Chapter 778

1969 REPLACEMENT PART

Port of Portland; Ports Embracing City of 100,000

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FUNCTIONS AND POWERS OF THE PORT OF PORTLAND

778.005 Definitions for ORS 778.005 to 778.245. As used in ORS 778.005 to 778.245, unless the context requires otherwise:

(1) "Board" means the board of commissioners of the Port of Portland.

(2) "Port" means the Port of Portland.

778.010 Port of Portland created; boundaries; capacity to sue. All of Multnomah County hereby is created as a separate district, to be known as the Port of Portland. The inhabitants thereof hereby are constituted and declared to be a corporation by the name and style of "The Port of Portland," and as such shall have perpetual succession, and by that name shall exercise and carry out all the powers and objects conferred on it by law. The port may sue and be sued, plead and be impleaded in all actions, suits or proceedings brought by or against it; provided, however, that the bonded or other indebtedness of the port which was chargeable to or a lien upon the property within the limits of the port prior to June 30, 1963, shall not be chargeable to or a lien upon all of that property which lies east of the east boundary line of range two east of the Willamette Meridian in Multnomah County.

[Amended by 1963 c.124 §1]

778.015 Purposes and general powers of the port. The object, purpose and occupation of the port shall be to promote the maritime, shipping, aviation, commercial and industrial interests of the port in the manner as the port is by law specifically authorized and empowered. The port may acquire, hold, use, enjoy and dispose of and convey such real and personal property, make any and all contracts the making of which is not by ORS 778.005 to 778.245 expressly prohibited, and do any other acts and things which are requisite, necessary or convenient in carrying out the objects of the port or all or any one or more of the powers granted to it by law. The port may supply surface and air craft with fuel and other supplies at such reasonable cost as may be for the best interests of the port, all within the discretion of the port.

[Amended by 1959 c.362 §1]

778.020 Acquisition by the port of property of City of Portland; assumption of bonds; election. (1) The port may purchase or otherwise acquire all or any of such docks, wharves, elevators, terminals, dry docks and other properties of the City of Portland as at any time are under the charge and control of the dock commission of that city.

(2) If the port so purchases or otherwise acquires, the port may in payment therefor assume the payment of all or any part of the bonds, debentures and other obligations of the City of Portland issued, sold or incurred for the purpose of acquiring funds to construct, purchase or otherwise acquire the docks, wharves, elevators, terminals, dry docks or other properties. The aggregate amount of bonds, debentures and obligations so assumed shall not exceed a sum determined by the board to be the fair value of the property so acquired by the port.

(3) Such property of the city shall not be acquired nor such bonds, debentures or obligations assumed without the approval of the qualified voters residing within the territorial limits of the port expressed at an election called and held within the port at which such question shall be submitted.

778.025 Power to engage in certain commercial activities. The port may:

(1) Acquire by purchase, condemnation or other lawful method such lands as it deems necessary for its use or to be improved for public convenience and the convenience of the air transport, shipping, commercial and industrial development of the port district as well as all or any part of the waterfront of its harbors, rivers and waterways, and acquire by purchase, condemnation or other lawful method such lands as it deems necessary or convenient for the purpose of depositing or dumping thereon earth, sand, gravel, rock or other material dredged or excavated in the exercise of any of its powers from any of the rivers or other waterways or lands within the boundaries or under the control of the port.

(2) Enlarge its tidal area, fill and reclaim lands, and make such disposition by use, conveyance, development or lease of lands so filled or reclaimed as it deems advisable.

(3) Construct, excavate and dredge canals and channels connecting its waterways with one another, with other waterways and with the sea.

(4) Purchase or otherwise acquire, construct, operate, maintain, lease, rent and

dispose of airports, and their approaches, wharves, piers, docks, slips, warehouses, elevators, dry docks, terminals, buildings, and all other facilities and aids incident to the development, protection and operation of the port and of the air transport, shipping, commercial and industrial interests of the port, within the boundaries of the port, and collect wharfage, storage and other charges for the use of such facilities.

(5) Own, acquire, construct, purchase, lease, operate, by steam or other motive power, and maintain within the port boundaries, such lines of railroad, with necessary and convenient sidetracks, turnouts, switches and connections with other lines of railroad, and streets, roads, water mains, sewers, pipelines, and also gas and electric conduits and lines which a utility is unwilling or unable to furnish, which in the judgment of the board may facilitate or promote the air transport, shipping, commercial and industrial interests of the port, within or to or from the boundaries of the port, and as the board may from time to time determine.

(6) Carry and transport freight and passengers thereon and thereover for hire, and perform lighterage for hire.

(7) Establish, acquire, operate and maintain airports without the boundaries of the port but within 40 miles of said boundaries and exercise with respect thereto all powers granted municipalities by ORS chapter 492. The port may acquire land within 40 miles of the boundaries of the port and adjacent to such airports by any lawful means except by condemnation and may exercise with respect to such land all powers granted the port for the promotion of air transport, shipping and commercial and industrial development.

