

TEXT OF NEW OREGON LAW GOVERNING PORT COMMISSIONS

(REPRINT)

TWENTY FIFTH
REGULAR SESSION

OREGON
LEGISLATURE

HOUSE BILL No. 28

Introduced by Mr. BEAN, and read first time January 12, 1909.

A BILL

For an Act entitled "An Act to provide for incorporation under general law of Ports in counties bordering upon bays or rivers navigable from the sea or containing bays or rivers navigable from the sea, and to provide for the manner of incorporating such Ports and defining the powers of Ports so incorporated."

Be it enacted by the People of the State of Oregon:

Section 1. Municipal corporations designated as Ports may be incorporated in counties bordering upon bays or rivers navigable from the sea or containing bays or rivers navigable from the sea in manner as in this Act hereinafter provided.

Section 2. The following shall be substantially the form of petition for the incorporation of Ports in counties bordering upon bays or rivers navigable from the sea or containing bays or rivers navigable from the sea.

WARNING.

It is a felony for any one to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure or to sign such petition when he is not a legal voter.

Petition For the Incorporation of the Port of _____ in the County of _____, State of Oregon.

To the Honorable County Court of the State of Oregon for the County of _____.

We, the undersigned citizens and legal voters of the State of Oregon and of the County of _____, and residents within the limits of the district in said county hereinafter described, respectfully demand that there shall be submitted to the legal voters of the State of Oregon, County of _____, residing within that portion of _____ County, State of Oregon, described as beginning (here insert exterior boundaries of district) at a special election to be called by said county court, the question whether or not that portion of _____ County, Oregon, described as beginning (here insert description) shall be incorporated as a municipal corporation to be known as the Port of _____ (here insert name of proposed corporation) in accordance with the provisions of that certain Act of the Legislative Assembly of the State of Oregon passed at the regular session in the year 1909, entitled "An Act to provide for incorporation under general law of ports in counties bordering upon bays or rivers navigable from the sea, or containing bays or rivers navigable from the sea, and to provide for the manner of incorporating such ports and defining the powers of ports so incorporated," and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oregon and of the County of _____, and resident within that portion of said county hereinafter described: My residence and postoffice address are correctly written after my name.

Name _____ Residence _____ Postoffice _____
(If in a city, street and number).
(Here follow twenty numbered lines for signatures).

Every such petition and sheets for signatures shall be printed on pages seven inches in width by ten inches in length, with a margin of one and three-fourths inches at the top for binding. Each and every sheet of such petition containing signatures shall be verified on the back thereof in substantially the following form by the person who circulated said sheet by his or her affidavit thereon and as a part thereof:

State of Oregon,)
County of _____) ss.

I, _____, being first duly sworn, say: (here shall be legibly written or typewritten the names of the signers of the sheet), signed this sheet and each of them signed his name thereto in my presence; I believe that each has stated his name, postoffice address and residence correctly, and that each signer is a legal voter of the State of Oregon and County of _____, and resident within that portion of said county within the boundaries therein stated.

(Signature and postoffice address of affiant)
Subscribed and sworn to before me this _____ day of _____, A. D. 19____.
(Signature and title of officer before whom oath is made and his postoffice address.)

The forms herein are not mandatory, and if substantially followed it shall be sufficient, disregarding any clerical and merely technical errors.

Where a petition is filed for the incorporation of a port under the provisions of this Act, the territorial limits of which do not include such county as a whole, the limits proposed by such petition shall not extend beyond the natural water shed of any drainage basin whose waters flow into another bay, estuary or river navigable from the sea situate within such county.

Section 3. The petition for a special election hereinafter provided shall be filed with the county clerk of the county and shall be presented to the county court of said county on the first day of its next regular session. The county court shall forthwith examine such petition and if it appears therefrom that such petition contains the names of eight per cent. of the legal voters of that portion of such county within the exterior boundaries of said district based upon the whole number of votes cast within such district for Justice of the Supreme Court at the general election preceding the filing of such petition, the said county court shall call a special election to be held within such proposed district to be held not less than forty days or more than sixty days as such county court shall determine. At such election there shall be submitted to the legal voters of that portion of said county embraced within the limits described in such petition, whether said portion of said county shall be incorporated as a municipal incorporation to be known as the Port of _____ (here insert name set forth in petition) in accordance with the provisions of this Act.

