

MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

HOUSE NO. 190

House of Representatives, Feb. 8, 1917.

Referred to Portland Delegation and one thousand copies ordered printed. Sent up for concurrence.

W. R. ROIX, Clerk.

Presented by Mr. Rounds of Portland.

STATE OF MAINE

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

AN ACT to create a Board of Harbor Commissioners for the
Harbor of Portland, and define their powers.

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

Section 1. Four persons shall be selected in the manner
2 provided for by section two of this act, two of whom shall
3 always be residents of the city of Portland, and two resi-
4 dents of the city of South Portland, to be known as the
5 board of harbor commissioners for the harbor of Portland.

Whenever a vacancy occurs in the board of commissioners
2 hereby created, by reason of the expiration of the term of

3 service, the governor, with the advice and consent of the
4 council, shall fill such vacancy, and the person so appointed
5 shall hold said office for the term of four years.

6 In the event of the death or resignation of any member
7 of said board, or his removal from the city of which he
8 was a resident at the time of his appointment, the governor,
9 with the advice and consent of the council, shall fill said
10 vacancy from a resident of the same city; and the person
11 so selected shall continue to hold said office until the end
12 of the term of the one he succeeds.

Sect. 2. The present boards of harbor commissioners of
13 the city of Portland and of the city of South Portland shall,
14 immediately after the approval of this act, or as soon there-
15 after as may be deemed advisable, meet separately and de-
16 termine, by lot, the two members from each of said boards
17 who shall constitute the members of the board of harbor
18 commissioners hereby created; and as soon as such selec-
19 tions are made, the four persons so selected, shall meet and
20 proceed to the election, from the members of said board,
21 of a chairman and clerk, adopt a corporate seal, and may
22 then, or at any time thereafter, adopt such rules and regu-
23 lations as are necessary for the proper conduct of the busi-
24 ness of said board; and at the same meeting, or as soon
25 thereafter as practicable, said board of harbor commission-
26 ers shall determine, by lot, the term of office of each com-
27 missioner, so that one commissioner shall retire each year;
28 and a record of such action shall be made by the clerk of

18 said board; and a certificate thereof, signed by the chair-
19 man, and attested by the clerk, shall be filed and recorded
20 in the records of the city of Portland, and in the records
21 of the city of South Portland.

Sect. 3. Said board of harbor commissioners shall have
2 an office in the city of Portland in which shall be kept all
3 maps, charts, plans, and documents relating to the lands and
4 waters over which they have control; and the present boards
5 of commissioners for the city of Portland and for the city
6 of South Portland, shall deliver to the board of commis-
7 sioners hereby created, such maps, charts, plans, and docu-
8 ments now in the custody of said boards respectively, re-
9 lating to the waters and lands heretofore in charge of said
10 boards.

And the board of commissioners hereby created, shall adopt
2 such measures as may be necessary to properly preserve
3 and protect said maps, charts, plans, and documents, and
4 arrange so that they may be accessible to those interested,
5 under such rules and regulations as said board may adopt
6 relative thereto.

And it shall be the duty of said board of commissioners
2 to make, or cause to be made, such further maps and plans
3 for the comprehensive development of said harbor and the
4 approaches thereto as they may deem proper; and to accom-
5 plish said end, the members of said board shall keep them-
6 selves informed of the present and probable future require-
7 ments of steamships and shipping, and as to the best means

8 which can be provided at said port for the accommodation
9 thereof; and they shall also investigate and determine, so
10 far as practicable, what improvements can be made to said
11 harbor by changing of the location of the breakwater, en-
12 larging the anchorages, and deepening of the channel, and
13 the establishing and maintaining of further lights, buoys,
14 and other aids to navigation, and thereby increase the an-
15 chorage, and make the docks safer and more advantageous,
16 and the approach and entrance to said harbor more practi-
17 cable; but said board, before incurring any expense under
18 the provisions of this act, shall submit a report in writing
19 to the mayor and city council of said city of Portland, if
20 the proposed improvement relates to that part of the har-
21 bor within the limits of that city; and a like report to the
22 mayor and city council of said city of South Portland, if
23 the proposed improvement relates to that part of the har-
24 bor within the limits of the latter city, stating what action
25 they deem necessary in the furtherance of the purposes of
26 said act, and asking for the necessary appropriation to ac-
27 complish such ends.

