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IN THE HOUSE

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HOUSE BILL NO. 158

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing the incorporation of port districts, creating a port commission to operate and maintain the same, fixing the rights and powers of such port districts, and authorizing the levy of taxes by the same."

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

Section 1. The people of any incorporated city or cities and its or their adjacent settlement or settlements or area may incorporate as a port district in the manner hereinafter provided, but any such port district shall not embrace more than five hundred square miles of territory.

Section 2. Whenever there shall be more than one incorporated city within the boundaries of any such port district, the using of all words applicable to cities, their officers or councils in the singular in this act shall be construed to include the plural of such words.

Section 3. Each port district organized under the provisions of this act shall have a board of commissioners of five members, to be elected as hereinafter provided, who shall have the exclusive management and control of all port district matters and business.

Section 4. Within seven days after each annual regular port district election, which election shall be on the same day

1 and at the same time as the city election in each such district,
2 the commissioners shall convene and elect one of the members
3 as president, one as treasurer, and one as secretary of the
4 board. Said board shall also appoint one of its number, or any
5 resident of the district, to act as assessor.

6 Section 5. The manner of incorporation of port districts
7 shall be as follows: A petition praying for such incorporation
8 shall first be presented to the Judge of the United States
9 District Court of the Judicial Division in which the proposed
10 port district is located. Such petition must be signed by at
11 least 250 qualified voters and residents of the proposed port
12 district, or as many such voters and residents as would be
13 equal to twenty-five per cent of the number of persons who
14 voted in the proposed district at the last general election.
15 Said petition shall specify the boundaries of and the name by
16 which said port district is to be known and, as nearly as
17 practicable, the number of inhabitants residing in the proposed
18 district. If petitions covering different areas are presented
19 to the court at the same or substantially the same time, the
20 same may be considered together by the court and may be com-
21 bined by the court in one proposed district as long as the
22 total area thereof does not exceed five hundred square miles
23 and the signatories on said petitions equal at least twenty-
24 five per cent of the qualified voters who voted in said com-
25 bined area at the last general election.

26 Nominations for the office of commissioner of the proposed
27 port district may be made by petition signed by at least twenty-
28 five per cent of the qualified voters authorized to vote at
29 the election for the incorporation of such district, and shall

1 be filed with the District Clerk within ten days after the
2 petition for incorporation has been filed.

3 The Judge of the District Court upon presentation and
4 filing of such petition or petitions, and upon being satisfied
5 that the same have been signed by qualified voters residing
6 in said area equal to at least twenty-five percent of the
7 people who voted in said area at the last general election, or
8 250 qualified voters, shall fix the boundaries for said pro-
9 posed port district and shall order an election to be held
10 therein for the purpose of determining whether or not such port
11 district shall be incorporated. No territory shall be included
12 by said judge in said proposed port district unless the same
13 was included in said petition or petitions. Said order shall
14 designate the date of such election, the places and hours of
15 voting, and shall appoint three qualified voters residing in
16 the proposed port district to supervise and appoint judges and
17 election officers for such election.

18 A printed or typewritten copy of such order shall be posted
19 in at least three public places within the limits of the pro-
20 posed port district at least thirty days prior to the day of
21 election and such posting shall be sufficient notice thereof.

22 Section 6. The qualifications of the voters at said elec-
23 tion or any subsequent port district election shall be as
24 follows: All citizens of the United States twenty-one years of
25 age and over, who are actual and bona fide residents of Alaska,
26 who have been such residents continuously during the entire
27 year immediately preceding such election, who have been such
28 residents continuously for thirty days immediately preceding
29 such election in such port district, and who are able to read

1 and write the English language as prescribed by an Act of the
2 United States Congress adopted March 3, 1927, and entitled
3 "An Act to prescribe certain qualifications of voters in the
4 Territory of Alaska and for other purposes," shall be quali-
5 fied to vote at such elections; provided, however, that the
6 requirements of this section as to ability to read and write
7 shall not apply to any person who is incapacitated from comply-
8 ing therewith by reason of physical disability alone. The
9 persons appointed to conduct such incorporation election shall
10 provide a form of printed ballot suitable for determining the
11 question of whether each voter is in favor of or against the
12 incorporation of such district and for determining the five
13 commissioners who will act as the original board of commission-
14 ers of such port district if a majority of the voters voting
15 at such election vote in favor of the incorporation thereof.