[Amended by 1959 c.362 §2; 1967 c.548 §1]

778.030 Power to issue bonds; limitation. For the purpose of carrying into effect any or all of the powers granted by law to the port, for the purpose of providing funds to meet any or all of the obligations of the City of Portland assumed as provided in ORS 778.020 and for the purpose of operating and maintaining any or all of the properties acquired pursuant to ORS 778.005 to 778.245, the port has the power to borrow money and to sell and dispose of bonds. Such bonds shall never exceed in the aggregate one and one-fourth percent of the true cash value of all taxable property within the limits of the port, computed in accordance with ORS 308.207, provided, that in computing the total of bonds at any time outstanding, bonds issued for the purpose of providing funds to meet such obligations of the City of Portland as may be assumed pursuant to ORS 778.020, by the port shall not be included. The limitation of one and one-fourth percent of the true cash valuation shall apply only to bonds issued by the port for other purposes and includes all bonds outstanding and all bonds authorized by law other than bonds which may be issued on account of the obligations of the City of Portland.

[Amended by 1963 c.9 §39]

778.035 Interest rate and terms of bonds. Bonds shall be issued from time to time as the board shall determine. They shall be of such denominations and shall run for such term of years and bear such rate of interest as the board shall determine. The bonds shall not bear interest exceeding the rate of six percent per annum. They shall be executed on behalf of the port by the president and secretary. They shall be conditioned that the port 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 or registered holder thereof, the sum named therein in legal tender of the United States, with interest thereon in like legal tender at the rate per annum named therein, payable half yearly on January 1 and July 1 in each year.

778.040 Certain bond issues to be approved by voters. (1) No bonds shall be issued by the port to provide funds for the acquisition of lands not required for airports and their approaches or the improvement of the channel of the Columbia or Willamette Rivers, or to provide funds for the construction of docks or wharves, or to provide funds for the establishment or operation of surface ship and air lines, or to provide funds for the payment of bonuses to either such line or lines without the approval of the qualified voters residing within the territorial limits of the port expressed at an election called and held within the port at which such question shall be submitted.

(2) Whenever the port issues bonds for purposes other than refunding bonds previously issued and for purposes other than providing funds to meet the obligations of the City of Portland assumed pursuant to

ORS 778.020 in an aggregate amount equal to five percent of the present assessed valuation of all the taxable property within the territorial limits of the port, no additional bonds shall be issued for purposes other than refunding bonds theretofore issued without the approval of the qualified voters residing in the territorial limits of the port expressed at an election called and held within the port at which such question shall be submitted.

778.045 Amount of bonds which may be issued in one year limited. The total amount of bonds issued by the port in any calendar year for purposes other than refunding bonds previously issued and for purposes other than providing funds to meet the obligations of the City of Portland assumed pursuant to ORS 778.020 shall not exceed $2 million unless a greater amount is approved by the qualified voters residing within the territorial limits of the port at an election called and held within the port at which such question shall be submitted.

778.050 Registration of bonds; effect of registration; transfer of registered bonds. (1) The port shall keep a register of all registered bonds issued by it and of transfers thereof. The amount, date and the name of the owner of each registered bond, with his post-office address, shall be entered in the register.

(2) As to the port, the registered owner of each registered bond shall be taken to be and is the owner thereof. Any payment made by the port on any registered bond, either for the principal thereof or the interest thereon, to the registered owner thereof, the payment being then due under the terms of the bond, or, where the payment is not due under the terms of the bond, the payment being accepted by the registered owner thereof, shall be a payment on the bond on which so made, and to that extent discharges the port from liability thereon.

(3) Registered bonds may be transferred by an assignment under seal, executed in the presence of two witnesses and duly acknowledged as provided by the laws of this state in the case of conveyances of real estate, and not otherwise. From the date of the filing of such assignment so executed with the port, the assignee therein named shall be taken to be and is the owner of the bond or bonds thereby transferred as against the port and has all the rights as thereto had by the original owner thereof. All transfers of registered bonds so made shall be by the port recorded in its registry of registered bonds.

778.055 Sale of bonds; advertisement. All bonds to be issued under ORS 778.030 shall be sold only to the highest and best bidder for cash, and only after the advertisement of such sale in the manner following:

(1) The fact that the bonds are offered for and the time and place of sale.

(2) The amount of bonds to be sold.

(3) The date of the bonds and the terms and time of payment and rate of interest borne thereby.

(4) The terms of sale, together with the place where and the date when bids therefor will be open.

(5) An invitation to bid for the bonds, together with the terms on which the bids therefor will be received and considered.

(6) Advertisement for not less than four successive weeks in the newspaper having the largest circulation in Portland, Oregon.

(7) The last insertion of the advertisement to be in each case not less than one nor more than two weeks next prior to the day of opening bids for the bonds as specified in the advertisement.

