

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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SEVENTY-EIGHTH LEGISLATURE

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HOUSE

NO. 652

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*House of Representatives, March 22, 1917.*

*Printed under joint rules.*

*W. R. ROIX, Clerk.*

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STATE OF MAINE

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

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An Act to Create a Board of Harbor Commissioners for the  
Harbor of Portland, and Define its Powers.

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*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 Port-  
6 land, hereinafter referred to as the Board.

Whenever a vacancy occurs in the Board by reason of  
2 the expiration of the term of service, the governor, with

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

In the event of the death or resignation of any member  
2 of said Board, or his removal from the city of which he  
3 was a resident at the time of his appointment, the governor,  
4 with the advice and consent of the council, shall fill said  
5 vacancy by a resident of the same city; and the person so  
6 selected shall continue to hold said office until the end of  
7 the term of the one he succeeds, provided, however, that  
8 nothing in this act shall be construed to affect the eligibil-  
9 ity for service of any member of either Board of said cities  
10 as now constituted.

Sect. 2. The present boards of harbor commissioners for  
2 the city of Portland and of the city of South Portland shall,  
3 immediately after the taking effect of this act, or as soon  
4 thereafter as may be deemed advisable, meet separately and  
5 determine, by lot, the two members from each of said boards  
6 who shall constitute the members of the Board hereby cre-  
7 ated; and as soon as such selections are made, the four per-  
8 sons so selected, shall meet and proceed to elect from the  
9 members of said Board, a chairman and a clerk, adopt a  
10 corporate seal, and may then, or at any time thereafter,  
11 adopt such rules and regulations as are necessary for the  
12 proper conduct of the business of said Board; and at the  
13 same meeting, or as soon thereafter as practicable the Board  
14 shall determine by lot the term of office of each member,

15 so that one member shall retire each year; and a record of  
16 such action shall be made by the clerk of the Board; and a  
17 certificate thereof, signed by the chairman and attested by  
18 the clerk, shall be filed and recorded in the records of the  
19 city of Portland, and in the records of the city of South  
20 Portland.

Sect. 3. Said Board shall have an office in the city of  
2 Portland in which shall be kept all maps, charts, plans, and  
3 documents relating to the lands and waters over which it  
4 has control; and the present boards of commissioners for  
5 the city of Portland and for the city of South Portland,  
6 shall deliver to the Board hereby created, such maps, charts,  
7 plans, and documents now in the custody of said boards re-  
8 spectively, relating to the waters and lands heretofore in  
9 charge of said boards.

And the Board shall adopt measures to preserve and pro-  
2 tect said maps, charts, plans and documents, and arrange  
3 so that they may be accessible to those interested, under such  
4 rules and regulations as said Board may adopt.

Said Board shall make, or cause to be made, such further  
2 maps and plans for the comprehensive development of said  
3 harbor and the approaches thereto as it may deem proper;  
4 and to accomplish said end, the members of said Board  
5 shall keep themselves informed of the present and prob-  
6 able future requirements of steamships and shipping, and  
7 as to the best means which can be provided at said port  
8 for the accommodation thereof; and it shall also investi-

9 gate and determine, so far as practicable, what improve-  
10 ments can be made to said harbor by changing the loca-  
11 tion of the breakwater, enlarging anchorages, deepening  
12 channels and establishing and maintaining such further  
13 lights, buoys, and other aids to navigation as will make  
14 the docks safer and more advantageous, and the approach  
15 and entrance to said harbor more practicable; but said  
16 Board, before incurring any expense under this act, shall  
17 submit a report in writing to the mayor and city council  
18 of said city of Portland, if the proposed improvement re-  
19 lates to that part of the harbor within the limits of that  
20 city; and a like report to the mayor and city council of  
21 said city of South Portland, if the proposed improvement  
22 relates to that part of the harbor within the limits of the  
23 latter city, stating what action it deems necessary in the  
24 furtherance of the purposes of this act, and asking for the  
25 necessary appropriation to accomplish such ends.