The ballot title to be used at such special election shall read as follows: "Shall that portion of _____ County, State of Oregon, described as (here insert description) be incorporated as a municipal corporation to be known as the Port of _____ (here insert proposed name) in accordance with the provisions of that certain Act of the Legislative Assembly of the State of Oregon passed at its regular session held in 1909 entitled 'An Act to provide for incorporation under general law of ports in counties bordering upon bays or rivers navigable from the sea or containing bays or rivers navigable from the sea, and to provide for the manner of incorporating such ports and defining the powers of ports so incorporated.'"

The affirmative of the measure upon the official ballot shall be numbered 300 and the negative shall be numbered 301, both in numerals.

The official ballot shall be prepared by the county clerk in accordance with the provisions of the then existing law relative to elections; the judges and clerks appointed by the county court for the preceding general election shall act as judges and clerks of such special election, and the register of voters used at such preceding election shall be used at such special election, and no one but persons authorized to vote within such district at a general election held therein shall be authorized to vote at such special election. Should any of the regular judges or clerks fail to attend such special election their places shall be filled in the manner provided by law in cases of general elections.

The polls shall be kept open between the hours provided for in cases of general elections and notice of time of such special election shall be posted in each polling precinct in which such measure is to be voted upon in like manner as is provided for in cases of general elections.

The judges and clerks shall return the canvass of the vote together with the ballots cast to the county clerk of the county in which the election is held and on the seventh day after the election the county court shall hold a special session and proceed to canvass such vote, and if upon such canvass it appears that a majority of the votes cast at such special election have been cast in favor of such incorporation such county court shall cause to be entered upon the journal of such court a proclamation in language substantially as follows:

"Whereas at a special election duly and regularly held on the _____ day of _____, A. D. 19____, within that portion of _____ County, State of Oregon, described as (here insert description) there was submitted to the legal voters thereof the question whether all that portion of _____ County, State of Oregon, described as (here insert description) should be incorporated as the Port of _____ (here insert name of Port) under and pursuant to the provisions of that certain Act of the Legislative Assembly of the State of Oregon, passed at its regular session held in 1909 entitled 'An Act to provide for incorporation under general laws of Ports in counties bordering upon bays and rivers navigable from the sea or containing bays or rivers navigable from the sea and provide for the manner of incorporating such Ports, and defining the powers of ports so incorporated; and whereas, at such election so held _____ votes were cast in favor of such incorporation and _____ votes were cast against such incorporation.

"And whereas the incorporation of such Port of (here insert name) received the affirmative vote of the majority of the votes cast at such election, now, therefore, the county court of the county of _____, State of Oregon, does hereby proclaim and declare that all that part of _____ County, State of Oregon, described as (here insert description) has been duly and legally incorporated as a municipal corporation under the corporate name of the Port of (here insert name) under and pursuant to and with the powers vested in such corporation by virtue of that certain Act of Legislative Assembly of the State of Oregon, passed at its session held in the year 1909, entitled An Act to provide

for incorporation under general laws of Ports in counties bordering upon bays or rivers navigable from the sea or containing bays or rivers navigable from the sea, and to provide for the manner of incorporating such Ports, and defining the powers of Ports so incorporated."

Section 4. If the county court shall refuse to accept and file any petition for the incorporation of such port, or refuse to accept a call election as provided in Section 3 of this Act, any citizen may apply within ten days after such refusal to the circuit court of the county for a writ of mandamus to compel such county court to do so. If it shall be decided by the court that such petition is legally sufficient and that the requisite number of signatures has been attached to such petition said court shall direct such county court to call such election. Such suit shall be advanced on the court docket and decided by the court as quickly as possible. Either party may appeal to the Supreme Court within ten days after the decision is rendered by serving upon the adverse party or his attorney a notice of appeal and filing the original of the notice with the clerk of such circuit court.

