

MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

HOUSE

NO. 60

House of Representatives, Jan. 31, 1917.

Referred to Portland and South Portland Delegations and fifteen hundred copies ordered printed. Sent up for concurrence.

W. R. ROIX, Clerk.

Presented by Mr. Gurney of Portland.

STATE OF MAINE

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

AN ACT to Incorporate the Portland Traffic District.

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

Section 1. The territory and people constituting the city
2 of Portland and the city of South Portland shall constitute
3 a public municipal corporation under the name of the Port-
4 land Traffic District for the purpose of operating and con-
5 trolling the transportation of passengers and merchandise
6 within the cities of Portland and South Portland (and ex-
7 tensions of transportation facilities operating therein) in-
8 cluding the waters therein or contiguous thereto and for

9 the storage and distribution of merchandise, and the con-
10 trol, development and improvement of the harbors of said
11 Portland and South Portland, also the policing thereof.

Sect. 2. The said district, for the purposes of its incor-
2 poration, is hereby authorized to take (by purchase, right
3 of eminent domain, hire or otherwise), hold, use, let, or
4 lease such real and personal property as may be necessary
5 or incidental thereto.

Sect. 3. Said district, for the purposes of its incorpora-
2 tion is hereby authorized to acquire, construct, maintain,
3 operate, let or lease railroads, railways, boats or vessels,
4 piers, docks (including a dry dock), storage yards and pub-
5 lic warehouses, freight and passenger terminals and con-
6 veyances, including ferries.

Sect. 4. Said district is authorized to grade and surface
2 suitably any railroad location or traffic ways which it may
3 own, operate over or control, and to carry said railroads or
4 ways over or under any railroad or railway location or
5 public way in order to eliminate crossings at grade.

Upon application to the district, any railroad company that
2 now reaches or may hereafter reach said Portland or South
3 Portland, either by its own rails or under trackage or traffic
4 contract or agreement with any other railroad or terminal
5 company, shall, upon reasonable terms, be provided by the
6 district with a track connection serving its transportation
7 and storage facilities.

Sect. 5. In exercising any right of eminent domain con-

2 ferred upon it by law, from time to time, or any rights of
3 eminent domain through or under the franchises of any
4 company by it acquired, the said district shall file in the
5 office of the county commissioners of Cumberland county
6 and record in the registry of deeds in said county plans of
7 the location of all lands or interests therein or water ways
8 to be taken, with an appropriate description and the names
9 of the owners thereof, if known. When for any reason
10 the district fails to acquire the property authorized to be
11 taken, and which is described in such location, or the loca-
12 tion recorded is defective or uncertain, it may, at any time,
13 correct and perfect such location and file a new description
14 thereof, and in such case the district is liable in damages
15 only for property for which the owner had not previously
16 been paid, to be assessed as of the time of the original
17 taking, and the district shall not be liable for any acts which
18 would have been justified if the original taking had been
19 lawful. No entry shall be made on any private lands, ex-
20 cept to make surveys, until the expiration of ten days from
21 such filing, whereon possession may be had of all said lands
22 or interests therein or water ways so taken, but title thereto
23 shall not vest in said district until payment therefor.

Sect. 6. If any person, sustaining damages by any taking
2 as aforesaid, shall not agree with said district upon the
3 sum to be paid therefor, either party, upon petition to the
4 county commissioners of Cumberland county, may have said
5 damages assessed by them; the procedure and all subse-

6 quent proceedings and right of appeal thereon shall be had
7 under the same restrictions, conditions and limitations as
8 are or may be by law prescribed in the case of damages by
9 the laying out of highways.

Sect. 7. In case of any crossing of a railroad, unless con-
2 sent is given by the company owning or operating such rail-
3 road as to place, manner and conditions of the crossing,
4 within thirty days after such consent is requested by said
5 district, the public utilities commission shall determine the
6 place, manner and condition of such crossing; and all work
7 within the limits of such railroad location shall be done
8 under the supervision and to the satisfaction of such public
9 utilities commission, but at the expense of the district.

Sect. 8. All the affairs of said district shall be managed
2 by a board of directors composed of five members; two of
3 whom shall be the mayors of Portland and South Portland
4 and the other three shall be elected by the city of Portland
5 in the manner hereinafter provided.