Sect. 4. The harbor of Portland shall include, and said  
2 Board shall be vested with, jurisdiction over the entire har-  
3 bor and tidal waters within the limits of the city of Port-  
4 land, including the islands belonging thereto, and the tidal  
5 waters within the limits of the city of South Portland, and  
6 over the receiving basins and reservoirs of said harbor in-  
7 cluding the tidal waters of Fore River, Back Cove, and  
8 northeasterly along the shore to the easterly side of the  
9 mouth of the Presumpscot River to the Grand Trunk Rail-  
10 way Company's bridge, and about said islands; and also

11 southerly and easterly of the lines of said harbor, so far  
12 as the jurisdiction of the state extends, including all chan-  
13 nels and entrances into said harbor (so far as the same  
14 are not under the exclusive control of the United States),  
15 and also including all coves, inlets, and other parts where  
16 the tide ebbs and flows, within the limits of said cities.

Sect. 5. The Board may from time to time, establish har-  
2 bor lines over the whole, or any part, of the waters and  
3 territory within its jurisdiction; and thereafter from time  
4 to time, alter and modify the same as in the judgment of  
5 said Board 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  
5 from said Board, is hereby prohibited; and it shall be un-  
6 lawful to enlarge, or extend any wharf heretofore built,  
7 or to build, or commence to build, any wharf, pier, dolphin,  
8 bulkhead, or other structure, or dump any stones, or other  
9 material into any of the waters, or upon any part of the  
10 flats, or to excavate any part of said harbor, or to fill in  
11 any part thereof, or modify the course, location or condi-  
12 tion of the water of said harbor 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, stating the  
4 location, limits and boundaries as nearly as may be, of such

5 intended erections, extensions, obstructions, filling or exca-  
6 vating, and ask a permit therefor.

Said Board, upon receiving such application, shall give at  
2 least five days' public notice of the pendency of said pe-  
3 tition, and shall therein designate a day on which it 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, obstruction, filling or  
8 excavation, will not interfere with navigation, nor injure  
9 the rights of others, and determine to allow the same, it  
10 shall issue to the applicant a permit under the hands of its  
11 members and the seal of the Board, authorizing such ap-  
12 plicant to make the erection, extension, 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 in a book kept for that purpose, to be  
17 entitled "Record of Permits Granted by the Board of Har-  
18 bor Commissioners for the Harbor of Portland"; and no  
19 such permit shall be valid unless signed by at least three  
20 members of the Board. Said Board shall also fix a reason-  
21 able time for the completion of the work authorized under  
22 such permit. If the members of the Board shall, at any  
23 time, be unable to agree upon any pending application, then  
24 they shall call upon any judge of the federal court resid-  
25 ing in the state, who shall, in such event, be qualified to

26 act as a member of said Board; and the decision of the  
27 majority of the Board as then existing, shall be decisive  
28 of such application; and the permit, if any is issued, shall  
29 show that such judge acted on such matter.

Sect. 7. Reasonable compensation shall be paid by peti-  
2 tioners to said Board for services and expenses in connec-  
3 tion with applications, and to the clerk of said Board for  
4 recording; and if a permit be granted, twenty-five (\$25.00)  
5 dollars additional shall be paid by the petitioner to said  
6 board, and the sums so received, shall be applied by said  
7 Board in carrying out the purposes of this act.

Sect. 8. Whoever shall violate any provisions of this act  
2 or who shall pollute the waters of said harbor, other than  
3 through the ordinary sewer and drain pipe, shall be deem-  
4 ed guilty of misdemeanor, and liable to prosecution there-  
5 for, in any court of competent jurisdiction; and on convic-  
6 tion, be punished by fine not exceeding five hundred  
7 (\$500.00) dollars; and may also be sentenced to pay all  
8 expenses for the abatement or removal of such erection,  
9 obstruction, or deposit, and stand committed until the same  
10 shall be paid or satisfactory security given therefor.

Sect. 9. Whenever on application of the Board it shall  
2 be made to appear to the supreme judicial court, at any  
3 term thereof holden in the City of Portland, or to any jus-  
4 tice thereof out of term time, that any person, firm or cor-  
5 poration is violating, or has violated any provision of this  
6 act, such court or justice may forthwith issue a writ of



7 injunction to stay all proceedings adjudged to be in viola-  
8 tion of this act until further order, and may after hear-  
9 ing dissolve, continue, or make such injunction permanent  
10 and grant such further relief as justice may require, and  
11 may adjudge that the person, firm or corporation so violat-  
12 ing any provision of this act, shall pay all costs and ex-  
13 pense of such proceeding.