Sect. 4. The harbor of Portland shall include, and said
2 board of harbor commissioners shall be vested with, juris-
3 diction over the entire harbor and tidal waters within the
4 limits of the city of Portland, including the islands belong-
5 ing thereto, and the tidal waters within the limits of the
6 city of South Portland, and over the receiving basins and
7 reservoirs of said harbor including the tidal waters of Fore

8 River, Back Cove, and northeasterly along the shore to the
9 easterly side of the mouth of the Presumpscot River to the
10 Grand Trunk Railway Company's bridge, and about said
11 islands; and also southerly and easterly of the lines of said
12 harbor, so far as the jurisdiction of the state extends, in-
13 cluding all channels and entrances into said harbor (so far
14 as the same are not under the exclusive control of the United
15 States), and also including all coves, inlets, and other parts
16 where the tide ebbs and flows.

Sect. 5. The board of harbor commissioners hereby cre-
2 ated, shall have authority from time to time, to establish
3 harbor lines over the whole, or any part, of the waters and
4 territory within their jurisdiction; and thereafter, from time
5 to time, to alter and modify the same as in the judgment
6 of said board, the changes in navigation may require.

The creation or maintenance of any obstruction in any of
2 the navigable waters of said harbor, or in any part of said
3 harbor under the jurisdiction of said board (except by the
4 United States), without first obtaining a written permit from
5 said board of harbor commissioners, is hereby prohibited;
6 and it shall not be lawful to alter, enlarge, or extend any
7 wharf heretofore built, or to build, or commence to build,
8 any wharf, pier, dolphin, bulkhead, or other structure, or
9 dump any stones, or other material into any of the waters,
10 or upon any part of the flats, or to excavate any part of
11 said harbor, or to fill in any part thereof, or modify the

12 course, location, or condition of the water of said harbor
13 without such permit.

Sect. 6. Any person, firm, or corporation intending to do
2 any of the acts referred to in the preceding section, shall
3 first make written application to said board of harbor com-
4 missioners, stating the location, limits, and boundaries as
5 nearly as may be, of such intended erections, extensions,
6 alterations, obstructions, filling or excavating, and ask a
7 permit therefor.

Said board, upon receiving such application, shall give at
2 least five days' public notice of the pendency of said peti-
3 tion, and shall therein designate a day on which they will
4 meet on, or near, the premises described in said applica-
5 tion, and examine the same; and if, upon such examina-
6 tion and hearing of all parties interested, said board de-
7 cides that such erection, extension, alteration, obstruction,
8 filling, or excavation, will not interfere with navigation, nor
9 injure the rights of others, and determine to allow the same,
10 they shall issue to the applicant a permit under their hands,
11 and the seal of said board, authorizing such applicant to
12 make the erection, extension, alteration, obstruction, filling,
13 or excavation therein stated, and to maintain the same with-
14 in the limits mentioned. The application, with the notice,
15 and proceedings thereon, and the permit granted, shall be
16 recorded by the clerk of said board in a book kept for that
17 purpose, to be entitled "Record of Permits Granted by the
18 Board of Harbor Commissioners for the Harbor of Port-

19 land"; and no permit, issued by said board for such pur-
20 pose, shall be valid unless signed by at least three members
21 thereof.

In the event the members of the board hereby created,
2 shall, at any time, be unable to agree upon any application
3 pending before them, then they shall call upon any justice
4 of the supreme judicial court of the state, or upon any judge
5 of the federal court residing in the state, who shall, in such
6 event, be qualified to act as a member of said board; and
7 the decision of the majority of the board as then existing,
8 shall be decisive of the question so pending before them;
9 and the permit, if any is issued, shall show that such justice,
10 or judge, acted on such matter.