778.060 Expenditure of bond sale funds for operating expenses limited. In no calendar year shall any sum in excess of $500,000 derived from the sale of bonds be expended to meet the operating expenses of the port, which words "operating expenses" hereby are defined to mean the maintenance of plant, structures and equipment and such dredging as may be required to preserve or restore at or to its artificial depth any channel previously excavated by the port.

778.065 Port taxing power; limitation. (1) The port may assess, levy and collect taxes upon all real and personal property situated within its boundaries and which is by law taxable for state and county purposes, in such amounts as are required from year to year to pay all sums due as principal and interest upon the bonds issued by the port under ORS 778.030 and for the purpose of meeting the payment of bonds, debentures and other obligations of the City of Portland assumed under ORS 778.020 and also for the payment of all expenses incurred in the exercise of the powers granted to the port.

(2) The amount of taxes levied by the port in any one year for purposes other than the payment of the principal and interest of its outstanding bonds shall not exceed three-fortieths of one percent (.00075) of the true cash value of all taxable property within the limits of the port, computed in accordance with ORS 308.207.
[Amended by 1963 c.9 §40]

778.070 Tax levy, collection, payment, enforcement of collection. (1) The tax provided for by ORS 778.065 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 next following but in no event later than June 30 in each year.

(2) All taxes levied by the port under ORS 778.065 shall be levied on the basis of the assessment made by Multnomah County for the purpose of the levy of taxes for county purposes. For the purpose of the levy of taxes by the port, the assessment made by Multnomah County of the property within the boundaries of the port shall be taken to be as the assessment of the port.

(3) All taxes levied by the port in any one fiscal year shall be entered on the tax rolls and collected as one tax of and for the port of a percent or rate in the aggregate equaling the aggregate of the general and special taxes levied by the port during that year under ORS 778.065.

(4) All taxes levied by the port are 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, as collected, paid to the treasurer of the port for its use.

(5) Property is subject to sale for the nonpayment of taxes levied by the port in like manner and with like effect as in the case of county and state taxes.

778.075 Additional grant of power. (1) The port shall do such other things, perform such other duties and exercise such other powers as it may be in that behalf from time to time authorized or empowered to do, perform or exercise by any Act of the legislature of this state passed for that purpose, though not directly in amendment of ORS 778.005 to 778.245.

(2) The powers granted in ORS 778.020 to 778.055 are in addition to other powers granted by law to the port.

778.080 Rivers, harbors and waterway improvements. The port may so improve the rivers, harbors and waterways within its boundaries and between its boundaries and the sea as to make and maintain for such width and length and as for all or such part of the rivers, harbors and waterways within its boundaries as the port deems necessary or convenient for the use of shipping and as the means at its disposal will allow, between its boundaries and the sea for such width of channel as the port deems necessary, a depth of water of not less than 25 feet at extreme low water, and a depth as much greater than 25 feet as the means at its disposal will allow it to make and maintain and as may appear to the port to be for the best interests of the maritime shipping and commercial interests of the port.
[Amended by 1963 c.145 §1]

778.085 Control over port waters, wharf lines; promulgation and enforcement of navigational rules; construction of section. (1) To the full extent to which the State of Oregon might itself exercise such control, or to which it can grant to the port the right to exercise the same, the port shall have and hereby is granted full control of the rivers, harbors and waterways within its boundaries and between its boundaries and the sea.

(2) The port may from time to time make, establish, change, or abolish wharf lines of, in and for the rivers, harbors and waterways within its boundaries.

(3) The port may make, establish, change, modify or abolish such rules and regulations for the use or navigation of the rivers, harbors and waterways mentioned in subsection (1) of this section, or the placing of obstructions therein, or the removal of obstructions therefrom, as the port deems convenient, requisite or necessary, or in the best interests of the maritime shipping or commercial interests of the port. The port may enforce the rules and regulations so made by it by such fines, penalties and punishments as the port in the exercise of a sound discretion deems necessary. The fines and penalties so imposed or levied are recoverable in the name of the port in any court of this state having jurisdiction of actions for the recovery of fines or penalties imposed by state laws, and shall inure and belong to the port, to go to and form part of its general fund. All punishments so imposed shall be enforced in the name of the

port in any court of this state having jurisdiction of crimes and misdemeanors under state laws.

(4) Nothing in this section permits the removal of bridges or other obstructions existing by virtue of a grant by this state of express authority therefor, or permits excluding cities other than the City of Portland from free access to the channel of either the Willamette or Columbia Rivers or the Oregon and the Columbia Sloughs, or the free use of the same for the purpose of navigation.

[Amended by 1963 c.145 §2]

778.090 Rights of riparian owner and owners of moorage facilities. (1) In all cases of adjoining owners, where it is necessary to create artificial banks to narrow the general channel of the river or slough mentioned in subsection (1) of ORS 778.085, all new lands made shall belong to the adjoining owner and his right shall extend to the new channel the same as to the old, save where, by reason of his refusal to consent to the erection of the works necessary, it was necessary to condemn or take his land or rights under the exercise of the right of eminent domain as provided in ORS 778.095.