16 Section 7. The judges of election shall be qualified
17 voters in the proposed port district, and before entering upon
18 the duties of their offices shall take an oath in writing to
19 faithfully and impartially discharge the duties of their trust.
20 Within three days from the date of such election, they shall
21 canvass the votes cast and issue under their hands and seals a
22 certificate in duplicate showing the number of votes cast in
23 favor of incorporation and the number of votes cast against
24 incorporation. One of said certificates, together with all
25 ballots and oaths of the judges of such election, shall then
26 immediately be filed with the Clerk of the District Court in
27 which such proposed district is situated. The second certifi-
28 cate shall become a part of the permanent records of the port
29 district in case the majority of said votes cast are in favor

1 of incorporation.

2 The said judges shall also canvass the vote cast at said
3 election for members of the commission of the port district,
4 and in case the majority of the votes cast are in favor of
5 such incorporation, the judge shall declare the five candidates
6 who have received the greatest number of votes for such office
7 duly elected, and shall issue and deliver to them certificates
8 of their election. One copy of each such certificate shall
9 also be filed with the District Court, and a second copy shall
10 become a part of the records of the port district. No candi-
11 date for any port district office shall be eligible to serve
12 as a judge of election.

13 Section 8. If a majority of the votes cast at said elec-
14 tion are in favor of incorporation, the District Judge by an
15 order in writing entered in the records of the court shall
16 find, adjudge and declare that the territory in which such
17 incorporation election was held is a port district corporation
18 and that the same shall thenceforth exercise the powers which
19 are herein and which may be hereafter granted by law. Said
20 order shall designate the port district by name, and shall
21 definitely describe its boundaries.

22 Section 9. The members of the board of commissioners of
23 the port district chosen at said incorporation election, as
24 well as those chosen at subsequent elections, shall be quali-
25 fied voters in the port district, and before entering upon the
26 duties of their offices shall severally take an oath in
27 writing to faithfully and honestly discharge such duties. All
28 of such oaths shall be filed with the Clerk of the District
29 Court in which the port district is situated, and copies thereof

1 shall be made a part of the permanent records of the port
2 district.

3 Section 10. The term of office of the members of the
4 commission of each port district shall be five years, with one
5 member retiring each year and one new member being elected to
6 take his place, except that the terms of the first five members
7 shall be as follows: Immediately after qualifying as commis-
8 sion members, the commissioners shall assemble and shall by lot
9 draw the numbers 1, 2, 3, 4 and 5. The member drawing number
10 1 shall hold office until the next regular port district elec-
11 tion, at which time his successor shall be elected. The mem-
12 ber drawing number 2 shall hold office until the second regular
13 port district election following, at which time his successor
14 shall be elected. The member drawing number 3 shall hold office
15 until the third regular port district election following, at
16 which time his successor shall be elected. The member drawing
17 number 4 shall hold office until the fourth regular port district
18 election following, at which time his successor shall be elected.
19 The member drawing number 5 shall hold office until the fifth
20 regular port district election following, at which time his
21 successor shall be elected. Nothing in this section shall be
22 construed to prevent a member of the commission from seeking
23 reelection after his term of office shall have expired.

24 Section 11. In case a vacancy in the membership of said
25 port commission occurs for any reason whatsoever, the remaining
26 members of the commission shall elect a new commissioner, who
27 shall serve as a member of the commission until the next regular
28 port district election. In case the remaining members of the
29 commission cannot agree on such new member, they shall call a

1 special election for the purpose of filling such vacancy.

2 Section 12. All regular or special port district elec-
3 tions shall be under the jurisdiction of the port commission,
4 which shall prescribe and fix rules for the conduct thereof,
5 for giving notice of the same, and for canvassing the results
6 thereof. The port commission shall also designate and provide
7 all polling places, shall appoint all election officials, pre-
8 pare all ballots, and attend to all other matters pertaining to
9 such elections.

10 Section 13. The port commission shall adopt rules govern-
11 ing the manner of transaction of its business, and shall provide
12 and adopt an official seal. All proceedings of the commission
13 shall be by motion, resolution or ordinance recorded in a
14 book or books kept for such purpose by the secretary of the
15 commission, which book or books shall be public records. The
16 treasurer of the commission shall be custodian of all money
17 belonging to the district, and all moneys in any fund or funds
18 of the district shall only be disbursed by him on warrants of
19 the district drawn and signed by the treasurer, or a port
20 auditor to be appointed by the port commission, upon order of
21 or voucher approved by the commission.