Sect. 9. The trustees so to be elected shall be elected by
2 a plurality vote of the legal voters in said Portland voting
3 at an election to be specially called and held therefor on
4 the fourth Monday of August, nineteen hundred and seven-
5 teen. Such special election shall be called, advertised and
6 conducted according to the law relating to municipal elec-
7 tions in said city, except as otherwise provided herein, pro-
8 vided, however, that the board of registration in said city
9 shall not be required to prepare for posting or the city clerk

10 to post a new list of voters but for the purpose of regis-
11 tration of voters said board shall be in session the three
12 secular days next preceding such election, the first two days
13 thereof to be devoted to registration of voters and the last
14 day to enable the board to verify the corrections of said
15 list and to complete and close up its records of said ses-
16 sions. All nominations of candidates so to be voted for
17 shall be made by nomination papers signed in the aggregate
18 for each candidate by no less than fifty qualified voters of
19 the city of Portland. Each voter signing a nomination paper
20 shall make his signature in person, and add to it his place
21 of residence, and each voter may subscribe to as many
22 nominations as there are directors to be elected and no
23 more. Said nomination papers shall, before being filed, be
24 submitted to the city clerk, who shall forthwith certify there-
25 on what number of the signatures are names of qualified
26 voters in said city; one of the signers to each such separate
27 paper shall swear to the truth thereof, and the certificate
28 of such oath shall be annexed to or made upon the nomi-
29 nation papers. Such nomination papers shall be filed with
30 the city clerk at least seven days, exclusive of Sundays,
31 previous to the day of such election. With such nomina-
32 tion papers shall also be filed the consent in writing of
33 the person or persons nominated. All nomination papers,
34 being filed and being in apparent conformity with the fore-
35 going provisions, shall be deemed to be valid; and if not
36 in apparent conformity, they may be seasonably amended

37 under oath. In case any candidate who has been duly nomi-
38 inated under the provisions hereof shall die before the day
39 of election, or shall withdraw in writing, the vacancy may
40 be supplied in the manner herein provided for such nomi-
41 nations. The name so supplied for the vacancy shall, if
42 the ballots have not been printed, be placed on the ballots
43 instead of the original nomination; or, if the ballots have
44 been printed, new ballots containing the new nomination
45 shall, if practicable, be furnished, or slips containing the
46 new nomination shall be printed under the direction of the
47 city clerk, which may be pasted in proper place upon the
48 ballots and thereafter shall become part and parcel of said
49 ballots as if originally printed thereon. The ballot shall
50 contain the names of all candidates so nominated printed
51 in one column under the heading, "For Directors of the
52 Portland Traffic District." Above such heading shall be
53 printed "Vote for three, or such number as may be appro-
54 priate directors. Make a cross to the right of each name
55 voted for." As many blank spaces shall be left after the
56 names of the candidates as there are directors to be elected,
57 in which the voter may paste on or by writing insert the
58 name or names of any person or persons for whom he de-
59 sires to vote. In preparing his ballot the voter shall mark
60 a cross (X) against and to the right of such names on said
61 ballots as he desires to vote for, not to exceed the number
62 of directors so to be elected. If the voter shall desire to
63 vote for any person or persons, whose name or names are

64 not to be printed on the ballot, he may fill in such name
65 or names in the blank spaces left therefor by writing the
66 same therein or by using a sticker or stickers containing
67 such new name or names. When the voter so adds by
68 writing or by sticker such new name or names, his vote
69 for such new name or names shall be counted therefor
70 although he may fail to mark a cross against the same.
71 The result of such election shall be declared by the munic-
72 pal officers and due certificate thereof filed with the city
73 clerk. The term of office of the directors shall begin on
74 the said fourth Monday of August. As soon as convenient
75 after all the members of said board have been so chosen,
76 said directors shall hold a meeting at the room of the board
77 of aldermen in the city of Portland to be called by the
78 mayor of Portland upon such reasonable notice therefor
79 as he deems proper. They shall organize by the election
80 of a president and a clerk, adopt a corporate seal and when
81 necessary may choose a treasurer and all other needful
82 officers and agents for the proper conduct and management
83 of the affairs of said district. They may also ordain and
84 establish such by-laws as are necessary for their own con-
85 venience and the proper management of the affairs of the
86 district. At said first meeting the directors so elected shall
87 determine by lot the term of office of each director elected
88 as such so that one director shall retire each year, begin-
89 ning the fourth Monday of May, 1918, and whenever the
90 term of office of a director expires his successor shall be