(2) In all cases of adjoining owners, where it shall be necessary to widen the general channel or improve the navigation of the river or slough mentioned in subsection (1) of ORS 778.085 by requiring the removal or destruction of moorage facilities for houseboats, boathouses or pleasure craft in such river or slough, or by establishing or re-establishing wharf lines that have the effect of destroying or impairing the riparian rights of said adjoining owners, said adjoining owners or others owning such moorage facilities shall be reasonably compensated for the removal or destruction of such moorage facilities and for the destruction or impairment of said riparian rights; and shall not be required to remove or destroy said moorage facilities in absence of reasonable compensation therefor. The Port of Portland is authorized to condemn said moorage facilities or riparian rights or the real property of said adjoining owners under the exercise of its right of eminent domain.

[Amended by 1953 c.713 §2]

778.095 Eminent domain power. In carrying on any work provided in ORS 778.010 to 778.245 to be carried on by it, or in executing any of the powers granted to it in those sections, the port shall have the same rights of eminent domain, and to take private property for public uses, as exists at this time under the laws of this state in favor of corporations organized for the construction and operation of railroads. Such rights shall be exercised in the same manner and on the same terms as by the laws of this state provided in the case of such corporations, save only that in the case of the port the right shall extend to the taking of, and the port may 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 provided for in ORS 778.010 to 778.245, including the right to take lands which the board determines to be necessary or convenient for the purpose of depositing or dumping thereon earth, sand, gravel, rock or other material dredged or excavated in the exercise of any of the powers of the port from any of the rivers, canals, channels or other waterways and basins or lands within the jurisdiction or under the control of the port and including the right to take lands which shall in part be found necessary or convenient for use in the exercise of any of the powers of the port and in part for use in the exercise of any other power of the port.

778.100 Reclamation of lands within port limits, assessment of damages and benefits, lien; hearing; appeal. (1) Whenever the port in the exercise of any powers possessed by it contemplates the filling or reclamation of any low, swamp or submersible land within its territory held in private ownership, it may provide by ordinance for assessment by the board of the damages and benefits to be sustained by and to accrue to such land by reason of the filling or reclamation in which the question of channel frontage as well as filling shall be considered in assessing benefits, may provide for payment to the owner of the land of such damages and may provide for creation of a lien upon the land in favor of the port for the amount of such benefits and payment of the amount of such lien, either in cash or in instalments, with interest thereon over a term of years.

(2) The ordinance shall provide for a hearing before the board upon due notice to all owners of and persons interested in the lands to be affected by the assessment

of damages and benefits before the assessment is made.

(3) Provision shall be made by the ordinance for an appeal to the Circuit Court for Multnomah County by any owner or person interested in any land affected, who considers himself aggrieved by such assessment. Jurisdiction to hear the appeals and review the assessments is granted to the Circuit Court of Multnomah County.
[Amended by 1969 c.594 §62]

778.105 Port required to contract for work and materials; dry docks; bids. (1) Except as provided in subsection (2) of this section and with the exception of work done by the port direct, through its regular employes, of ordinary current repairs necessary from day to day and of cases of emergency, all material purchased for and all work done in, on or for any dry dock, dredge, boat, scow or other appliance to be built, owned or operated by the port, the purchase being made or the work done by way of construction, alteration or general overhauling, shall be purchased or done by or under contract let to the lowest competent and responsible bidder, after due advertisement of the letting of such contract and the fact that bids were to be received thereon, in all manner as is usual and customary in the letting of contracts by public bidding, and under such general rules and regulations as the port may prescribe.

(2) Notwithstanding any other provision of law, the port may let a contract for the construction of any dry dock to the lowest competent and responsible bidder who submits a bid to construct such dry dock within the port district, if (a) the bid of such bidder does not exceed by more than 10 percent the lowest bid for construction of the dry dock elsewhere, and (b) in the opinion of the board, the public good will in any way be served thereby.
[Amended by 1961 c.11 §1]

778.110 Port may employ and pay personnel. The port may employ such engineers, superintendents, mechanics, clerks and other persons as it finds requisite, necessary or convenient in carrying on its work or any part thereof, and at such rate of remuneration as it deems just; and may pay the actual expenses incurred by any one or more commissioners, incurred by him or them in the service of the port.

778.115 Improvement contracts with Federal Government; disposition of proceeds of contracts. (1) The port may contract with the United States Government to do all or part of the work of making, maintaining, or both, such a depth of water in the rivers, harbors and waterways within its boundaries and between its boundaries and the sea as the government may from time to time determine to make or maintain, and for the making or maintaining of which it shall or may contract with the port.