Section 5. All expenses of any special election held under the provisions of this Act shall be paid by the county in which such election is held in like manner as the expense of general election is paid.

Section 6. From and after the date of the Proclamation made by the county court provided for under Section 3 of this Act that portion of such county embraced within the limits defined in such proclamation shall be a separate district to be known as the Port whose name is specified in such proclamation, and the inhabitants thereof shall be a corporation by the name and style of the port specified in such proclamation, and as such shall have perpetual succession, and by the said name shall exercise and carry out the corporate powers and objects hereinafter conferred and declared, and shall make all contracts, hold, receive and dispose of real and personal property, and do all other acts and things which may be requisite, necessary or convenient in carrying out the objects of said corporation, or exercising the powers conferred upon it in this Act set out and expressed, and sue and be sued, plead and be pleaded in all actions, suits or proceedings brought by or against it.

Section 7. Such corporation shall have power:
1. To improve all bays, rivers and harbors within its limits and between its limits and the sea for such width and length and to such depth as it may be deemed necessary or convenient for the use of shipping and as the means at its disposal will allow, and to construct such canals, basins and waterways as it may be deemed necessary or convenient for the use of shipping or the extension of the commerce of such Port.

2. To contract with the Government of the United States to do any or all and any part of the working and maintaining or working or maintaining such a depth of water in such bays, harbors or rivers as said Government of the United States may from time to time determine to make or maintain, and for the making or maintaining of which it shall or may contract with said corporation, and to receive therefor such compensation as may be agreed on between said Government of the United States and said corporation.

3. In carrying on any work in this Act provided to be carried on the said corporation shall have the same right of eminent domain and to take property for public uses as exists at such time under the laws of this State in favor of corporations organized for the construction and operation of railroads, and to be exercised in the same manner and on the same terms as by the laws of this State provided in case of said corporations, save only that in the case of corporations organized under the provisions of this Act the right shall extend to the taking of, and such corporation shall have and there is hereby granted to it the right to take any and all private property under said right of eminent domain which shall be found necessary or convenient in carrying on any work or the exercising, carrying out or executing any power in this Act provided to be carried on, exercised, carried out or executed by it.

4. And to the full extent which the State of Oregon might itself exercise and control, or to which it can grant to corporations organized under the provisions of this Act, the right to exercise the same, corporations organized under the provisions of this Act shall be, and are hereby granted full control of all bays, rivers, and harbors within their limits, and between their limits and the sea, with full power and authority to, from time to time, make, establish, change or abolish wharf lines in such harbors and rivers, and to make, establish, change, modify or abolish such rules and regulations for the use or navigation in such harbors and rivers, or the placing of obstructions therein or the removal of obstructions therefrom, as it may deem convenient, requisite or necessary or in the best interests of the maritime shipping and commercial interests of the said Port, and the said rules and regulations so made by it to be enforced by such fines, penalties and punishments as it in the exercise of sound discretion may deem necessary; and the fines or penalties so imposed or levied shall be recovered in the name of said corporation in any court of this State having jurisdiction of actions for the recovery of fines and penalties imposed by State laws, and shall inure and belong to said corporation; and all punishments so imposed shall be enforced in the name of said corporation in any of the courts of this State having jurisdiction of crimes and misdemeanors under said laws.

5. To establish, maintain and operate a tug boat and pilotage service in said Port and between said Port and the sea, and to that end to purchase, lease, control and operate steam tug boats and steam and sail pilot boats upon such rivers, bays and harbors and upon the sea, and to collect charges from vessels employing such tugs so operated, and for pilotage service rendered by employees of such corporation, and such corporation shall have the right to claim and collect salvage for service rendered to vessels in distress in the same manner as a natural person. The charges for towage and pilotage shall be fixed by the board of commissioners for such corporation, and shall be public and published to the world, and said corporation shall be entitled to a lien upon any vessel for any sums due it for piloting or towing such vessel, and the master and owner of such vessel shall in addition be jointly and severally liable to such corporation therefor. If a vessel or cargo, while being towed by a vessel owned or operated by such corporation, or while under the charge of a pilot employe of such corporation, suffers injury or loss by reason of the fault of such tug or the negligence or incompetency of such pilot, such corporation shall not be liable for any loss or injury thereof in excess of \$5,000.