Sect. 10. Said Board shall appoint such number of pilots  
2 for the harbor of Portland as it deems necessary for the  
3 safety and convenience of commerce, fix and establish such  
4 compensation for the services of said pilots as may, from  
5 time to time, be deemed just and reasonable.

Persons desiring a branch shall make written application  
2 to said Board stating their qualifications therefor; and said  
3 Board shall make careful examination and investigation of  
4 the qualifications of the applicant, and if satisfied that he  
5 has the requisite qualifications, may give the applicant a  
6 branch under the hands of its members and the seal of  
7 the Board, authorizing such person to act as pilot for the  
8 term of one year from the date of his appointment; and  
9 thereafter, said Board may from time to time, renew the  
10 same.

Said branch may be revoked at any time by said Board,  
2 for negligence, incapacity, or for any other reason that  
3 said Board may deem sufficient. The branch, so granted,  
4 shall be recorded by the Clerk of said Board in a book  
5 kept for that purpose, entitled "Pilots for the Port of Port-

6 land"; and the clerk shall receive from the applicant, for  
7 making said record, the sum of one (\$1.00) dollar.

Section 11. Said Board shall, from time to time, adopt  
2 such rules and regulations as it deems necessary and prop-  
3 er, not inconsistent with law, for keeping open convenient  
4 channels for the passage of vessels in the waters under  
5 its control; and it may establish the boundary lines of such  
6 channels and assign and provide suitable portions of said  
7 harbor for anchorages, and fix reasonable penalties for an-  
8 choring vessels in such channels. It may also fix reason-  
9 able penalties to be imposed upon any one in charge of any  
10 vessel which shall not be promptly moved after notice of  
11 any violation of this section. It may grant special permits  
12 to wrecking plants and others requiring the temporary use  
13 of any part of such channels; fix and determine the time  
14 when and the circumstances under which, vessels may lie  
15 at the ends of or alongside of wharves; and upon what no-  
16 tice they shall move from such location.

The rules and regulations so adopted, shall be enforced  
2 and carried out by a harbor master and deputy appointed  
3 by the Board in the manner provided in the following sec-  
4 tion and it shall be the duty of said harbor master, or his  
5 deputy, to collect in the name of said Board, all penalties  
6 incurred for the violation of such rules and regulations as  
7 may be advised by said Board; and the moneys so received  
8 shall be applied by said Board in carrying out the purposes  
9 of this act.

Sect. 12. Said Board shall appoint some competent person as harbor master and also a deputy, but before either shall be qualified to act, their appointment shall be approved by the mayor of the city of Portland; and the persons so appointed shall receive such compensation as the city council of said city of Portland shall, from time to time fix and allow. In the absence, or inability of said harbor master to act, the deputy shall have all the powers and authority of the harbor master.

The harbor master and deputy shall hold office for the term of one year from the date of the approval of their appointment; but either may be removed by said Board at any time for negligence, inefficiency, or for any other reason deemed sufficient by the Board; and said Board shall fill the vacancy thereby occasioned, in the manner hereinbefore provided.

The harbor master shall be provided with such means of transportation for the performance of his duties as shall be agreed upon between the Board and said city of Portland.

Sect. 13. Said harbor master, or his deputy, shall cause any vessel, or vessels, anchoring within the channel lines established by said Board, or anchoring in such a manner that any portion of the hull, spars or booms shall extend beyond said lines, due to the tide or wind, or which said harbor master finds in any manner obstructing the free movement or anchorage of vessels in any part of said har-

8 bor, to move to such anchorage as he may designate for  
9 said purpose; and in addition to the powers prescribed by  
10 this act, said harbor master and his deputy shall have all  
11 the authority conferred upon harbor masters under the pro-  
12 visions of the general law.

Sect. 14. If any vessel violating the provisions of the  
2 two preceding sections is without a crew on board, or if  
3 the master or person in charge neglects or refuses to move  
4 such vessel upon the order of said harbor master, or his  
5 deputy, then such harbor master or his deputy, may put a  
6 crew on board, or he may employ a steam-tug and move  
7 such vessel at the cost and risk of the owner or owners  
8 thereof; and the expense occasioned thereby shall consti-  
9 tute a lien upon said vessel, which said harbor master, or  
10 his deputy, may enforce in the name of said Board in any  
11 manner authorized by law.

