

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-fourth Legislature

OF THE

STATE OF MAINE

1929

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1929

Private and Special Laws

OF THE

STATE OF MAINE

As Passed by the Eighty-Fourth
Legislature

1929

Chapter 114.

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:

Sec. 1. "Port of Portland Authority," created. There is hereby created "Port of Portland Authority," hereinafter referred to as the "Port Authority," which shall be a body corporate and politic, having the same rights, privileges and powers as have corporations organized under the general law in addition to, and except in so far as inconsistent with, the powers herein enumerated, with the right to adopt a common seal and to establish by-laws and regulations for the management of its affairs not repugnant to its charter and the laws of this state, and with a principal place of business and office in Portland, Maine.

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

(b) **Purposes; powers.** The said Port Authority is constituted a public agency of the state of Maine for the general purpose of acquiring, constructing and operating piers and terminal facilities at the Port of Portland, with all the rights, privileges and power necessary therefor, and shall have the power of buying, leasing and otherwise acquiring and of holding, owning, controlling, constructing, leasing, operating and otherwise using and of selling and otherwise disposing of real and personal property and such rights and easements therein as its directors may from time to time consider necessary for the purpose of constructing, or securing the constructing or utilizing of piers and in connection therewith, highways, waterways, railroad connections, storage yards and sites for warehouses and industrial establishments, and may lay out and build thereon such piers, with buildings and appurtenances, docks, highways, waterways, railroad connections, storage yards, elevators, public warehouses, and every kind of railroad and marine terminal facility, as, in the opinion of its directors, may be desirable; but no lease for a term exceeding five years, contract for purchase or new construction exceeding five thousand dollars or deed of conveyance of real estate given by the Port Authority shall be valid until approved by the governor and council; no form of indebtedness issued or liabilities incurred by said Port Authority shall become an obligation of the state of Maine and all instruments so issued shall so state; it may acquire, hold and operate lighters and other vessels necessary or convenient; it may establish and collect the fees, rates, rentals and other compensation for the use of its property and facilities; it shall keep account of its income and expenditures, property

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and liabilities, in manner approved by the state auditor, who shall audit its books of accounts at least once a year, and it shall make an annual report of the condition of its property and finances to the governor and council; the net income of the Port Authority may be used for improvements and extensions of the property of the Port Authority in the discretion of its directors. It may grade and surface any suitable railroad locations or traffic ways which are or may be located on lands, flats or rights therein, now owned or hereafter acquired by it under the provisions of this act, and may carry said ways or railroads across any railroad or railway location or public way at, above or below grade, subject however to the approval of the public utilities commission, and may provide suitable and convenient track connections between the rails serving any pier or piers and those of any existing or proposed railroad that now reaches or hereafter may reach Portland. All piers held or controlled by it shall also be accessible and open to all teaming and lighterage traffic, subject to such regulations as its directors may from time to time make. Upon application to it any railroad company that now reaches or hereafter may reach Portland, either by its own rails or under trackage or traffic contract or agreement with any other railroad company, may be provided by it with a track connection with the tracks serving such pier or piers. Bonds or other securities issued by the Port Authority shall at all times be free from taxation by the state of Maine.

(c) **May establish rates with carriers.** The Port Authority may establish by contract or otherwise through and interchange rates with carriers connecting with or using its facilities, and may make contracts with any public utility as defined in chapter fifty-five of the revised statutes, and acts amendatory thereof and additional thereto, for the use by said Port Authority of any facility of such public utility for the transportation of property, as defined in said chapter fifty-five and acts amendatory thereof and additional thereto, or for joint use, or for use by such public utility for the furtherance of the purposes of this act, and acts amendatory thereof and additional thereto, of any facilities owned by said Port Authority or for the joint use thereof.