22 It shall be the duty of the port district assessor to
23 place an assessed valuation on all taxable real and personal
24 property outside any city or independent school district and
25 within the limits of the port district in accordance with the
26 valuations of similar property within such city. Such assessor,
27 before assuming the duties of his office, shall take an oath in
28 writing to honestly and faithfully discharge the duties of his
29 office. The assessments as equalized for city or school

1 district purposes by the proper authorities on all taxable
2 real and personal property within any city or independent
3 school district in the port district shall be adopted and used
4 by the port district for the purposes of port district taxation
5 and shall be considered port district assessments.

6 Said treasurer and assessor shall each give such bond with
7 such surities as the port commission may require. Said bonds
8 shall be conditioned for the honest and faithful collection and
9 disbursing of and accounting for all moneys of the district that
10 may come into the hands of each of said officers by virtue of
11 their offices.

12 Section 14. The members of the port commission shall not
13 be entitled to any compensation for serving as members of such
14 commission. However, they may be reimbursed for actual expenses
15 incurred for attending board meetings or traveling on port
16 district business if the commission shall so authorize. The
17 port commission shall determine what compensation, if any, shall
18 be paid the secretary of the port commission and the treasurer
19 and assessor of the port district. However, such officers shall
20 be reimbursed for actual expenses incurred in performance of
21 their duties as such officers.

22 Section 15. The port commission shall have authority to
23 create and fill such other positions and fix salaries therefor
24 and bond thereof as it may by resolution provide. The port
25 commission shall also have authority to adopt by resolution all
26 such rules and regulations as may be necessary for the conduct
27 of the business of the port district and for the operation and
28 maintenance of its facilities.

29 Section 16. Port districts organized under the provisions

1 of this act shall be and are hereby authorized to acquire by
2 purchase or condemnation, or both, all lands, property, prop-
3 erty rights, leases or easements necessary for the purposes
4 of the district, and to exercise the right of eminent domain
5 in acquiring or condemnation of all land, property, property
6 rights, leases or easements; to develop and improve such lands
7 and property to make the same suitable and available for busi-
8 ness and industrial uses and purposes; to provide, maintain and
9 operate water, light, power and fire protection facilities and
10 services, roads, highways and waterways on such lands and pro-
11 perty; to dredge, bulkhead, fill, grade, and protect such
12 lands and property; to lay out, construct, condemn, purchase,
13 acquire, add to, maintain, conduct, and operate any and all
14 systems of seawalls, jetties, piers, wharves, docks, boat land-
15 ings, warehouses, storehouses, elevators, bunkers, oil tanks,
16 ferries, canals, locks, tidal basins, bridges, subways, tram-
17 ways, cableways, conveyors, together with all other appliances
18 and facilities necessary for the proper and economical handling,
19 storing and transporting of freight and passenger traffic and
20 for other harbor improvements, rail, water and land transfer,
21 and terminal facilities within such port district; to acquire
22 by purchase or condemnation, or both, land, property, property
23 rights, leases or easements, and to improve such lands, property
24 and interests in property by dredging, filling, bulkheading,
25 providing waterways or otherwise developing such lands, property
26 or interests therein for sale or lease by the port district as
27 sites for all commercial or business enterprises; to execute
28 leases of all lands, property, or any part thereof, wharves,
29 docks, and other facilities owned and controlled by the port

1 district, upon such terms as the port commission may deem
2 proper; to improve navigable and non-navigable waters of the
3 United States and the Territory of Alaska within the port
4 district; to create and improve for harbor purposes new water-
5 ways within the port district; to regulate and control all
6 such waters and all natural or artificial waterways within the
7 limits of such port district to the extent that this territory
8 can grant the same; to straighten, widen, deepen, remove
9 obstructions, and otherwise improve any and all waters, water
10 courses, bays, lakes or streams, whether navigable or other-
11 wise, flowing through or located within the boundaries of the
12 port district; to fix absolutely and without right of appeal
13 or review the rates of wharfage, dockage, warehousing and
14 port and terminal charges upon all improvements and facilities
15 owned and operated directly by the port district and charges
16 and tolls for ferries operated by the port district; to sell
17 or otherwise dispose of any real or personal property or
18 interest or interests therein owned by the port district upon
19 a finding by the port commission of such district that the
20 same is no longer necessary for the conduct of the business and
21 operation of the facilities of the port district.

