

MAINE STATE LEGISLATURE

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EIGHTY-FOURTH LEGISLATURE

Senate Document

No. 138

S. P. 307.

In Senate, Feb. 6, 1929.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Oakes of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-NINE

AN ACT Entitled "An Act to Create the Port of Portland
Authority."

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

Section 1. There is hereby created "Port of Portland
2 Authority," hereinafter referred to as the "Port Authority,"
3 which shall be a body corporate and politic, having the
4 same rights, privileges and powers as have corporations
5 organized under the general law in addition to, and except
6 in so far as inconsistent with, the powers herein enumerat-
7 ed, with the right to adopt a common seal and to establish
8 by-laws and regulations for the management of its affairs

9 not repugnant to its charter and the laws of this state, and
10 with a principal place of business and office in Portland,
11 Maine.

(a) There is hereby created a district to be known as
2 the "Port of Portland" which shall include the land and
3 waters within the limits of the cities of Portland and South
4 Portland, together with the land and waters of Portland
5 harbor.

(b) The said Port Authority is constituted a public
2 agency of the state of Maine for the general purpose of
3 acquiring, constructing and operating piers and terminal
4 facilities at the Port of Portland, with all the rights, priv-
5 ileges and power necessary therefor, and shall have the
6 power of buying, leasing and otherwise acquiring and of
7 holding, owning, controlling, constructing, leasing, mort-
8 gaging, operating and otherwise using and of selling and
9 otherwise disposing of real and personal property and such
10 rights and easements therein as its directors may from time
11 to time consider necessary for the purpose of constructing,
12 or securing the constructing or utilizing of piers and in
13 connection therewith, highways, waterways, railroad con-
14 nections, storage yards and sites for warehouses and indus-
15 trial establishments, and may lay out and build thereon such
16 piers, with buildings and appurtenances, docks, highways,
17 waterways, railroad connections, storage yards, elevators,
18 public warehouses, and every kind of railroad and marine
19 terminal facility, as, in the opinion of its directors, may

20 be desirable; it may borrow money and secure the same
21 by bonds or by mortgages upon any property held or to
22 be held by it or by pledge of its revenue or tolls, but no
23 lease for a term exceeding five years, mortgage or deed of
24 conveyance of real estate given by the Port Authority shall
25 be valid until approved by the governor and council; it may
26 acquire, hold and operate lighters and other vessels neces-
27 sary or convenient; it may establish and collect the fees,
28 rates, rentals and other compensation for the use of its
29 property and facilities; it shall keep account of its income
30 and expenditures, property and liabilities, in manner ap-
31 proved by the state auditor, who shall audit its books of
32 account at least once a year, and it shall make an annual
33 report of the condition of its property and finances to the
34 governor and council; the net income of the Port Authority
35 may be used for improvements and extensions of the prop-
36 erty of the Port Authority in the discretion of its directors.
37 It may grade and surface any suitable railroad locations or
38 traffic ways which are or may be located on lands, flats or
39 rights therein, now owned or hereafter acquired by it under
40 the provisions of this act, and may carry said ways or rail-
41 roads across any railroad or railway location or public way
42 at, above or below grade, and may provide suitable and
43 convenient track connections between the rails serving any
44 pier or piers and those of any existing or proposed railroad
45 that now reaches or hereafter may reach Portland. All
46 piers held or controlled by it shall also be accessible and

47 open to all loading and lighthouse traffic, subject to such
48 regulations as its directors may from time to time make.
49 Upon application to it any railroad company that now
50 reaches or hereafter may reach Portland, either by its own
51 rails or under trackage or traffic contract or agreement with
52 any other railroad company, may be provided by it with a
53 track connection with the tracks serving such pier or piers.
54 Bonds or other securities issued by the Port Authority shall
55 at all times be free from taxation by the state of Maine.

(c) The Port Authority may establish by contract or
2 otherwise through and interchange rates with carriers con-
3 necting with or using its facilities, and may make contracts
4 with any public utility as defined in chapter fifty-five of
5 the revised statutes, and acts amendatory thereof and addi-
6 tional thereto, for the use by said Port Authority of any
7 facility of such public utility for the transportation of
8 property, as defined in said chapter fifty-five and acts amen-
9 datory thereof and additional thereto, or for joint use, or
10 for use by such public utility for the furtherance of the
11 purposes of this act, and acts amendatory thereof and addi-
12 tional thereto, of any facilities owned by said Port Author-
13 ity or for the joint use thereof.