Sect. 15. If the harbor master or his deputy, is obstruct-  
2 ed, hindered or delayed in the discharge of the duties of  
3 said office, or if any assault is committed upon either of  
4 them while in the discharge of their duties, or upon any  
5 person assisting them, under the provisions of this act, such  
6 harbor master or his deputy, shall have authority without  
7 warrant to arrest such person, or persons, so violating the  
8 provisions of this act, and deliver them to the police au-  
9 thorities; and such person or persons, upon conviction shall  
10 be punished in the manner now provided by law for simi-  
11 lar offenses.

Sect. 16. 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 Board under any provisions of this act; and said harbor  
8 master or such policemen may pursue and arrest such per-  
9 son upon any of the waters of Casco bay, or upon any of  
10 the islands in any of the towns where such person may be  
11 found.

Sect. 17. The Board shall, on the first day of December  
2 of each year, or as soon thereafter as practicable, submit  
3 a report of the doings of the Board to the mayor and city  
4 council of the city of Portland, and a like report to the  
5 mayor and city council of the city of South Portland. It  
6 shall also make such recommendations respecting legislation  
7 both by the state and federal governments, as in its opinion  
8 may be necessary or expedient to develop the commerce of  
9 said port, improve the access thereto, and enable said Board  
10 to administer more efficiently the affairs of said port, reg-  
11 ulate the shipping therein, and provide for the use of the  
12 piers, docks and terminal facilities, and also for improving  
13 the pilotage service at said port.

Sect. 18. The two members of the Board residents of  
2 said city of Portland, shall be entitled to receive from said  
3 city, such compensation for services actually performed by

4 them as the city council of said city may from time to  
5 time, fix and allow; and the two members of the Board,  
6 residents of said city of South Portland, shall receive from  
7 said city of South Portland, such compensation for the  
8 services actually performed by them as the city council  
9 of said city of South Portland may, from time to time, fix  
10 and allow.

Sect. 19. Chapter six hundred and fifty-four of the Pri-  
2 vate and Special laws approved on the third day of April,  
3 eighteen hundred and fifty-six; chapter one hundred and  
4 fifty-one of the Private and Special laws approved on the  
5 eighteenth day of February, eighteen hundred and fifty-  
6 eight; chapter one hundred and sixty-one of the Private  
7 and Special laws approved on the twenty-fourth day of  
8 February, eighteen hundred and fifty-eight; chapter five  
9 hundred and fifty-four of the Private and Special laws  
10 approved on the twenty-fourth day of February, eighteen  
11 hundred and seventy-four; chapter three hundred and  
12 eighty-three of the Private and Special laws approved on  
13 the seventh day of February, eighteen hundred and seventy-  
14 seven; chapter sixty-one of the Private and Special laws  
15 approved on the twenty-fourth day of February, eighteen  
16 hundred and eighty-one; chapter thirty of the Private and  
17 Special laws approved on the twelfth day of February,  
18 eighteen hundred and ninety-five; chapter three hundred  
19 and forty-eight of the Private and Special laws approved  
20 on the thirty-first day of March, nineteen hundred and sev-

21 en; chapter three hundred and one of the Private and Spe-  
22 cial laws approved on the twenty-fourth day of March,  
23 nineteen hundred and nine; chapter one hundred and eighty-  
24 four of the Private and Special laws approved on the first  
25 day of April, nineteen hundred and fifteen; and an act to  
26 authorize the board of harbor commissioners of the city of  
27 Portland to alter and modify the harbor line approved Sep-  
28 tember thirtieth, nineteen hundred and sixteen, relating to  
29 the harbors of Portland and South Portland, and the  
30 Boards of Commissioners for said harbors, are hereby re-  
31 pealed; and all acts amendatory of, or additional to, the  
32 aforesaid acts; and all acts or parts of acts, inconsistent  
33 with, the provisions of this act, so far as they apply to the  
34 harbors of Portland and South Portland, are hereby re-  
35 pealed.