6. To acquire by purchase, condemnation or other lawful method such lands as it may deem necessary to improve for public convenience and the convenience of its shipping and commercial interests, all or any portion of the water front of its harbors, rivers and waterways; to enlarge its tidal area, construct, excavate or dredge canals and channels connecting its waterways with one another or with other waterways and the sea, and to construct, maintain and operate upon any of the water front so acquired by it, wharves, warehouses and dry docks, and to collect from vessels, using the same, wharfage and drydockage, and to collect from owners or consignees of goods, passing over said docks and warehouses, wharfage and storage charges from goods so handled.

7. Generally to do such other acts and things as shall tend to promote the maritime shipping and commercial interests of such corporation, and to acquire, hold, use, enjoy and dispose of and convey such real and personal property, and to make any and all contracts and to do any and all other acts and things which may be or may become requisite, necessary or convenient in carrying out all or any one or more of the powers in this Act granted it.

8. For the purpose of carrying into effect all or any of the powers hereby granted such corporation shall have the power to borrow money and to sell and dispose of bonds, which bonds shall, however, never exceed in the aggregate 10 per cent of the assessed valuation for State and county purposes of all property within the limits of said corporation, which is by law assessable for State and county purposes. Such bonds shall be issued from time to time as the board of commissioners of said corporation may determine, and shall be of such denomination or denominations and shall run for such term of years and bear such rate of interest as such board of commissioners shall determine; provided, however, such bonds shall not bear interest exceeding in any event the rate of 6 per cent per annum, and they shall be executed on behalf of the said corporation, by its president and secretary, and shall be so conditioned as that said corporation shall therein and thereby undertake, promise, and agree in consideration of the premises, and be held to pay at a place therein named to the bearer thereof, the sum named therein in gold coin of the United States with interest thereon in like gold coin at the rate per annum named therein, payable half-yearly on the first day of January and July in each year in accordance with the tenor and terms of interest coupons thereto attached.

9. Such corporation shall have power and there is hereby granted to it the power to assess, levy, and collect taxes upon all property, real and personal, situated within its boundaries, and which is by law taxable for State and county purposes, and each year not to exceed 1 per cent, the proceeds of which shall be by it applied in carrying out the objects and purposes hereinafter provided; and such corporation shall also have the power each year to assess, levy, and collect a special tax upon all such property, real and personal, in an amount sufficient to pay the yearly interest on bonds theretofore issued by such corporation and then outstanding, together with any portion of the principal of such bonds maturing within such year. Such regular annual and special tax provided for hereby shall be levied in each year in time so as to be extended upon the county tax rolls with the State and county tax for the annual collection of taxes in the spring next following, but in no event later than the 31st day of December in each year. The special tax hereby authorized shall be applied only in payment of interest and principal of bonds issued by such corporation, but such corporation shall have power

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to apply any funds derived from the regular annual tax towards the payment of such principal or interest upon such bonds. All taxes levied by such corporation shall become payable at the same time and to the same officers as regular county taxes are payable and shall be by the county officers collecting the same paid to the treasurer of the said corporation for its use. All taxes levied by corporations incorporated under the authority of this Act shall be levied on the basis of the assessment made by the county in which such corporation is situated for the purpose of the levy of taxes for county or State purposes, with the exception that the levy of such corporation shall be on the property situate within its boundaries only; and for the purpose of the levy of taxes by said corporation the assessment made by such county on the property situate within the boundaries of the said corporation shall be taken to be and shall be the assessment of the said corporation. All regular, annual, and special taxes levied by such corporations in the manner hereinafter provided shall by the proper county officers be extended upon the county tax rolls of such county with the State and county tax for the annual col-

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