

# MAINE STATE LEGISLATURE

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## NINETY - EIGHTH      LEGISLATURE

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### Legislative Document

No. 1464

H. P. 1032

House of Representatives, April 2, 1957

Referred to the Committee on Towns and Counties, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Rollins of Belfast.

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### STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-SEVEN

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#### AN ACT to Create a Board of Harbor Commissioners for Penobscot Bay and River.

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

**Sec. 1. Board of harbor commissioners created; vacancies, how filled.** Four persons shall be selected in the manner provided in section 2, one of whom shall always be a resident of Penobscot county, one shall always be a resident of Hancock county, one shall always be a resident of Waldo county and one shall always be a resident of Knox county, to be known as the Board of Harbor Commissioners for the Harbors of East and West Penobscot Bays and Penobscot River, hereinafter referred to as the "board." Whenever a vacancy occurs in the board by reason of the expiration of the term of office, the Governor, with the advice and consent of the Council, shall fill such vacancy, and the person so appointed shall hold said office for a term of 4 years. In the event of death or resignation of any member of said board or his removal from the county of which he was a resident at the time to his appointment, the Governor, with the advice and consent of the Council, shall fill said vacancy by the appointment of a resident of the same county for the unexpired portion of the term.

**Sec. 2. Choice of members of first board, how effected; tenure of office; organization.** As soon as may be after the effective date of this act, the Governor, with the advice and consent of the Council, shall appoint 4 suitable persons, selected as provided in section 1, as Harbor Commissioners and said persons shall constitute the members of the board hereby created. As soon as such appointments are made, the 4 persons so appointed shall meet and proceed to elect from their membership a chairman and a treasurer. Said board may appoint a clerk

who is not a member of the board, adopt a corporate seal and may, then or at any time thereafter, adopt such rules and regulations as are necessary for the proper conduct of the business of said board. At the same meeting, or as soon thereafter as practicable, the board shall determine by lot the term of office of each member, so that one member shall retire each year. A record of such action shall be made by the clerk of the board; and a certificate thereof, signed by the chairman and attested by the clerk, shall be filed and recorded in the records of the counties of Penobscot, Hancock, Waldo and Knox.

**Sec. 3. Location of office; maps, charts, etc.** Said board shall have an office in the city of Belfast, in which shall be kept all maps, charts, plans and documents relating to the lands and waters over which it has control. The board shall adopt measures to preserve and protect said maps, charts, plans and documents, and arrange so that they may be accessible to those interested, under such rules and regulations as said board may adopt. Said board shall make, or cause to be made, such further maps and plans for the comprehensive development of said Penobscot Bay and the approaches thereto as it may deem proper. To accomplish this end, said members shall keep themselves informed of the present and probable future requirements of steamships and shipping, and as to the best means which can be provided at said ports for the accommodation thereof. It shall also investigate and determine, so far as practicable, what improvements can be made to said harbors and aids to navigation as will make the docks safer and more advantageous and the approaches and entrances to said harbors more practicable; but said board, before incurring any expense under this act, shall submit a report in writing to the board of county commissioners of the county or counties where the proposed improvements are located, stating what action it deems necessary in the furtherance of the purposes of this act and asking for the necessary appropriation to accomplish such ends.

**Sec. 4. Limits described.** The harbors of Penobscot Bays and River shall include, and said board shall be vested with jurisdiction over, all tidal waters which are situated due north of a line extending from the western ear of Isle au Haut to Monhegan Island, so far as the jurisdiction of the State extends, including all channels and entrances into said Penobscot Bays, so far as the same are not under the exclusive control of the United States, and also including all coves, inlets and other parts where the tide ebbs and flows within the limits of said bays and river.

**Sec. 5. Board may establish harbor lines; extensions and alterations of wharves, etc., without consent of board, prohibited.** The board may from time to time establish harbor lines over the whole, or any part, of the waters and territory within its jurisdiction; and thereafter from time to time, alter and modify the same as in the judgment of said board changes in navigation may require.

The creation or maintenance of any obstruction in any of the navigable waters of said harbor, or in any part of said harbor under the jurisdiction of said board (except by the United States), without first obtaining a written permit from said board, is hereby prohibited; and it shall be unlawful to enlarge, or extend any wharf heretofore built, or commence to build any wharf, pier, dolphin, bulkhead or other structure, or dump any stones or other material into any of the waters or upon any part of the flats, or to excavate any part of said harbor, or

to fill in any part thereof, or to modify the course, location or condition of the water of said harbor without such permit.