Sect. 7. Reasonable compensation shall be paid by the peti-
2 tioner to said board of commissioners for their services and
3 expenses in connection with said application, and to the clerk
4 of said board for recording; and if such permit is granted,
5 twenty-five (\$25.00) dollars additional shall be paid by the
6 petitioner to said board, and the sums so received, shall be
7 applied by said board in carrying out the purposes of this
8 act.

Sect. 8. Any person, firm, or corporation who shall vio-
2 late the provisions of this act, and any person or corporation,
3 other than the cities of Portland and South Portland, who
4 shall pollute the waters of said harbor, shall be deemed
5 guilty of misdemeanor, and liable to prosecution therefor,
6 in any court of competent jurisdiction; and on conviction,

7 be punished by fine not exceeding five hundred (\$500.00)
8 dollars; and may also be sentenced to pay all expenses for
9 the abatement or removal of such erection, obstruction, or
10 deposit, and stand committed until the same shall be paid,
11 or give satisfactory security therefor.

Sect. 9. Whenever on application of the board of com-
2 missioners of the harbor of Portland, it shall be made to
3 appear to the supreme judicial court, at any term thereof
4 holden in the city of Portland, or to any justice thereof out
5 of such term time, that any person, firm, or corporation is
6 violating, or has violated, the provisions of this act, such
7 court or justice may forthwith issue a writ of injunction to
8 stay all proceedings adjudged to be in violation of this act
9 until further order, and may, on a hearing dissolve, con-
10 tinue, or make such injunction perpetual, and grant such
11 further relief as justice may require, and may adjudge that
12 the person, firm, or corporation so violating the provisions
13 of this act, shall pay all costs and expense of such proceed-
14 ings.

Sect. 10. Said commissioners shall appoint such number
2 of pilots for the harbor of Portland as they deem necessary
3 for the safety and convenience of the commerce of said
4 port; fix and establish such compensation for the services
5 of said pilots as may, from time to time, be deemed just and
6 reasonable therefor.

Persons desiring a branch shall make written application
2 to said commissioners, stating their qualifications therefor;

3 and said board shall make careful examination and investi-
4 gation of the qualifications of the applicant, and if satisfied
5 that he has the requisite qualifications, and holds a license
6 as a first-class pilot from the United States local inspectors
7 of steam vessels, said commissioners may give the applicant
8 a branch under their hands and seal, authorizing such per-
9 son to act as pilot for the term of one year from the date
10 of such appointment; and thereafter, said board, may, from
11 time to time, renew the same.

Said branch may be revoked at any time by said board,
2 for negligence, incapacity, or for any other reason that said
3 board may deem sufficient therefor. The branch, so granted,
4 shall be recorded by the clerk of said board in a book kept
5 for that purpose, entitled "Pilots for the Port of Portland";
6 and the clerk shall receive from the applicant, for making
7 said record, the sum of one (\$1.00) dollar.

Sect. 11. Said commissioners shall, from time to time,
2 adopt such rules and regulations as they deem necessary
3 and proper, not inconsistent with the laws of this state, nor
4 of the United States, for the keeping open of convenient
5 channels for the passage of vessels in the waters under their
6 control; and they may establish the boundary lines of such
7 channels, and assign suitable portions of said harbor for
8 anchorages, and provide suitable portions of said harbor
9 for anchorages, and provide suitable penalties for vessels
10 anchoring in such channels, or for not promptly moving
11 therefrom after notice of violating the provisions of this

12 section; they may grant special permits to wrecking plants
13 and others requiring the temporary use of any part of such
14 channels; fix and determine the time when, and the circum-
15 stances under which, vessels may lie at the ends or along-
16 side of wharves; and upon what notice they shall move from
17 such locations; and they may also, grant from time to time,
18 special permits respecting the use of any portion of any
19 wharf or dock for temporary use, or in an emergency.

The rules and regulations so adopted, shall be enforced
2 and carried out by the harbor master appointed by the city
3 council of the city of Portland, or by his deputy; and it
4 shall be the duty of said harbor master, or his deputy, to
5 collect, in the name of said board of harbor commissioners,
6 all penalties adopted by said board; and the moneys so
7 received, shall be applied by said board in carrying out the
8 purposes of this act.