(d) The Port Authority shall have the right, in accord-
2 ance with the procedure prescribed in chapter fifty-five of
3 the revised statutes and acts amendatory thereof and addi-
4 tional thereto, to file complaint against any public utility
5 or public utilities engaged within the territorial limits of

6 the municipalities of Portland and South Portland in the
7 transportation of property delivered or destined for delivery
8 at or routed over the property of the Port Authority, rep-
9 resenting in such complaint that said public utilities have
10 failed to agree upon joint use of the facilities described in
11 section forty-two of said chapter fifty-five belonging to
12 them or either of them, and by such complaint to invoke
13 the jurisdiction conferred in such cases by said section
14 forty-two upon the public utilities commission upon its own
15 motion or upon complaint of any public utility affected;
16 and said commission may, in accordance with the procedure
17 and conditions prescribed by said section, issue any order
18 for such joint use by said public utilities and prescribe the
19 compensation, terms and conditions therefor as if said pro-
20 ceeding had been initiated upon its own motion or upon
21 complaint of any such public utility.

Sect. 2. The Port Authority shall consist of a board of five
2 directors who shall be in the first instance the directors of the
3 Port of Portland appointed and serving under the provisions
4 of chapter eighty-four of the private and special laws of
5 nineteen hundred nineteen as amended at the time this act
6 takes effect and their terms shall be for the period of their
7 unexpired terms as such directors of the Port of Portland.
8 Thereafter the directors shall be appointed, four by the
9 governor, with advice and consent of the council, and one
10 by the city council of the city of Portland, as follows, at
11 the expiration of the term of any member appointed by

12 the governor, the governor shall appoint one member to
13 serve for three years, and at the expiration of the term of
14 the member appointed by the city council, the city council
15 shall appoint a member to serve for three years. Any
16 vacancy occurring among the directors shall be filled for
17 the unexpired term by the governor or by the city council,
18 according as the vacancy occurs among the members orig-
19 inally appointed by the governor or by the city council re-
20 spectively. In all cases a member shall continue to serve
21 until a successor is appointed and qualified. The directors
22 shall elect from their own number a president and may also
23 elect a treasurer and such other officers as the board of
24 directors may from time to time deem necessary or advis-
25 able and who need not be directors.

(a) All the powers of the Port Authority may be exer-
2 cised by the board of directors in lawful meeting and a
3 majority of the directors shall be necessary for a quorum.
4 Regular meetings of the board of directors may be estab-
5 lished by by-law and no notice need be given to the direc-
6 tors of such regular meeting. Each director shall receive
7 from the Port Authority an annual salary of five hundred
8 dollars, and shall be reimbursed for all expenses incurred
9 in the discharge of his duties as such director. The board
10 of directors shall determine and fix the salary of all other
11 officers and employees of the Port Authority.

(b) Actions at law or in equity in the courts of this
2 state or before the public utilities commission or industrial

3 accident commission may be brought by or against the Port
4 Authority as if it were a private corporation except that its
5 property may not be attached, trustee, or sequestered, but
6 if a judgment recovered against it is not paid within thirty
7 days, its personal property may be seized on execution, pro-
8 vided further, however, that rights granted by said Port
9 Authority by way of mortgage, bond, indenture or pledge,
10 may be enforced as specified in such instrument.

(c) The first meeting of the Port Authority may be
2 called by any director of the Port of Portland by mailing,
3 postage prepaid, a written notice naming the time and place
4 of such meeting to each of the other directors of the Port
5 of Portland seven days, at least, before the day of the meet-
6 ing.

Sect. 3. Upon the completion of the organization of the
2 Port Authority, the directors of the Port of Portland and
3 the state of Maine, acting by the directors of the Port of
4 Portland, shall convey by deed to the Port Authority the
5 land, wharves and privileges conveyed to the said directors
6 of the Port of Portland to hold as the property of the state
7 of Maine by deed recorded in the registry of deeds for
8 Cumberland county in book one thousand eighty-six, page
9 forty-one, together with the structures thereon, shall as-
10 sign to the Port Authority its interest whether as lessor or
11 lessee in all leases of the whole or any part of said property
12 and shall convey to the Port Authority all moneys, accounts
13 receivable, insurance policies and other property of what-

