediate
7 charge, for the purpose of carrying out and making effective
8 the terms of this act, of the lands and flats now or here-

9 after owned by the state upon or adjacent to Portland har-
10 bor, and of the construction of public piers and other pub-
11 lic works therein, shall administer all terminal facilities
12 which are or may hereafter be under their control, shall
13 keep themselves thoroughly informed as to the present and
14 probable future requirements of steamships and of ship-
15 ping, and as to the best means which can be provided at
16 the port of Portland for the accommodation of steamships,
17 railroads, warehouses and industrial establishments. The
18 directors shall employ such engineers, clerks, attorneys,
19 agents, assistants and other employees as they may deem
20 necessary to carry out the purposes of this act and shall
21 determine their duties and compensation.'

Section three of said act is hereby amended by inserting
2 the following paragraph:

'The directors may establish a distinctive seal, bearing
2 the words, "Directors of the Port of Portland, Maine, 1919."
3 In all actions, complaints, petitions, appeals or other pro-
4 ceedings at law or in equity or otherwise, in which the
5 board is concerned, they may be designated as Directors
6 of the Port of Portland.'

7 so that said section three, as amended, will read as follows:

'The directors shall have an office in the city of Portland
2 in which they shall keep maps, charts, plans and docu-
3 ments relating to the lands and waters under their charge.
4 The directors shall at all times have access to any other
5 maps, charts, plans and documents relating to said waters

6 and lands, in the office or custody of any other public board,
7 commission or official.

The directors may establish a distinctive seal, bearing the
2 words: "Directors of the Port of Portland, Maine, 1919."
3 In all actions, complaints, petitions, appeals or other pro-
4 ceedings at law or in equity or otherwise, in which the board
5 is concerned, they may be designated as Directors of the
6 Port of Portland.'

Section four of said act is hereby amended by striking
2 out in the first line the words: "With the consent of the
3 governor and council," so that said section four, as amended,
4 shall read as follows:

'The directors may take or acquire by purchase or other-
2 wise, and hold, such real property and such rights and ease-
3 ments therein as the directors may from time to time con-
4 sider necessary for the purpose of constructing, or securing
5 the constructing or utilizing of piers and, in connection
6 therewith, highways, waterways, railroad connection, stor-
7 age yards and sites for warehouses and industrial estab-
8 lishments, and may lay out and build thereon such piers,
9 with buildings and appurtenances, docks, highways, water-
10 ways, railroad connections, storage yards and public ware-
11 houses, as, in the opinion of the directors, may be desirable.'

Section five of said act is hereby amended by inserting
2 in the sixth line, after the word, "identification," the words,
3 'and the names of owners, if known'; also by inserting
4 before the word, "statement," in the said sixth line, the

5 word, 'general'; also in the seventh line by striking out the
6 words, "a majority of the directors," and inserting in place
7 thereof, the words, 'the directors or a majority thereof';
8 also by striking out, after the word, "section" in the thir-
9 teenth line, the remaining part of section five, and insert-
10 ing in place thereof the following:

'When, for any reason, the directors fail to acquire the
2 property authorized to be taken, and which is described
3 in such description, or when the location or description
4 or both so recorded is defective or uncertain, the board
5 may at any time correct and perfect such description or
6 location and file a new description or location in place there-
7 of, and in such case, there shall be liability in damages
8 only for property for which the owner had not previously
9 been paid, to be assessed as of the time of the original
10 taking, and there shall be no liability for any acts
11 which would have been justified if the original taking had
12 been lawful. No entry shall be made on any private lands,
13 except to make surveys and borings, until the expiration
14 of ten days from said filing, whereon possession may be
15 had of all said lands or interests therein or easements so
16 taken.'

17 so that said section 5, as amended, will read as follows:

'In order to take any property by right of eminent do-
2 main, the directors shall within ninety days after voting
3 to take any lands or easements therein, file and cause to
4 be recorded in the registry of deeds for the county in which

5 the property to be taken is situated, a description thereof
6 sufficiently accurate for identification, and the names of
7 owners, if known, with a general statement of the purposes
8 for which the same was taken, signed by the directors or
9 a majority thereof. Notice of such proceedings shall be
10 given to the owners thereof, if known, and the said notice
11 shall be published once a week for three weeks in a news-
12 paper regularly published in the county where the said
13 lands or easements are situated. The recording shall oper-
14 ate as a taking of the real estate and of the rights and ease-
15 ment therein described. No taking shall be valid unless
16 it is recorded in accordance with the provisions of this
17 section. When, for any reason, the directors fail to ac-
18 quire the property authorized to be taken, and which is
19 described in such description, or when the location or de-
20 scription or both so recorded, is defective or uncertain, the
21 board may at any time correct and perfect such descrip-
22 tion or location and file a new description or location in
23 place thereof, and in such case, there shall be liability in
24 damages only for property for which the owner had not
25 previously been paid, to be assessed as of the time of the
26 original taking, and there shall be no liability for any acts
27 which would have been justified if the original taking had
28 been lawful. No entry shall be made on any private lands,
29 except to make surveys and borings, until the expiration
30 of ten days from said filing, whereon possession may be

31 had of all said lands or interests therein or easements so
32 taken.'

