

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-FOURTH LEGISLATURE

Senate Document

No. 406

S. P. 751

In Senate, March 29, 1929.

Reported by Senator Oakes of Cumberland from Committee on Judiciary and laid on table to be printed under joint rules.

ROYDEN V. BROWN, Secretary.

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; but no lease for a term exceeding five years,
21 contract for purchase or construction expending five thou-
22 sand dollars or deed of conveyance of real estate given by
23 the Port Authority shall be valid until approved by the
24 governor and council; no form of indebtedness issued or
25 liabilities incurred by said Port Authority shall become an
26 obligation of the State of Maine and all instruments so is-
27 sued shall so state; it may acquire, hold and operate light-
28 ers and other vessels necessary or convenient; it may es-
29 tablish and collect the fees, rates, rentals and other com-
30 pensation for the use of its property and facilities; it shall
31 keep account of its income and expenditures, property and
32 liabilities, in manner approved by the state auditor, who
33 shall audit its books of account at least once a year, and
34 it shall make an annual report of the condition of its prop-
35 erty and finances to the governor and council; the net in-
36 come of the Port Authority may be used for improvements
37 and extensions of the property of the Port Authority in
38 the discretion of its directors. It may grade and surface
39 any suitable railroad locations or traffic ways which are
40 or may be located on lands, flats or rights therein, now
41 owned or hereafter acquired by it under the provisions of
42 this act, and may carry said ways or railroads across any
43 railroad or railway location or public way at, above or be-
44 low grade, subject, however, to the approval of the public
45 utilities commission, and may provide suitable and con-
46 venient track connections between the rails serving any

47 pier or piers and those of any existing or proposed railroad
48 that now reaches or hereafter may reach Portland. All
49 piers held or controlled by it shall also be accessible and
50 open to all loading and lighterage traffic, subject to such
51 regulations as its directors may from time to time make.
52 Upon application to it any railroad company that now
53 reaches or hereafter may reach Portland, either by its own
54 rails or under trackage or traffic contract or agreement with
55 any other railroad company, may be provided by it with a
56 track connection with the tracks serving such pier or piers.
57 Bonds or other securities issued by the Port Authority shall
58 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 in the transportation of
7 property delivered or destined for delivery at or routed
8 over the property of the Port Authority, representing in
9 such complaint that said public utilities have failed to agree
10 upon joint use of the facilities described in section forty-
11 two of said chapter fifty-five belonging to them or either
12 of them, and by such complaint to invoke the jurisdiction
13 conferred in such cases by said section forty-two upon the
14 public utilities commission upon its own motion or upon
15 complaint of any public utility affected; and said com-
16 mission may, in accordance with the procedure and con-
17 ditions prescribed by said section, issue any order for such
18 joint use by said public utilities and prescribe the compensa-
19 tion, terms and conditions therefor as if said proceeding
20 had been initiated upon its own motion or upon complaint
21 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
3 the Port of Portland appointed and serving under the provi-
4 sions of chapter eighty-four of the private and special laws
5 of 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, trusteeed, 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. *Procedure more minutely set forth.* In order to
2 take any property by right of eminent domain, the port
3 authority shall within ninety days after voting to take any
4 lands or easements therein, file and cause to be recorded
5 in the registry of deeds for the county in which the property
6 to be taken is situated, a description thereof sufficiently

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

Sect. 7. If upon petition by the Port Authority the public

2 utilities commission finds it to be in the public interest and
3 to be practicable without substantially impairing the ability
4 of any common carrier owning or entitled to the enjoyment
5 of terminal facilities within the port of Portland to handle
6 its own business, it shall have power to require the use, in
7 common with such carrier, of any such terminal facilities,
8 including tracks, docks, piers, warehouses, freight sheds and
9 grain elevators, by the port authority for the transportation
10 of property, as defined in chapter fifty-five revised statutes
11 of nineteen hundred sixteen and amendments thereof, de-
12 livered or deliverable at or routed over the property of the
13 Port Authority at the port of Portland on such terms and
14 for such compensation as the Port Authority and such car-
15 rier may agree upon, or in the event of a failure to agree,
16 as the public utilities commission may fix as just and reason-
17 able for the use so required. Such compensation shall be
18 paid or adequately secured before the enjoyment of the use
19 may be commenced. If under this paragraph the use of
20 such terminal facilities of any carrier is required to be given
21 to the Port Authority, and the carrier whose terminal facili-
22 ties are required to be used is not satisfied with the terms
23 fixed for such use, or if the amount of compensation so
24 fixed is not duly and promptly paid, the carrier whose termi-
25 nal facilities have thus been required to be given to the
26 Port Authority shall be entitled to recover, by suit or action
27 against the Port Authority, proper damages for any injuries
28 sustained by it as the result of compliance with such re-

29 quirement, or just compensation for such use, or both, as
30 the case may be. The provisions of this section are subject
31 to the exercise of any jurisdiction which may reside in the
32 interstate commerce commission.

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 even 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 event,
22 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.