14 ever nature, real or personal, in the custody or control of
15 the directors of the Port of Portland. The city of Port-
16 land, the city of South Portland and The Portland State
17 Pier Site District, are each hereby authorized to convey any
18 and all right, title and interest by reversion or otherwise
19 which they may have in and to the land, wharves and priv-
20 ileges conveyed to the directors of the Port of Portland to
21 hold as the property of the state of Maine by deed recorded
22 in Cumberland county registry of deeds in book one thou-
23 sand eighty-six, page forty-one, without consideration, by
24 good and sufficient deeds of said municipal corporations to
25 be executed by the municipal officers designated by the city
26 councils of said cities and the pier site commissioners of
27 said district, provided that said city councils and said pier
28 site commissioners, at special meetings thereof to be duly
29 called for such purpose, also authorize such conveyance.
30 All real and personal property at any time owned in the
31 name of the Port Authority shall be considered as the prop-
32 erty of the state of Maine and entitled to the privileges and
33 exemptions of property of the state, except in so far as
34 waived by the duly authorized contract, mortgage or other
35 written instrument of the Port Authority, or by this act.

Sect. 4. (a) The Port Authority shall cause to be made
2 all necessary plans for the comprehensive development of
3 the harbor and shall have immediate charge, for the pur-
4 pose of carrying out and making effective the terms of this
5 act, of the land and flats now or hereafter owned by the

6 state upon or adjacent to Portland harbor, and of the con-
7 struction of public piers and other public works therein,
8 shall administer all terminal facilities which are or may
9 hereafter be under its control, and the directors shall keep
10 thoroughly informed as to the present and probable future
11 requirements of steamships and of shipping, and as to the
12 best means which can be provided at the Port of Portland
13 for the accommodation of steamships, railroads, warehouses
14 and industrial establishments. The Port Authority shall
15 employ such engineers, clerks, attorneys, agents, assistants
16 and other employees as it may deem necessary to carry out
17 the purposes of this act and shall determine their duties and
18 compensation.

(b) The Port Authority shall keep at its office maps,
2 charts, plans and documents relating to the lands and waters
3 under their charge. The directors shall at all times have
4 access to any other maps, charts, plans and documents re-
5 lating to said waters and lands, in the office or custody of
6 any other public board, commission or official.

(c) The Port Authority shall take all proper measures
2 to obtain from the city of Portland or the city of South
3 Portland or both, without expense to the Port Authority
4 therefor, a conveyance of all the present right, title and in-
5 terest of the cities or either of them in and to flats and
6 rights of such cities or either of them, which, in the opinion
7 of its directors, are required for the development contem-
8 plated by this act, and the cities of Portland and South

9 Portland, or either of them, are hereby authorized to make
10 such conveyance, and also in furtherance of the develop-
11 ment of the port to make conveyance to the Port Authority,
12 but only for maritime or commercial improvement, of any
13 shore lands owned by such cities elsewhere, acquired either
14 by purchase or taking.

(d) It shall be the duty of the directors to make, and
2 so far as may be practicable, to put into execution, com-
3 prehensive plans providing on the lands now owned or
4 hereafter acquired by the Port Authority at the Port of
5 Portland adequate piers, capable of accommodating, the
6 largest vessels, and in connection with such piers suitable
7 highways, waterways, railroad connections and storage
8 yards, and sites for warehouses and industrial establish-
9 ments.

Sect. 5. The supreme judicial court shall have jurisdic-
2 tion in equity, upon information filed by the attorney gen-
3 eral, of violations of the provisions of this act.

Sect. 6. The Port Authority shall have the right by emi-
2 nent domain paramount to any present or future public use
3 by any person or corporation to take a fee determinable by
4 cessation of the use for which taken or any lesser estate
5 in and to any real estate, personal property, land, privileges
6 and easements necessary or convenient for the carrying out
7 of its purposes to be exercised in the same manner as pro-
8 vided in the case of railroad corporations, damages for real
9 estate taken by condemnation to be estimated and paid in

10 the same manner as provided by law in cases of lands
11 taken for railroad uses, provided however, that the Port
12 Authority shall not condemn any property already subject
13 to a public use unless the public utilities commission shall
14 find specifically that public convenience and necessity re-
15 quire such condemnation.