(2) The port may receive therefor such compensation as is agreed on between the government and the port. All compensation received by the port from the government, and all profit made or earned by the port for or in performing such contracts shall go into the general fund of the port and shall be used and applied by it in such manner only as its funds derived from the general tax which the port is authorized in ORS 778.065 to levy and collect for payment of its general expenses and carrying on its general work.
[Amended by 1963 c.145 §3]

778.120 Operation of ORS 778.005 to 778.245 upon rights of other entities within port limits. Nothing in ORS 778.005 to 778.245 shall be so construed as to interfere with or detract from the general rights and powers of any city, school or road district in whole or in part within the same territory as that occupied by the port, but only so as to give to the port full power to carry out and fulfill the purpose and object of its creation, and to sustain its power of assessing, levying and collecting taxes.

BOARD OF COMMISSIONERS OF THE PORT OF PORTLAND

778.205 Board of commissioners; members; general powers. The power and authority given to the port by ORS 778.010 to 778.245 is vested in and shall be exercised by a board of nine commissioners. Such persons and their successors in office constitute the board of commissioners and as such may exercise such powers, acting together as a board of commissioners at regular or special meetings, in manner as is usual and customary with similar bodies.

778.210 Qualifications of board members; compensation. (1) Any person is eligible for appointment as a commissioner of the port who at the time of such appointment is a citizen of the United States and of the

State of Oregon, and who has for one year immediately preceding such appointment either (a) resided within the port, or (b) resided within 10 miles of the port boundary and been employed or engaged in business within the port.

(2) No commissioner shall receive any salary or compensation for his services as commissioner, or for acting as an officer of the port, other than the reimbursement for expenses actually incurred.
[Amended by 1961 c.469 §1]

778.215 Appointment of board members; confirmation; filling vacancies. (1) Upon the expiration of the term of any board member, his successor shall be appointed by the Governor, subject to the confirmation of the Senate in the manner provided in ORS 171.570. If an appointment is made in the interim between legislative sessions, the Senate shall act through the Committee on Executive Appointments under ORS 171.560. Except as provided in ORS 778.220 and 778.235, such appointees, when so confirmed, shall hold office for a term of four years and until their respective successors have been so appointed and confirmed, and shall have qualified.

(2) If any vacancy occurs by death, resignation or disqualification of any board member, the vacancy shall be filled by appointment by the Governor for the unexpired term subject to confirmation of the Senate in the manner provided by ORS 171.570. If the appointment is made in the interim between legislative sessions, the Senate shall act through the Committee on Executive Appointments under ORS 171.560.
[Amended by 1969 c.695 §15]

778.220 Removal of board members. If the Governor is at any time satisfied that any commissioner of the port has been guilty of malfeasance in office, he may file with the Secretary of State a written statement of the acts of the commissioner constituting the malfeasance. Thereupon the Secretary of State shall transmit a copy of the statement to the commissioner named and another copy to the clerk of the Circuit Court for Multnomah County. After the expiration of 10 days from the delivery of the statement to the commissioner a hearing shall be held before the court, of which hearing the commissioner is entitled to at least five days' notice. If upon the hearing the court determines that the commissioner has been guilty of malfeasance in office, written findings to that effect shall be made and filed by the court, and thereupon the commissioner shall be deemed removed from office. The vacancy so created shall be filled as provided in ORS 778.215.

778.225 Meetings of the board; quorum; executive committee. (1) The board shall hold at least one regular meeting in each month on a day to be fixed by it, and may hold special meetings under such rules as it may make therefor. At all regular and special meetings a majority of the commissioners then members of the board constitutes a quorum.

(2) The board may create an executive committee of which each and every commissioner shall be a member and of which such number less than a majority, as the board may determine, may constitute a quorum for the transaction of business. The committee may hold its meetings under such rules and regulations as the board may prescribe. However, the executive committee has no other or further power than as a committee and as may expressly be conferred upon it as such. In no event shall the committee exercise the general powers of the board. Except to the executive committee, the board has no power to appoint or delegate any part of its power or authority to any other committee.

778.230 Selection of board officers; powers and duties. Annually on such day as is fixed by it, the board shall choose from its number a president, a vice president, a treasurer and a secretary, who shall hold their offices until the next election of officers, who shall respectively have the powers and perform the duties usual in such cases and who shall be known as the president, vice president, treasurer and secretary of the Port of Portland.
[Amended by 1969 c.345 §19]

778.235 Acts and omissions giving rise to vacancies on board; leaves of absence. (1) If any commissioner appointed pursuant to ORS 778.215 refuses to serve, or if any commissioner at any time ceases to have the qualifications required by subsection (1) of ORS 778.210 or fails to attend for the period of 60 successive days any of the regular or special meetings of the board regularly

and duly called and held, his place on the board becomes vacant.

(2) The board may grant a leave of absence not exceeding three months to any commissioner unable so to attend by reason of illness or continued absence from the City of Portland.

[Amended by 1961 c.469 §2]

778.240 Biennial board report. The board shall report to the Legislative Assembly of this state, biennially, everything done or performed by the board under ORS 778.010 to 778.245.