22 Port districts shall have the same right of eminent domain
23 as granted first class cities of the Territory of Alaska as set
24 forth in Title 57, Chapter 7 of Alaska Compiled Laws Annotated
25 1949, as later amended, and in exercising the power to condemn
26 granted thereunder, shall proceed in the same manner as pro-
27 vided under such statutes for such first class cities; except
28 that port districts shall not exercise the right of eminent
29 domain against property of the Territory of Alaska or any

1 political subdivision thereof.

2 Section 17. Port districts may, by agreement with the
3 Territory of Alaska or any political subdivision thereof, pur-
4 chase or agree to operate and maintain any port facility or
5 other property owned or controlled by the Territory or such
6 political subdivision which port districts are herein author-
7 ized to operate or own. Such agreements may be made on such
8 terms as are mutually satisfactory to the parties.

9 Section 18. Port districts may raise revenue by levy of
10 an annual tax on all taxable property within the district for
11 annual operating expenses, and are hereby authorized, prior to
12 the receipt of taxes raised by levy or the receipt of revenues
13 from the operation of the facilities of the district, to
14 issue warrants of the district in anticipation of the collect-
15 ion of such taxes and revenues. Such warrants shall be redeemed
16 in order of their number from the first money available from
17 such revenues and taxes when collected. No such indebtedness
18 shall be created or assumed in excess of one-fourth of the
19 taxes levied and revenues anticipated for the fiscal year of
20 the district.

21 Section 19. On or before the first day of May of each
22 year the port commission shall determine the amount of funds
23 needed for all port district purposes after anticipated revenues
24 have been deducted therefrom for the coming fiscal year, which
25 shall begin on the first day of July of the same year and end
26 on the thirtieth day of June of the year following. It shall
27 at the same time determine the proportion of such funds to be
28 raised within each city or independent school district within
29 the port district and the proportion of the funds to be raised

1 outside such city or school district, based proportionately on
2 assessed valuations of all taxable property within the respec-
3 tive corporate areas. It shall then present such budget to the
4 governing body of each such city and school district for their
5 information, together with demands for contributions by such
6 cities and school districts of their share of such budget based
7 on such assessed valuations using the last equalized assessment
8 rolls. The port district shall then levy the taxes on the
9 property outside any city or independent school district nec-
10 essary to complete the amount of such funds, which taxes shall
11 be levied at the same rate as those levied on the property
12 within the cities and such school districts.

13 The governing bodies of such cities and school districts
14 shall transmit to the treasurer of the port district on the
15 first day of each quarter of the fiscal year one-fourth of its
16 annual share of the amount of such taxes. The district assessor
17 shall, on or before the first day of October of each fiscal
18 year, collect one-half of the taxes due upon all taxable prop-
19 erty outside the limits of such cities and school districts
20 and on or before the first of May of each fiscal year shall
21 collect the other one-half. Penalties for the nonpayment of
22 taxes levied on property located outside a city shall be the
23 same as fixed by the city council for the nonpayment of taxes
24 within such city, and the rates of interest on delinquent
25 taxes shall also be the same. Property located outside the
26 city similar to property within the city which is exempt from
27 taxation shall also be exempt from such taxation.

28 Section 20. All taxes assessed and levied by the port
29 district or assessed and levied by a city or school district

1 for port district purposes shall be a lien upon the property
2 assessed prior and paramount to all other liens and encumbrances,
3 and may be foreclosed by an appropriate action in any court of
4 competent jurisdiction in the same manner as is provided for
5 the foreclosure of municipal taxes. The owner of the property
6 assessed shall be personally liable for the amount of taxes
7 assessed against such property; and such taxes, together with
8 penalties and interest may be collected after the same become
9 due in a personal action brought in the name of the port dist-
10 rict against any such owner in any court of competent juris-
11 diction. The board of commissioners of port districts shall
12 have all of the powers and duties given to the common council
13 of cities in the levy and collection of taxes, and all laws
14 relative to such levy and collection of taxes by municipal
15 corporations are hereby extended to port districts.

16 Section 21. In the event any provision of this act shall
17 be adjudged unconstitutional or void for any reason, such
18 adjudication shall not affect the validity of the remainder of
19 the provisions of this act.
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