Sect. 7. If upon petition by the Port Authority the pub-
2 lic utilities commission finds it to be in the public interest
3 and to be practicable without substantially impairing the
4 ability of any common carrier owning or entitled to the en-
5 joyment of terminal facilities within the Port of Portland
6 to handle its own business, it shall have power to require
7 the use (either in common with such carrier or, as to a
8 portion of such terminal facilities, exclusively by the Port
9 Authority) of any such terminal facilities, including docks,
10 piers, warehouses, freight sheds and grain elevators, by the
11 Port Authority for the transportation of property, as de-
12 fined in Chapter fifty-five revised statutes of nineteen hun-
13 dred sixteen and amendments thereof, delivered or deliver-
14 able at or routed over the property of the Port Authority
15 at the Port of Portland on such terms and for such compen-
16 sation as the Port Authority and such carrier may agree
17 upon, or, in the event of a failure to agree, as the public
18 utilities commission may fix as just and reasonable for the
19 use so required, to be ascertained on the principle con-
20 trolling compensation in condemnation proceedings. Such
21 compensation shall be paid or adequately secured before

22 the enjoyment of the use may be commenced. If under
23 this paragraph the use of such terminal facilities of any car-
24 rier is required to be given to the Port Authority, and the
25 carrier whose terminal facilities are required to be used is
26 not satisfied with the terms fixed for such use, or if the
27 amount of compensation so fixed is not duly and promptly
28 paid, the carrier whose terminal facilities have thus been
29 required to be given to the Port Authority shall be entitled
30 to recover, by suit or action against the Port Authority,
31 proper damages for any injuries sustained by it as the re-
32 sult of compliance with such requirement, or just compen-
33 sation for such use, or both, as the case may be.

Sect. 8. The provisions, restrictions and requirements of
2 chapter one hundred ninety-two of the private and special
3 laws of nineteen hundred seventeen, entitled, "An Act to
4 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 powers, acts and duties
7 created or established by this act and imposed upon or en-
8 trusted to the Port Authority or persons acting by or un-
9 der its authority and in the event of conflict between the
10 provisions of the act entitled "An Act to Create a Board
11 of Harbor Commissioners for the Harbor of Portland and
12 Define its Powers" and this act entitled, "An Act to Create
13 the Port of Portland Authority," the provisions of the for-
14 mer act, entitled "An Act to Create a Board of Harbor
15 Commissioners for the Harbor of Portland and Define its

16 Powers," that are in such conflict and inconsistent with this
17 act, shall be suspended and the provisions of this act shall
18 control and be effective, but nothing herein shall be con-
19 strued as affecting or modifying the provisions of chapter
20 one hundred ninety-two of the private and special laws of
21 nineteen hundred seventeen, so far as the provisions of such
22 act relate to persons, firms, corporations, boards or com-
23 missioners other than the Port Authority.

Sect. 9. Other acts modified to conform. Any other act
2 or parts of acts that are in conflict with or inconsistent
3 with the provisions of this act, are hereby suspended and
4 superseded, so far as they relate to the provisions of this
5 act, or any part thereof.

Sect. 10. Chapter eighty-four of the private and special
2 laws of nineteen hundred nineteen as amended by chapter
3 one hundred twenty-three of the private and special laws
4 of the special session of nineteen hundred nineteen as fur-
5 ther amended by chapter one hundred eighteen of the pri-
6 vate and special laws of nineteen hundred twenty-three as
7 further amended by chapter ninety-nine of the private and
8 special laws of nineteen hundred twenty-five, entitled "An
9 Act to Provide for the Building of Public Wharves and for
10 the Establishment of Adequate Port Facilities and for the
11 Advancement of Commerce," is hereby repealed, provided
12 however, that such repeal shall not be effective until the
13 organization of "Port of Portland Authority" hereunder
14 and that the directors of the Port of Portland shall con-

15 tinue to exist as an agency of the state of Maine until they
16 shall have made the conveyances, assignments, etc., which
17 this act provides shall be made by them and further pro-
18 vided that the act so declared to be repealed remain in force
19 for the preservation of all rights and their remedies exist-
20 ing by virtue of it, and so far as it applies to any office,
21 trust, judicial proceeding, right, contract, limitation, or
22 event, already affected by it.

Sect. 11. If any clause, sentence, paragraph, or part of
2 this act shall for any reason be adjudged by any court of
3 competent jurisdiction to be invalid, such judgment shall
4 not affect, impair or invalidate the remainder thereof, but
5 shall be confined in its operation to the clause, sentence,
6 paragraph, or part thereof directly involved in the con-
7 troversy in which such judgment shall have been rendered.