778.245 Contracts between port and members of board prohibited; recovery of payment made on contract; construction of section. (1) The port shall not make any contract of any kind or nature, save only for the repayment of money borrowed and had and used by it, with any one or more of the members of its board, or with any copartnership, firm or corporation of which any commissioner is a member, or in which he is directly or indirectly interested, nor shall any such contract be implied by reason of any benefit or advantage received or enjoyed by the port. All contracts which the port may attempt to make with any member of its board, or in which any such member is directly or indirectly interested, or with any copartnership, firm or corporation of which any such member is a member, or in which any member is directly or indirectly interested, is absolutely null and void, without regard to whether the port may or may not have received and enjoyed any benefits therefrom.

(2) If the port makes any payment on account of such contract, such payment shall be taken to be made without consideration and on an implied promise by the party receiving the same to repay the same, and may be recovered from the party receiving the same in the name of and for the use of the port by an action or suit brought for that purpose. The suit or action may be brought in the name of the port by any commissioner thereof.

(3) Nothing contained in this section shall be so construed as to affect the liability of any commissioner or officer of the port to the port for his acts as a commissioner or officer in carrying out and performing in good faith the duties of his office as such commissioner or officer, or in being liable for any funds or property of the port coming into his hands as such, nor so as to prevent the treasurer of the port from keeping his account as treasurer at any bank chosen by him, whether he is interested therein or not, nor to affect or render invalid any contract for money borrowed and had, received and used by the port, nor so as to in any way affect the validity of any bonds issued by it and sold in the open market as authorized by ORS 778.030 and 778.055, nor to prevent the port from furnishing to or receiving from any commissioner or any copartnership, firm or corporation, of which any commissioner is a member or in which he is directly or indirectly interested, services or facilities at rates established by published tariff for the furnishing thereof to the public, nor to prevent the port from employing any member of any labor organization of which any commissioner is a member, officer or agent.

[Amended by 1961 c.673 §1]

778.250 Port may legislate on internal affairs. The port may legislate with respect to the internal affairs of the port by the adoption of ordinances. The power granted in this section and ORS 778.255 shall be exercised by the board.

778.255 Enactment of port ordinances; effective date; passage; referendum. (1) Every ordinance enacted by the board shall be preceded by an enacting clause substantially as follows: "Be It Enacted by The Port of Portland."

(2) Except as otherwise provided in this section, in order to be effective all such ordinances require the affirmative vote of a majority of the commissioners of the port at a meeting of the board duly and regularly held.

(3) Ordinances making appropriations and the annual tax levy and emergency ordinances shall take effect immediately upon their passage. All other ordinances are subject to the referendum and shall become effective 30 days after publication in some newspaper of general circulation published within the territorial limits of the port, unless a later date is fixed therein, in which event they shall take effect at such later date, subject to the referendum.

(4) Ordinances making appropriations and the annual tax levy and emergency ordinances shall be passed by an aye and nay vote. Emergency ordinances shall contain the statement that an emergency exists and specify with distinctness the facts and reasons constituting the emergency.

(5) The unanimous vote of all the commissioners present, and of not less than seven commissioners is required to pass an emergency ordinance.

(6) In case a referendum petition is filed against any ordinance or part thereof subject to the referendum, the operation of such ordinance or part thereof shall be suspended pending the outcome of the referendum election. During such suspension the board is without jurisdiction over so much of the ordinance as is referred.

778.260 Ordinances for policing or regulating use of port airport. (1) The Port of Portland may by ordinance make, modify or abolish such rules and regulations as the port deems convenient or necessary to provide for policing or regulating the use of airports, and any facilities located at or in conjunction with such airports, owned, operated, maintained or controlled by the port. Any person violating any such ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $250. All actions to impose punishments shall be enforced in the name of the port in any district or justice court in the county in which the violation occurred, and the fines and penalties recovered shall be paid to the clerk of such court, who, after first deducting therefrom the court costs in such proceedings at the rate prescribed by law, shall pay the remainder thereof to the treasurer of the port, to go to and form a part of its general fund.

(2) Every peace officer may enforce the ordinances made by the port under subsection (1) of this section. The port, for the purpose of enforcing such ordinances, may appoint peace officers who shall have the same authority, for the purpose of the enforcement of such ordinances, as other peace officers.

(3) The provisions of ORS 221.340 hereby are made applicable in the enforcement of the ordinances made by the port under subsection (1) of this section.

[1955 c.425 §§1, 2, 3]

PORTS HAVING 100,000 OR MORE POPULATION

778.405 Definitions for ORS 778.405 to 778.475. As used in ORS 778.405 to 778.475, unless the context requires otherwise:

(1) "Board" means the board of commissioners of a port.

(2) "Port" means a municipal corporation designated as a port by any special law of this state and which embraces within its boundaries a city of a population of 100,000 or more.

778.410 Powers granted in ORS 778.405 to 778.475 are additional. The powers granted to ports in ORS 778.405 to 778.475 are in addition to any other powers the ports possess.