(d) **May file complaints against any public utility.** The Port Authority shall have the right, in accordance with the procedure prescribed in chapter fifty-five of the revised statutes and acts amendatory thereof and additional thereto, to file complaint against any public utility or public utilities engaged within the territorial limits of the municipality of Portland in the transportation of property delivered or destined for delivery at or routed over the property of the Port Authority, representing in such complaint that said public utilities have failed to agree upon joint use of the facilities described in section forty-two of said chapter fifty-five be-

longing to them or either of them, and by such complaint to invoke the jurisdiction conferred in such cases by said section forty-two upon the public utilities commission upon its own motion or upon complaint of any public utility affected; and said commission may, in accordance with the procedure and conditions prescribed by said section, issue any order for such joint use by said public utilities and prescribe the compensation, terms and conditions therefor as if said proceeding had been initiated upon its own motion or upon complaint of any such public utility.

Sec. 2. Directors; appointment of; election of president. The Port Authority shall consist of a board of five directors who shall be in the first instance the directors of the Port of Portland appointed and serving under the provisions of chapter eighty-four of the private and special laws of nineteen hundred and nineteen as amended at the time this act takes effect and their terms shall be for the period of their unexpired terms as such directors of the Port of Portland. Thereafter the directors shall be appointed, four by the governor, with advice and consent of the council, and one by the city council of the city of Portland, as follows, at the expiration of the term of any member appointed by the governor, the governor shall appoint one member to serve for three years, and at the expiration of the term of the member appointed by the city council, the city council shall appoint a member to serve for three years. Any vacancy occurring among the directors shall be filled for the unexpired term by the governor or by the city council, according as the vacancy occurs among the members originally appointed by the governor or by the city council respectively. In all cases a member shall continue to serve until a successor is appointed and qualified. The directors shall elect from their own number a president and may also elect a treasurer and such other officers as the board of directors may from time to time deem necessary or advisable and who need not be directors.

(a) **Meetings of directors; compensation.** All the powers of the Port Authority may be exercised by the board of directors in lawful meeting and a majority of the directors shall be necessary for a quorum. Regular meetings of the board of directors may be established by by-law and no notice need be given to the directors of such regular meeting. Each director shall receive from the Port Authority an annual salary of five hundred dollars, and shall be reimbursed for all expenses incurred in the discharge of his duties as such director. The board of directors shall determine and fix the salary of all other officers and employees of the Port Authority.

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

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accident commission may be brought by or against the Port Authority as if it were a private corporation except that its property may not be attached, trustee, or sequestered, but if a judgment recovered against it is not paid within thirty days, its personal property may be seized on execution.

(c) **First meeting.** The first meeting of the Port Authority may be called by any director of the port of Portland by mailing, postage prepaid, a written notice naming the time and place of such meeting to each of the other directors of the port of Portland seven days, at least, before the day of the meeting.

Sec. 3. Conveyance of land, wharves and privileges to Port Authority. Upon the completion of the organization of the Port Authority, the directors of the port of Portland and the state of Maine, acting by the directors of the port of Portland, shall convey by deed to the Port Authority the land, wharves and privileges conveyed to the said directors of the port of Portland to hold as the property of the state of Maine by deed recorded in the registry of deeds for Cumberland county in book one thousand eighty-six, page forty-one, together with the structures thereon, shall assign to the Port Authority its interest whether as lessor or lessee in all leases of the whole or any part of said property and shall convey to the Port Authority all moneys, accounts receivable, insurance policies and other property of whatever nature, real or personal, in the custody or control of the directors of the port of Portland. The city of Portland, the city of South Portland and The Portland State Pier Site District, are each hereby authorized to convey any and all right, title and interest by reversion or otherwise which they may have in and to the land, wharves and privileges conveyed to the directors of the port of Portland to hold as the property of the state of Maine by deed recorded in Cumberland county registry of deeds in book one thousand eighty-six, page forty-one, without consideration, by good and sufficient deeds of said municipal corporations to be executed by the municipal officers designated by the city councils of said cities and the pier site commissioners of said district, provided that said city councils and said pier site commissioners, at special meetings thereof to be duly called for such purpose, also authorize such conveyance. All real and personal property at any time owned in the name of the Port Authority shall be considered as the property of the state of Maine and entitled to the privileges and exemptions of property of the state, except in so far as waived by the duly authorized contract, mortgage or other written instrument of the Port Authority, or by this act.