Section six of said act is hereby amended by inserting in
2 the fifth line after the word therein the words 'except for
3 the site on location of said pier, but no money shall be avail-
4 able from said bonds or the proceeds thereof until a site or
5 location for said pier shall have been provided by the City
6 of Portland or the City of South Portland, or both, or by
7 a district created for such purpose,' so that said section six,
8 as amended, will read: 'From the proceeds of bonds issued
9 by the State of Maine for the purposes of this act as herein-
10 after provided, the Treasurer of State shall pay all damages
11 to property sustained by any person, firm or corporation, by
12 the taking of any land or any right or easement therein,
13 except for the site or location of said pier, but no money
14 shall be available from said bonds or the proceeds thereof
15 until a site or location for said pier shall have been provided
16 by the City of Portland or the City of South Portland, or
17 both, or by a district created for such purpose. Any
18 person, firm or corporation sustaining damage as aforesaid,
19 and failing to agree with the directors as to the amount
20 thereof, may have the same assessed and determined in the
21 manner provided by law in the case of land taken from the
22 laying out of highways, on application at any time within
23 three years after the taking of such land or right or ease-
24 ment therein; but no such application shall be made after
25 the expiration of the said three years.'

Section ten of said act is hereby amended by inserting in
2 the second line thereof, after the word, "Portland," the
3 words 'or the city of South Portland or both,' and by strik-
4 ing out the word "city" in the third line thereof, and insert-
5 ing in place thereof the words 'cities or either of them';
6 also by striking out the words "the city" in the fourth line
7 thereof and inserting in place thereof the words, 'such cities
8 or either of them,' also by striking out in the fifth and
9 sixth lines the words, "city of Portland is" and inserting
10 in place thereof the words 'cities of Portland and South
11 Portland or either of them are'; also by striking out the
12 word "it" in the ninth line, and inserting in place thereof,
13 the words, 'such cities,' so that said section ten, as amended,
14 will read as follows:

'The directors shall take all proper measures to obtain
2 from the city of Portland or the city of South Portland
3 or both, without expense to the state therefor, a conveyance
4 of all the present right, title and interest of the cities or
5 either of them in and to flats and rights of such cities or
6 either of them, which, in the opinion of the directors, are
7 required for the development contemplated by this act, and
8 the cities of Portland and South Portland, or either of them,
9 are hereby authorized to make such conveyance, and also
10 in furtherance of the development of the port to make con-
11 veyance to the directors, but only for maritime or com-
12 mercial improvement, of any shore lands owned by such
13 cities elsewhere, acquired either by purchase or taking.'

Section thirteen of said act is hereby amended by striking
2 out the entire section and substituting in place thereof the
3 following:

‘There shall be paid out of the treasury of the state, to
2 be expended by the directors during the period ending on
3 the thirty-first day of December, nineteen hundred and
4 twenty, the sum of ten thousand dollars, toward the sala-
5 ries and expenses of the directors and toward the defray-
6 ing of the cost of the studies and plans, surveys and bor-
7 ings, and for otherwise making effective the provisions of
8 this act.’

Section fifteen of said act is hereby amended by striking
2 out in the fifth line the words “if said amendment shall be
3 adopted,” and by striking out in the ninth line, before the
4 word, “amendment,” the word “proposed”; also by striking
5 out in the ninth and tenth lines the words, “if the same be
6 adopted”; also by striking out in the eleventh line, before
7 the word “amendment” the word “proposed,” so that said
8 section fifteen, as amended, will read as follows:

‘From the proceeds of bonds issued by the state of Maine
2 for the purpose of building and maintaining public wharves
3 and for the establishment of adequate port facilities in the
4 state of Maine as embodied in a resolution of the legis-
5 lature proposing an amendment to article nine of the con-
6 stitution, the treasurer of state is hereby authorized with
7 the approval of the governor and council, to disburse and
8 pay such moneys as are herein authorized for the purpose

9 of carrying out the provisions of this act. The said treas-
10 urer is further empowered to issue bonds as authorized by
11 said amendment, in such form and in such amounts not
12 exceeding the total set forth in said amendment, from time
13 to time, as the governor and council may determine.'

Said act is further amended by adding the following sec-
2 tions:

'Sect. 16. The provisions, restrictions and requirements
2 of chapter one hundred ninety-two of the private and spe-
3 cial laws of nineteen hundred seventeen, entitled, "An Act
4 to Create a Board of Harbor Commissioners for the Harbor
5 of Portland and Define its Powers," shall not control, limit,
6 govern, affect or apply to the acts, powers and duties cre-
7 ated or established by this act and imposed upon or en-
8 trusted to the directors of the port of Portland or persons
9 acting by or under their authority and in the event of con-
10 flict between the provisions of the act entitled: "An Act
11 to Create a Board of Harbor Commissioners for the Har-
12 bor of Portland and Define its Powers" and this act en-
13 titled: "An Act to Provide for the Building of Public
14 Wharves and for the Establishment of Adequate Port
15 Facilities and for the Advancement of Commerce," being
16 chapter eighty-four of the private and special laws of nine-
17 teen hundred nineteen, the provisions of the former act,
18 entitled "An Act to Create a Board of Harbor Commis-
19 sioners for the Harbor of Portland and Define its Powers,"
20 that are in such conflict and inconsistent with the later act,

21 chapter eighty-four of the private and special laws of nine-
22 teen hundred nineteen, shall be suspended and the pro-
23 visions of chapter eighty-four of the private and special
24 laws of nineteen hundred nineteen shall control and be
25 effective, but nothing herein shall be construed as affecting
26 or modifying the provisions of chapter one hundred ninety-
27 two of the private and special laws of nineteen hundred
28 seventeen, so far as the provisions of such act relate to
29 persons, firms, corporations, boards or commissions other
30 than the directors of the port of Portland.

Any other act or parts of acts that are in conflict with
2 or inconsistent with the provisions of this act, are hereby
3 suspended and superseded, so far as they relate to the pro-
4 visions of this act or any part thereof.'