778.415 Ports may provide transportation for hire. The port may:

(1) Transport for hire, passengers, mails, express company matter, goods, wares, merchandise, animals and other property and material of all kinds and nature whatsoever, and from any city or place within the territorial limits of the port as the home port or principal terminus, to, from and between the various cities, towns, seaports, river ports or landing places of the world, by means of steam, sailing or auxiliary vessels, steamboats, river boats and barges.

(2) Purchase, sell, own, charter by becoming either party to a charter-party, employ, operate and maintain steam, sailing, auxiliary vessels, steamboats, river boats and barges, and lease or rent such buildings, warehouses, wharves, piers, quays and basins, or parts thereof, and enter into agreements for assignment of space in any thereof, and pay such pilotage, towage, wharfage, taxes, entrance, clearance, governmental and port charges, dockage, storage, lighterage, loading and unloading, handling and stevedoring charges as may be necessary or advantageous for carrying on business within the United States, any of its territories or possessions or in any foreign countries, under any of the powers expressed or implied by or from statute law.

778.420 Ports may purchase shipping. The port may acquire, purchase, sell, charter by becoming either party to a charter-party, own, employ, operate and maintain such lighters, steam tugs, steamboats, barges and coal barges as may be necessary or advantageous for carrying on business either in the United States, or any of its territories or possessions or any foreign countries, under any of the powers expressed or implied in statute law.

778.425 Acquisition of port facilities by ports; effect. The port may construct, or cause to be constructed, acquire, purchase, own, hold, lease, rent, collect storage, dockage or wharfage, sell, operate and maintain, together with the necessary land therefor, such coal bunkers, ballast docks, oil docks and ore docks, in, upon, adjacent to any of the navigable waters of this state as are within the territorial limits of the port, or contiguous or adjacent thereto. The exercise of any power granted in this section shall not be construed to impair, revoke or cancel any right, franchise, lease or license now existing in any person, firm or corporation upon such navigable waters.

778.430 Ports may have foreign offices; may obtain cargo and tonnage. The port may have such offices or agencies anywhere in the United States, in any of its territories or possessions and in foreign countries as may be necessary or advantageous in carrying on the business under the express or implied powers conferred by statute law; and may do all things necessary and desirable to secure and obtain cargo and tonnage for transportation lines owned and operated either by such port or by private transportation lines.

778.435 Port charter and affreightment contracts; bills of lading; purchase and sale of fuel. The port may:

(1) Procure and make contracts for and of employment, affreightment and charter, as is usual or advantageous in the carrying on of the business of foreign, domestic, deep sea, coastwise or inland waterway transportation and commerce.

(2) Issue bills of lading, warehouse receipts and such other documents of a like or different kind, as is usual or advantageous in the carrying on of the business under the expressed or implied powers of the port conferred by statute law.

(3) Engage generally in the business of buying and selling of coal, fuel oil and all kinds of fuel, for steamboats, steam vessels, power vessels and vessels of all kinds.

778.440 Ports may borrow money and issue bonds; limitations, terms, conditions, procedure. (1) For the purpose of carrying into effect any or all of the powers granted in ORS 778.405 to 778.475, the port may borrow money and sell and dispose of bonds. However, such bonds shall never exceed in the aggregate, exclusive of bonds outstanding on May 21, 1917, or of any unused bonding power then existing, one and one-fourth percent of the true cash value of all taxable property within the limits of the port, computed in accordance with ORS 308.207.

(2) Such bonds shall be issued from time to time as the board determines and shall be of such denominations, and run for such period of years, and for such rate of interest not exceeding six percent per annum, as the board determines.

(3) No such bonds shall be issued unless authorized by the majority of the duly qualified voters voting upon the question as provided in ORS 778.445 and 778.450.

(4) Every such issue of bonds shall be in serial form so as to mature in numerical order in equal instalments annually on and after five years from date. No issue shall run for a term of years beyond what the board determines to be the probable life of the utility for which they are issued.

(5) Such bonds shall be signed on behalf of the port by its president or chairman, and countersigned by its secretary, and shall be so conditioned that the port 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 or registered holder thereof, the sum named therein, at the maturity thereof, in lawful money of the United States, with interest thereon in like lawful money, at the rate per annum named therein, payable half yearly on January 1 and July 1 in each year, in accordance with the tenor and terms of interest coupons thereto attached.

(6) Such bonds shall be known as utility bonds of the Port of (insert name of port), County of (insert name of county), State of Oregon, as the case may be.

(7) The bonds shall be sold for cash to the highest responsible bidder, upon sealed bid after advertising. The commission may reject any and all bids tendered for the bonds and proceed to readvertise when bids are not satisfactory.

[Amended by 1963 c.9 §41]

778.445 Election for bond issuance; notice of election. (1) Before any port issues any bonds under ORS 778.440, the board shall call a special election at which shall be submitted to the legal voters of the port the question whether the bonds of the port shall be issued.