Sec. 4. (a) Development of harbor. The Port Authority shall cause

to be made all necessary plans for the comprehensive development of the harbor and shall have immediate charge, for the purpose of carrying out and making effective the terms of this act, of the land and flats now or hereafter owned by the state upon or adjacent to Portland harbor, and of the construction of public piers and other public works therein, shall administer all terminal facilities which are or may hereafter be under its control, and the directors shall keep thoroughly informed as to the present and probable future requirements of steamships and of shipping, and as to the best means which can be provided at the port of Portland for the accommodation of steamships, railroads, warehouses and industrial establishments. The Port Authority shall employ such engineers, clerks, attorneys, agents, assistants and other employees as it may deem necessary to carry out the purposes of this act and shall determine their duties and compensation.

(b) **Maps, plans, etc.** The Port Authority shall keep at its office maps, charts, plans and documents relating to the lands and waters under their charge. The directors shall at all times have access to any other maps, charts, plans and documents relating to said waters and lands, in the office or custody of any other public board, commission or official.

(c) **Conveyances authorized.** The Port Authority shall take all proper measures to obtain from the city of Portland or the city of South Portland or both, without expense to the Port Authority therefor, a conveyance of all the present right, title and interest of the cities or either of them in and to flats and rights of such cities or either of them, which, in the opinion of its directors, are required for the development contemplated by this act, and the cities of Portland and South Portland, or either of them, are hereby authorized to make such conveyance, and also in furtherance of the development of the port to make conveyance to the Port Authority, but only for maritime or commercial improvement, of any shore lands owned by such cities elsewhere, acquired either by purchase or taking.

(d) **Plans for adequate piers, etc.** It shall be the duty of the directors to make, and so far as may be practicable, to put into execution, comprehensive plans providing on the lands now owned or hereafter acquired by the Port Authority at the port of Portland adequate piers, capable of accommodating the largest vessels, and in connection with such piers, suitable highways, waterways, railroad connections and storage yards, and sites for warehouses and industrial establishments.

Sec. 5. Violations of act. The supreme judicial court shall have jurisdiction in equity, upon information filed by the attorney general, of violations of the provisions of this act.

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Sec. 6. Procedure in taking property by right of eminent domain. In order to take any property by right of eminent domain, the Port Authority shall within ninety days after voting to take any lands or easements therein, file and cause to be recorded in the registry of deeds for the county in which the property to be taken is situated, a description thereof sufficiently accurate for identification, and the names of owners, if known, with a general statement of the purposes for which the same was taken, signed by the proper officers of the Port Authority. Notice of such proceedings shall be given to the owners thereof, if known, and the said notice shall be published once a week for three weeks in a newspaper regularly published in the county where the said lands or easements are situated. The recording shall operate as a taking of the real estate and of the rights and easements therein described. No taking shall be valid unless it is recorded in accordance with the provisions of this section. When, for any reason, the Port Authority fails to acquire the property authorized to be taken, and which is described in such description, or when the location or description or both so recorded, is defective or uncertain, the Port Authority may at any time correct and perfect such description or location and file a new description or location in place thereof, and in such case, there shall be liability in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and there shall be no liability for any acts which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys and borings, until the expiration of ten days from said filing, whereon possession may be had of all said lands or interests therein or easements so taken.

Sec. 7. May acquire use of terminal facilities by petition to public utilities commission. If upon petition by the Port Authority the public utilities commission finds it to be in the public interest and to be practicable without substantially impairing the ability of any common carrier owning or entitled to the enjoyment of terminal facilities within the port of Portland to handle its own business, it shall have power to require the use, until such time as the common carrier requires such terminal facilities for its own business, in common with such carrier, of any such terminal facilities, including docks, piers, warehouses, freight sheds and grain elevators, and tracks to said facilities, by the Port Authority for the transportation of property, as defined in chapter fifty-five of the revised statutes of nineteen hundred and sixteen and amendments thereof, delivered or deliverable at or routed over the property of the Port Authority at the port of Portland on such terms and for such compensation until such time as the