**Sec. 6. Application for permission to build or extend wharves, etc., how made; procedure.** Any person, firm or corporation intending to do any of the acts referred to in the preceding section shall first make written application to said board, stating the location, limits and boundaries, as nearly as may be, of such intended erections, extensions, obstructions, filling or excavating, and ask a permit therefor. Said board, upon receiving such application, shall give at least 5 days' public notice of the pendency of said petition, and shall therein designate a day on which it will meet on or near the premises described in said application, and examine the same; and if, upon such examination and hearing of all parties interested, said board decides that such erection, extension, obstruction, filling or excavation will not interfere with navigation, nor injure the rights of others, and determine to allow the same, it shall issue to the applicant a permit under the hands of its members and the seal of the board, authorizing such applicant to make the erection, extension, obstruction, filling or excavation therein stated, and to maintain the same within the limits mentioned. The application, with the notice, and proceedings thereon, and the permit granted, shall be recorded by the clerk in a book kept for that purpose, to be entitled "Record of Permits Granted by the Board of Harbor Commissioners for the Harbors of East and West Penobscot Bays and Penobscot River"; and no such permit shall be valid unless signed by at least 3 members of the board. Said board shall also fix a reasonable time for the completion of the work authorized under such permit. If the members of the board shall, at any time, be unable to agree upon any pending application, then they shall call upon the Attorney General of the State of Maine, who shall, in such event, be qualified to act as a member of said board, and the decision of the majority of the board as then existing shall be decisive of such application. The permit, if any is issued, shall show that the Attorney General acted on such matter.

**Sec. 7. Members of board to receive no compensation; fee for permit, how expended.** No compensation shall be paid by the State of Maine to the members of said board for their services; but if a permit be granted, \$75 shall be paid by the petitioner to said board, the same to be applied by said board in paying expenses of the board in connection with applications for permits and in carrying out the purposes of this act.

**Sec. 8. Penalty for violation and for pollution of harbor waters.** Whoever shall violate any provisions of this act or who shall pollute the waters of said harbor, other than through the ordinary use of sewers and drain pipes, shall be deemed guilty of a misdemeanor and liable to prosecution therefor in any court of competent jurisdiction; and on conviction shall be punished by a fine not exceeding \$500; and may also be sentenced to pay all expenses for the abatement or removal of such erection, obstruction or deposit and stand committed until the same shall be paid or satisfactory security given therefor.

**Sec. 9. Writs of injunction.** Whenever on application of the board it shall be made to appear to the Superior Court, at any term thereof holden in the counties of Penobscot, Hancock, Knox and Waldo, or to any Justice thereof out of term time, that any person, firm or corporation is violating, or has violated, any pro-

vision of this act, such Court or Justice may forthwith issue a writ of injunction to stay all proceedings adjudged to be in violation of this act until further order, and may after hearing dissolve, continue or make such injunction permanent and grant such further relief as justice may require, and may adjudge that the person, firm or corporation so violating any provision of this act shall pay all costs and expense of such proceeding.

**Sec. 10. Pilots; board may issue a branch upon examination; shall be recorded; subject to revocation.** Said board shall appoint such number of pilots for the harbor of Penobscot Bays and River as it deems necessary for the safety and convenience of commerce, fix and establish such compensation for the services of said pilots as may, from time to time, be deemed just and reasonable. Persons desiring a branch shall make written application to said board, stating their qualifications therefor, except that said branch shall be issued by the board to any pilot who has engaged in piloting in those waters during the 12 months next preceding the effective date of this act. Said board shall make careful examination and investigation of the qualifications of the applicant, and if satisfied that he has the requisite qualifications may give the applicant a branch under the hands of its members and the seal of the board, authorizing such person to act as pilot for the term of one year from the date of his appointment. Thereafter, said board may from time to time renew the same.

Said branch may be revoked at any time by said board, for negligence, incapacity or for any other reason that said board may deem sufficient. The branch so granted shall be recorded by the clerk of said board in a book kept for that purpose, entitled "Pilots for the Harbor of Penobscot Bays and River;" and the clerk shall receive from the applicant, for making said record, the sum of \$1.