91 elected by a plurality vote of the city of Portland and upon
92 nomination made as herein provided for the first election
93 of directors and for the purpose of such election, an elec-
94 tion shall be called and held on the fourth Monday of May
95 in each year, the same to be called and conducted in the
96 manner provided for by chapter 215 of the Laws of Maine,
97 1915, relating to the choice of trustees of the Portland
98 Water District, in so far as the same can be applied after
99 changing the words "Portland Water District" to "Port-
100 land Traffic District." The directors so elected shall serve
101 the full term of three years; and in case any vacancy
102 arises in the membership of the board of directors it shall
103 be filled in like manner, for the unexpired term, by special
104 election to be called by the municipal officers of the city.
105 When any such director ceases to be a resident of the city
106 of Portland he vacates such office of director and the
107 vacancy shall be filled as aforesaid. All such directors
108 shall be eligible to re-election, but no person holding a
109 municipal office shall be eligible to election as director.

Sect. 10. Said directors may procure an office and incur
2 such expenses as may be necessary. They shall keep them-
3 selves thoroughly informed as to the present and probable
4 future requirements of steamships, shipping and railways,
5 and as to the best means which can be provided at the port
6 of Portland (and South Portland) for the accommodation,
7 and operation of the steamships, railroads and other traffic
8 facilities; also warehouses and industrial establishments.

9 Each member shall receive in full compensation for his
10 services an allowance of four hundred dollars per annum.
11 At the close of each fiscal year the directors shall make a
12 detailed report of their doings, of the receipts and expendi-
13 tures of said traffic district, of its financial and physical
14 condition, and of such other matters and things pertaining
15 to said district as shall show the inhabitants of said district
16 how said directors are fulfilling the duties and obligations
17 of their trust, such reports to be made and filed with the
18 municipal officers of the cities composing the district.

Sect. 11. Said traffic district is hereby authorized and
2 empowered to acquire by purchase or by the exercise of
3 the right of eminent domain, which right is hereby expressly
4 delegated to said district for said purpose, the entire plants,
5 properties, franchises, rights and privileges (or such parts
6 thereof as may be deemed advisable by the directors) of
7 any and all persons, firms or corporations engaged within
8 the limits of this act in any line of business covered by
9 the purposes of this incorporation except their cash assets,
10 including all stocks in other companies, lands, buildings,
11 waters, water rights, machinery, fixtures and all apparatus
12 and appliances owned or operated by said persons, firms
13 or companies. Said companies are hereby authorized to
14 sell and transfer their respective franchises and properties
15 or interests to said traffic district. Said franchises, prop-
16 erties and interests may (if deemed advisable by the di-
17 rectors) be taken subject to debenture bonds, mortgages,

18 liens and encumbrances thereon, which debenture bonds,
19 mortgages, liens and encumbrances shall be assumed and
20 paid by said Portland Traffic District.

Sect. 12. Said district is hereby authorized to acquire
2 the interest of any of said persons, firms or companies in
3 and to any and all sinking funds existing at the time of
4 acquiring their respective plants, properties or franchises
5 or interests therein, to secure the payment of any outstand-
6 ing obligations assumed by said district because of the pro-
7 visions of this act; and the fair value of the same shall
8 be determined as per sections five and six of this act, making
9 changes necessitated by the nature of the property involved.

Sect. 13. Where the directors fail to agree with any of
2 the persons, firms or companies upon terms of purchase
3 then said district through its directors is hereby authorized
4 to take all the plants, properties and franchises or parts
5 thereof or interests therein of such persons, firms or com-
6 panies so failing to agree, subject, however, to all mort-
7 gages, liens and encumbrances thereon, as stated in section
8 eleven, as for public uses, by a petition therefor in the
9 manner provided in sections five and six of this act, making
10 changes as necessitated by the nature of the property in-
11 volved. The respective valuations of the plants, properties
12 and franchises or parts thereof or interests therein so taken
13 of said persons, firms or companies as described in section
14 eleven of this act, shall be fixed at what they are fairly and
15 equitably worth, so that said persons, firms or companies

16 shall severally receive just compensation for the same; in
17 fixing such compensation due consideration shall be given
18 to the prospective profit or loss on existing contracts.

