

SENATE....No. 110.

Commonwealth of Massachusetts.

IN SENATE, February 27, 1866.

The Committee on Harbors, to whom was recommitted the Bill to establish a Board of Harbor Commissioners, report the Bill in a new draft.

Per order of the Committee,

H. A. STEVENS, *Chairman.*

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Sixty-Six.

AN ACT

To establish a Board of Harbor Commissioners.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:—

1 SECT. 1. The governor, with the advice and con-
2 sent of the council, shall, before the first day of July
3 next, appoint five competent persons who shall consti-
4 tute a board of harbor commissioners, and who shall
5 hold their offices from the dates of their respective
6 appointment and for the terms of one, two, three, four
7 and five years respectively, from the first day of July
8 next. And the compensation of each of said commis-
9 sioners shall not exceed five dollars per day for time
10 actually employed in the service of said commission.
11 The governor shall, in like manner, before the
12 first day of July in every year, appoint a commissioner

13 to continue in office for the term of five years from
14 said day, and in case of any vacancy occurring in the
15 board, by resignation or otherwise, shall in the same
16 manner appoint a commissioner for the residue of the
17 unoccupied term, and may in the same manner remove
18 any commissioner.

1 SECT. 2. The board of harbor commissioners shall
2 have the general care and supervision of all the har-
3 bors and tide-waters, and of all the flats and lands
4 flowed thereby within the Commonwealth, except the
5 back bay lands, so called, in the city of Boston, in
6 order to prevent and remove unauthorized encroach-
7 ments and causes of every kind which are calculated
8 to interfere with the full navigation of said harbors,
9 or in any way injure their channels, or cause any
10 reduction of their tide-waters, and in order to protect
11 and develop the rights and property of the Common-
12 wealth in said flats and lands. They may from time
13 to time make such surveys, examinations and obser-
14 vations as they may deem necessary in any harbor for
15 said purpose, and employ for these purposes competent
16 engineers, and also employ such clerical and other
17 assistance as they may think necessary. They shall
18 have an office in Boston, where the maps, charts and
19 plans connected with the harbors, records of all their
20 doings, and all documents relating to their business
21 shall be kept.

1 SECT. 3. Whenever in the judgment of the said
2 board of commissioners the public good requires, they
3 may proceed to prescribe harbor lines in any of the
4 harbors of this Commonwealth, beyond which no wharf,
5 pier or other structure shall be extended into such

6 harbor, and shall report the same for the consideration
7 of the legislature at its next session ; *provided, however,*
8 that said commissioners before drawing any such line
9 shall appoint a convenient time and place for the hear-
10 ing of all parties interested, and shall give notice
11 thereof by publication three weeks successively in two
12 or more newspapers, one of which is published in
13 Boston and one in the county where such harbor is
14 situated, the first publication to be at least thirty days
15 before the time of hearing.

1 SECT. 4. All persons that have been or may be
2 authorized by the legislature to build over tide-waters
3 any bridge, wharf, pier, or dam, or to fill any flats, or
4 to drive any piles below high-water mark, who have
5 not already commenced such work, shall before
6 commencing it, give written notice to the harbor
7 commissioners of the work they intend to do, and
8 submit plans of any proposed wharf or other
9 structure, and of the flats to be filled, and of the mode
10 in which the work is to be performed ; and no such
11 work shall be commenced until the plan and mode of
12 performing the same shall be approved in writing by
13 a majority of the said harbor commissioners. And
14 the said commissioners shall have power to alter the
15 said plans at their discretion, and to prescribe the direc-
16 tion, limits and mode of building of the wharves and
17 other structures, to any extent that does not diminish
18 or control the legislative grant ; and all such works
19 shall be executed under the supervision of the com-
20 missioners. The amount of tide-water displaced by any
21 structure or filling of flats hereafter authorized as afore-
22 said, shall be ascertained by the harbor commissioners,

23 and they shall require the parties making the same, to
24 make compensation therefor, either by dredging in
25 some part of the same harbor where the work is per-
26 formed, between high and low water-mark and to
27 an extent to be approved by the commissioners,
28 and to be done under their direction: *provided*,
29 that all dredging made for purposes of such compen-
30 sation for displaced tide-water shall in nowise injure
31 any existing channels, but as far as practicable shall
32 be directed towards their permanent improvement.

1 SECT. 5. All erections and works hereafter made
2 without authority from the legislature, or in any
3 manner not sanctioned by the board of harbor com-
4 missioners, where their direction is required as herein
5 before provided within tide-waters flowing into or
6 through any harbor, shall be considered a public
7 nuisance, and liable to indictment as such. The board
8 of harbor commissioners shall have power to order
9 suits on behalf of the Commonwealth, to prevent or
10 stop by injunction or otherwise, any such erection or
11 other nuisance in the tide-waters which flow into or
12 through any harbor in the Commonwealth, and the
13 attorney-general and district attorneys within their dis-
14 tricts, shall commence and conduct such suit.

1 SECT. 6. The harbor commissioners are authorized
2 and empowered, whenever they deem it necessary, to
3 apply to congress for appropriations for protecting
4 and improving any harbor in the Commonwealth.

1 SECT. 7. No contracts shall be made and no acts
2 done by said commissioners which involve the pay-

3 ment of any money from the treasury of the Common-
4 wealth, except as herein before provided, without an
5 appropriation expressly made by the legislature for
6 that purpose. They shall keep an account of their
7 actual services and expenses, to be allowed by the
8 governor and council.

1 SECT. 8. The commissioners shall report in print
2 to the legislature annually, on or before the tenth
3 day of January, their doings during the year preced-
4 ing, and shall recommend such legislation as they
5 deem necessary for the preservation and improvement
6 of the harbors and the promotion of the interest of
7 the Commonwealth connected therewith.

1 SECT. 9. All acts and resolves and parts thereof
2 inconsistent with this act, are hereby repealed.

1 SECT. 10. This act shall take effect upon its
2 passage.