**Sec. 11. Board to establish harbor rules to be enforced by harbor masters and deputies.** Said board shall, from time to time, adopt such rules and regulations as it deems necessary and proper, not inconsistent with law, for keeping open convenient channels for the passage of vessels in the waters under its control. It may establish the boundary lines of such channels, and assign and provide suitable portions of said harbor for anchorages, and fix reasonable penalties for anchoring vessels in such channels. It may also fix reasonable penalties to be imposed upon anyone in charge of any vessel which shall not be promptly moved after notice of any violation of this section. It may grant special permits to wrecking plants and others requiring the temporary use of any part of such channels; fix and determine the time when, and the circumstances under which, vessels may lie at the ends of or alongside of wharves; and upon what notice they shall move from such location. The rules and regulations so adopted shall be enforced and carried out by a harbor masters and deputies appointed by the board in the manner provided in the following section and it shall be the duty of said harbor masters, or his deputies, to collect in the name of said board all penalties incurred for the violation of such rules and regulations as may be promulgated by said board; and the moneys so received shall be applied by said board in carrying out the purposes of this act.

**Sec. 12. Harbor masters and deputies; appointment, tenure, compensation; municipality to provide for transportation facilities.** Said boards shall appoint competent persons as harbor masters and also deputies, but before such harbor

masters or deputies shall be qualified to act, their appointment shall be approved by the officers of the municipality for which they were appointed. The persons so appointed shall receive such compensation as the officers of such municipality shall, from time to time, fix and allow. In the absence or inability of any harbor master to act, his deputy shall have all the powers and authority of each harbor master. Each 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. Said board shall fill the vacancy thereby occasioned in the same manner as hereinbefore provided. Each harbor master shall be provided by the municipality for which he was appointed with transportation necessary for the performance of his duties.

**Sec. 13. Harbor master or deputy may cause vessels to change anchorage; additional powers.** Each harbor master or his deputy shall cause any vessel or vessels, anchoring within the channel lines established by the 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 each harbor, to move to such anchorage as he may designate for said purpose. In addition to the powers prescribed by this act, each harbor master and his deputy shall have all the authority conferred upon harbor masters under the provisions of the general law.

**Sec. 14. Harbor master or deputy may put crew on vessel or may employ tug to enforce orders; lien created.** If any vessel violating the provisions of the 2 preceding sections is without a crew on board, or if the master or person in charge neglects or refuses to move such vessel upon the order of said harbor master or his deputy, then such harbor master or his deputy may put a crew on board, or he may employ a steam tug or other tow boat and move such vessel at the cost and risk of the owner or owners thereof; and the expense occasioned thereby shall constitute a lien upon said vessel, which said harbor master or his deputy may enforce in the name of said board in any manner authorized by law.

**Sec. 15. Assault upon or interference with harbor master or deputy.** If the harbor master or his deputy is obstructed, hindered or delayed in the discharge of the duties of said office, or if any assault is committed upon either of them while in the discharge of their duties, or upon any person assisting them, under the provisions of this act, such harbor master or his deputy shall have authority without warrant to arrest such person or persons so violating the provisions of this act and deliver them to the police authorities. Such person or persons, upon conviction, shall be punished in the manner now provided by law for similar offenses.

**Sec. 16. Jurisdiction extended to other offenses.** Harbor masters and those law enforcement officers at any time assigned to harbor policing by such municipalities shall have the right to pursue and arrest without warrant any person found violating any of the laws of this State, or who are violating or may have violated any of the rules and regulations issued by said board under any provision of this act. Said harbor masters or such law enforcement officers may pursue and arrest such person upon any of the waters of the East and West

Penobscot Bays and River, or upon any of the islands in any of the towns where such person may be found.

**Sec. 17. Board to report annually.** The board shall, on the first day of December of each year, or as soon thereafter as practicable, submit a report of the doings of the board to the county commissioners of the counties of Penobscot, Hancock, Knox and Waldo. It shall also make such recommendations respecting legislation both by the state and federal governments as in its opinion may be necessary or expedient to develop the commerce of said port, improve the access thereto, and enable said board to administer more efficiently the affairs of said port, regulate the shipping therein, and provide for the use of the piers, docks and terminal facilities, and also for improving the pilotage service at said port.

**Sec. 18. Compensation of members of board.** The members of the board shall be entitled to receive from the county in which they respectively reside, such compensation for services actually performed by them as the county commissioners of said counties may from time to time fix and allow.