Sect. 14. All valid contracts existing between said per-
2 sons, firms or companies, depending on property or fran-
3 chises taken hereunder, and any other persons, firms or
4 companies shall be assumed and carried out by said Port-
5 land Traffic District, except in so far as the same may con-
6 flict with the powers herein granted.

Sect. 15. For accomplishing the purpose of this act, said
2 traffic district, through its directors, is authorized to bor-
3 row money temporarily and to issue therefor the interest-
4 bearing negotiable notes of the district, and for the purpose
5 of refunding the indebtedness so created, of paying any
6 necessary expenses and liabilities, incurred under the pro-
7 visions of this act, including the expenses incurred in the
8 creation of the district, in acquiring the properties and fran-
9 chises specified in this act, by purchase or otherwise, of
10 the purchase or acquisition of the said properties and fran-
11 chises, of assuming and paying the mortgages, liens and
12 encumbrances thereon as provided in section eleven of this
13 act, taking property, paying damages, constructing, main-
14 taining and operating its properties and making renewals,
15 extensions, additions and improvements to the same; the
16 said traffic district, through its directors, may from time to
17 time issue bonds of the district, to an amount or amounts
18 necessary in the judgment of the directors therefor. Said

19 notes and bonds shall be legal obligations of said traffic
20 district, which is hereby declared to be a quasi municipal
21 corporation within the meaning of section one hundred five,
22 chapter fifty-one of the revised statutes of 1916, and all
23 the provisions of said section shall be applicable thereto.
24 The said notes and bonds shall be legal investments for
25 savings banks.

Sect. 16. All individuals, firms and corporations, whether
2 private, public or municipal, shall pay to the treasurer of
3 said district the charges established by said board of di-
4 rectors for the services furnished by them. Said charges
5 shall be so established as to provide revenue for the fol-
6 lowing purposes:

I. To pay the current expenses for operating and main-
2 taining the traffic system.

II. To provide for the payment of the interest on the
2 indebtedness created or assumed by the district.*

III. To provide each year a sum equal to not less than
2 one nor more than five per cent of the entire indebtedness
3 created or assumed by the district, which sum shall be
4 turned into a sinking fund and there kept to provide for
5 the extinguishment of such indebtedness. The money set
6 aside for the sinking fund shall be devoted to the retire-
7 ment of the obligations of the district or invested in such
8 securities as savings banks are allowed to hold.

IV. To make improvements, renewals and additions if
2 deemed advisable in preference to providing for same by
3 notes or bonds.

V. If any surplus remains at the end of any year, it may
2 in the discretion of the directors be divided between the
3 two municipalities composing the district in the same pro-
4 portions as each contributed to the gross earnings of the
5 district's traffic system, and, in order that these propor-
6 tions may be readily determined, all moneys received for
7 charges in each of said municipalities shall be entered in
8 separate accounts so that the total amount thereof can be
9 easily ascertained.

Sect. 17. All incidental powers, rights and privileges nec-
2 essary to the accomplishment of the main objects, herein
3 set forth are granted to the public municipal corporation
4 hereby created.

Sect. 18. This act shall take effect when approved by a
2 majority vote of the legal voters of each of the cities of
3 Portland and South Portland voting at an election to be
4 specially called and held for the purpose on the second
5 Monday of July, nineteen hundred and seventeen. Such
6 special election shall be called, advertised and conducted
7 according to the law relating to municipal elections, pro-
8 vided, however, that the boards of registration of said cities
9 shall not be required to prepare for posting or the city
10 clerks to post new lists of voters and for the purpose of
11 registration of voters said boards shall be in session the
12 three secular days next preceding such election, the first
13 two days thereof to be devoted to registration of voters
14 and the last day to enable the boards to verify the cor-

15 rections of said lists and to complete and close up its rec-
16 ords of said sessions. The city clerks shall reduce the
17 subject matter of this act to the following question: "Shall
18 the act to incorporate the Portland Traffic District be ac-
19 cepted?" and the voters shall indicate by a cross placed
20 over the words "Yes" or "No" their opinion of the same.
21 The result shall be declared by the mayors of said cities
22 and aldermen and due certificate thereof filed by the city
23 clerks with the secretary of state.

Sect. 19. All acts or statutes special or general incon-
2 sistent herewith are hereby repealed, so far as affecting
3 this act is concerned.

Sect. 20. This act shall take effect when approved by the
2 governor, so far as necessary to empower the calling and
3 holding of the elections authorized in section eighteen
4 hereof