(2) Notice of the election shall be given by posting notices in three public places in each election precinct within the territorial limits of the port for at least 10 days immediately preceding the election, and also by publication of the notice in some newspaper published within the territorial limits of the port, once a week for at least three consecutive weeks before the election. The last publication of the notice shall not be more than 10 days immediately preceding the election. The notice shall be signed by the president or chairman and secretary of the board and shall state the time and place of holding the election and the object thereof.

778.450 Conduct of election; ballot; voter qualifications; effect of election; subsequent bond election; effect of irregularities. (1) The election shall be held, as nearly as practicable, under and in accordance with the general election laws of this state. The regular judges and clerks of election appointed for state and county elections shall act as judges and clerks of election. The votes at any election held under ORS 778.445 and this section shall be counted, canvassed, certified and returned to the county clerk of the county in which the port is situated. The county clerk shall make an abstract of the returns and deliver the same, duly certified, to the secretary of the port.

(2) At such elections the ballots shall contain the words, as one proposition to be voted on: "Bonds in the amount of $..... for construction, maintenance and operation of (here state the utility), Yes, No, (or words equivalent thereto)."

(3) If a majority of those voting on the question vote "Yes," the board may issue bonds in the amount designated by the ballot at the election. If a majority of those voting on the question vote "No," the result of the election shall be so declared and entered of record in the minutes of the board.

(4) Whenever thereafter the board deems it for the best interests of the port that the question of issuing of bonds as provided in ORS 778.440 shall be submitted to the legal voters of the port it shall so declare of record in its minutes, and may thereupon submit the question to the legal voters of the port in the same manner and with like effect as at the previous election.

(5) At all elections held under ORS 778.445 and this section the qualifications of an elector shall be the same as under the general election laws of this state.

(6) No informality or irregularity in conducting any election under ORS 778.445 and this section shall invalidate any bonds issued by the port by virtue of such election.

778.455 Special bond tax. The port shall levy and collect a special tax each year upon all real and personal property situated within its boundaries and by law taxable for state and county purposes, in an amount sufficient to pay the yearly interest on bonds thereof, issued by the port and then outstanding, together with any portion of the principal of such bonds maturing within such year. The port may include in such special tax an amount sufficient to pay the interest to become due during the year of the levy on any issue of bonds authorized by the port and not issued at the time of the levy.

778.460 Maintenance tax. The port may annually assess, levy and collect taxes upon all real and personal property within its boundaries which is by law taxable for state and county purposes, in an amount sufficient to provide for the repairs and maintenance, during the probable life of the utilities employed by such port under any of the powers conferred by ORS 778.405 to 778.475.

778.465 Tax for operating expenses. The port may annually assess, levy and collect taxes upon all real and personal property within its boundaries which is by law taxable for state and county purposes, not to exceed one-eightieth of one percent (.000125) of the true cash value of the property, computed in accordance with ORS 308.207, for the purpose of operating expenses to inaugurate and maintain any or all of the utilities provided for in ORS 778.405 to 778.475.

[Amended by 1963 c.9 §42]

778.470 Tax levy; collection; payment; enforcement of collection. (1) All the regular annual and special taxes provided for in ORS 778.455 to 778.465 shall be levied in each year in time so as to be extended upon the county tax rolls with the state and county taxes for the annual collection of taxes next following, but in no event later than June 30 in each year.

(2) All taxes levied by the port shall become due and payable at the same time

and to the same officers as regular county taxes are payable, and shall be by the county officer collecting the same, paid to the treasurer of the port for its use.

(3) All annual or special taxes levied by the port under ORS 778.455 to 778.465 shall by the proper county officers be extended upon the county tax rolls with the state and county tax for the annual collection of taxes next following, and shall be entered on the tax rolls, when collected, together with all other regular annual or special taxes of the port, as one tax of and for the port, of a percent or rate in the aggregate equaling the aggregate of the general, regular annual and special taxes so levied by the port during such year under authority of law.

(4) All such taxes, when delinquent, shall bear the same interest and penalties as are now provided by law for state and county taxes.

(5) Property is subject to sale for nonpayment of taxes levied by the port in like manner and with like effect as in the case of county and state taxes.

778.475 Exercise of eminent domain power. In carrying out any of the powers provided in ORS 778.405 to 778.475 to be carried out by it, the port shall have the right of eminent domain, and to take private property for public use, as exists at this 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 in the case of such corporations; except, that in case of the port the right shall extend to the taking of 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 exercise, carrying out or executing any power provided in ORS 778.405 to 778.475 to be carried on, exercised, carried out or executed by it.

778.480 Port civil service. The board may provide a general system, based upon examination and investigation as to merit, efficiency and fitness, for the appointment, employment and promotion of employes of the port, and regulate the transfer, reinstatement, suspension and discharge of the employes. The board may provide for the creation and appointment of a port civil service commission for the port, and prescribe the powers and duties of such commission.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1969.

Robert W. Lundy
Legislative Counsel

CHAPTER 779

[Reserved for expansion]