common carrier requires such terminal facilities for its own business as the Port Authority and such carrier may agree upon, or in the event of a failure to agree, as the public utilities commission may fix as just and reasonable for the use so required. Such compensation shall be paid or adequately secured before the enjoyment of the use may be commenced. If under this paragraph the use of such terminal facilities of any carrier is required to be given to the Port Authority, and the carrier whose terminal facilities are required to be used is not satisfied with the terms fixed for such use, or if the amount of compensation so fixed is not duly and promptly paid, the carrier whose terminal facilities have thus been required to be given to the Port Authority shall be entitled to recover, by suit or action against the Port Authority, proper damages for any injuries sustained by it as the result of compliance with such requirement, or just compensation for such use, or both, as the case may be. The provisions of this section are subject to the exercise of any jurisdiction which may reside in the interstate commerce commission.

Sec. 8. Provisions and restrictions of P. & S. L., 1917, c. 192, not to control powers created by this act. The provisions, restrictions and requirements of chapter one hundred and ninety-two of the private and special laws of nineteen hundred and seventeen, entitled, "An Act to Create a Board of Harbor Commissioners for the Harbor of Portland and Define its Powers," shall not control, limit, govern, affect or apply to the powers, acts and duties created or established by this act and imposed upon or entrusted to the Port Authority or persons acting by or under its authority and in the event of conflict between the provisions of the act entitled "An Act to Create a Board of Harbor Commissioners for the Harbor of Portland and Define its Powers" and this act entitled, "An Act to Create the Port of Portland Authority," the provisions of the former act, entitled "An Act to Create a Board of Harbor Commissioners for the Harbor of Portland and Define its Powers," that are in such conflict and inconsistent with this act, shall be suspended and the provisions of this act shall control and be effective, but nothing herein shall be construed as affecting or modifying the provisions of chapter one hundred and ninety-two of the private and special laws of nineteen hundred and seventeen, so far as the provisions of such act relate to persons, firms, corporations, boards or commissioners other than the Port Authority.

Sec. 9. Inconsistent acts suspended or superseded. Any other act or parts of acts that are in conflict with or inconsistent with the provisions of this act, are hereby suspended and superseded, so far as they relate to the provisions of this act, or any part thereof.

Sec. 10. P. & S. L., 1919, c. 84; P. & S. L., 1919, c. 123, special ses-

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sion; P. & S. L., 1923, c. 118; P. & S. L., 1925, c. 99; relating to building of public wharves, etc., repealed. Chapter eighty-four of the private and special laws of nineteen hundred and nineteen, as amended by chapter one hundred and twenty-three of the private and special laws of the special session of nineteen hundred and nineteen, as further amended by chapter one hundred and eighteen of the private and special laws of nineteen hundred and twenty-three, as further amended by chapter ninety-nine of the private and special laws of nineteen hundred and twenty-five, entitled "An Act to Provide for the Building of Public Wharves and for the Establishment of Adequate Port Facilities and for the Advancement of Commerce," is hereby repealed, provided however, that such repeal shall not be effective until the organization of "Port of Portland Authority" hereunder and that the directors of the port of Portland shall continue to exist as an agency of the state of Maine until they shall have made the conveyances, assignments, etc., which this act provides shall be made by them and further provided that the act so declared to be repealed remain in force for the preservation of all rights and their remedies existing by virtue of it, and so far as it applies to any office, trust, judicial proceeding, right, contract, limitation, or event, already affected by it.

Sec. 11. **Invalidity of any part not to affect validity of remainder of act.** If any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved April 13, 1929.

Chapter 115.

An Act to Grant a New Charter to the City of Belfast.

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

ARTICLE I.

GRANT OF POWERS TO THE CITY

Sec. 1. **Corporate existence retained.** The inhabitants of the city of Belfast shall continue to be a municipal corporation under the name of the city of Belfast and as such shall have, exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon said city as a municipal corporation; and may enact