Sect. 12. Said harbor master, or his deputy, shall cause
2 any vessel, or vessels, anchoring within the channel lines
3 established by said board, or anchoring in such a manner
4 that any portion of the hull, spars, or booms, shall extend
5 beyond said lines, due to the tide or wind, or which said
6 harbor master finds in any manner obstructing the free move-
7 ment of vessels in any part of said harbor, to move to such
8 anchorage as he may designate for said purpose.

Sect. 13. If any vessel violating the provisions of the two
2 preceding sections, is without any crew on board, or if the
3 master or person in charge neglects or refuses to move such

4 vessel upon the order of said harbor master, or his deputy,
5 then such harbor master, or his deputy, may put a crew on
6 board, or he may employ a steam-tug, and move such vessel
7 at the cost and risk of the owner, or owners, thereof; and
8 the expense thereby occasioned shall constitute a lien upon
9 said vessel, which said harbor master, or his deputy, may
10 enforce in the name of said board in any manner authorized
11 by law.

Section 14. If the harbor master, or his deputy, is obstructed, hindered, or delayed in the discharge of the duties
2 of said office, or if any assault is committed upon either
3 of them while in the discharge of their duties, or upon any
4 person assisting them, under the provisions of this act, such
5 harbor master, or his deputy, shall have authority without
6 warrant, to arrest such person, or persons, so violating the
7 provisions of this act, and deliver them to the police authorities;
8 and such person, or persons, upon conviction, shall be
9 punished in the manner now provided by law, for similar
10 offenses.
11

Sect. 15. The harbor master, and such of the policemen
2 of the city of Portland as may at any time be assigned to
3 the policing of said harbor, shall have the right to pursue
4 and arrest without warrant, any person found violating any
5 of the laws of this state, or who are violating, or may have
6 violated any of the rules and regulations issued by said
7 harbor commissioners under the terms and provisions of
8 this act; and said harbor master, or such policemen may

9 pursue and arrest such person upon any of the waters of
10 Casco bay, or upon any of the islands, or shores of any
11 of the towns upon which such person may have landed in
12 his attempt to escape.

Sect. 16. The commissioners shall, on the first day of
2 December of each year, or as soon thereafter as practicable,
3 submit a report to the mayor and city council of the city of
4 Portland, and a like report to the mayor and city council
5 of the city of South Portland, which report shall contain a
6 statement of the doings of the commissioners during the
7 preceding year, and shall contain such recommendations re-
8 specting legislation, both by the state and federal govern-
9 ments, as, in the opinion of the commissioners, may be nec-
10 essary or expedient to develop the commerce of said port,
11 improve the access thereto, and enable said commissioners
12 to better administer the affairs of said port, regulate the
13 shipping therein, and provide for the use of the piers, docks,
14 and terminal facilities, and also for the improvement of the
15 pilotage service at said port.

Sect. 17. The two commissioners, residents of said city
2 of Portland, shall be entitled to receive from said city, such
3 further and additional compensation for the services actu-
4 ally performed by them as the city council of said city may,
5 from time to time, fix and allow; and the two commissioners,
6 residents of said city of South Portland, shall be entitled
7 to receive from said city of South Portland, such further
8 and additional compensation for the services actually per-

9 formed by them as the city council of said city of South
10 Portland may, from time to time, fix and allow.

Sect. 18. Chapter of the Private and Special Laws
2 approved on the day of ; and Chapter
3 of the Private and Special Laws approved on
4 the day of ; and Chapter of
5 the Private and Special Laws approved on the of
6 , relating to the harbors of Portland and South
7 Portland, and the boards of commissioners for said har-
8 bors, are hereby repealed; and all acts amendatory of, or
9 additional to, the aforesaid acts; and all acts, or parts of
10 acts, inconsistent with, the provisions of this act, so far as
11 they apply to the harbors of Portland and South Portland,
12 are hereby repealed.