

No. 455, A.]

[Published June 7, 1919.

## CHAPTER 289.

AN ACT to create sections 959z—1 to 959z—11, inclusive, of the statutes, relating to the creation of a board of harbor commissioners in cities of the first class and defining their powers.

*The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Eleven new sections are added to the statutes to read: Section 959z—1. Any city of the first class, whether organized under general or special charter, situated on a navigable waterway may, by resolution of its common council, create a board of harbor commissioners composed of not less than three nor more than nine persons.

Section 959z—2. 1. Such resolution shall state the number of persons to compose said board and the length of term of each member of the first board to be appointed, so that the term of one or more members of said first board shall expire in one year, one or more in two years and one or more in three years, and thereafter at the expiration of the term of any member a successor shall be appointed for a three-year term.

2. As soon as possible after the passage of the resolution creating such board, the mayor of such city shall, subject to confirmation by the common council of such city, appoint the members of said board and designate the length of term of each member thereof in compliance with said resolution. No person shall be appointed to said board unless he be a qualified elector and a resident for at least three years of such city. Any vacancy occurring in said board shall be filled for the unexpired term in the same manner as the original appointment. The members shall serve without compensation and until their successors are appointed.

3. At the first meeting of said board the members thereof shall elect from among their number a president, who shall preside over the meetings of said board, and a vice president, to preside in the absence of the president.

Section 959z—3. Said board shall, subject to the civil service law applicable to such city, appoint a secretary, not a member of said board, and fix his salary at a sum not exceeding three thousand dollars per year, and may also employ such engineers, draftsmen, surveyors, experts, clerks and other help as they may deem necessary for the proper performance of their duties, and fix their compensation.

Section 959z—4. Said board shall have authority, whenever it shall deem it necessary, to act or proceed in any manner what-

soever relating to its powers and duties under this act by or through any other department of such city. When said board shall make written requests of any such department for the performance of any such act or acts, it shall be the duty of such department thereupon to act as required, provided the act or acts required to be done have reference to the powers and duties of such department. If any differences shall arise between such board and any of the other departments of such city in the performance of any such act or acts requested by said board, as to whether said act or acts have reference to the powers and duties of such department, the ruling of the common council in the matter shall be final.

Section 959z—5. 1. Said board shall have power to make plans for the improvement of all waterways of the harbor of such city, providing for the construction of such docks, wharves, warehouses, piers, slips, basins or other structures to care for the needs of commerce and shipping, as it may deem necessary, and also to make plans for railway tracks and belt railways connecting such docks, wharves, warehouses, piers, slips, basins or other structures and the harbor facilities with all railway lines in such city, and also to make plans for such cranes, dock apparatus and other wharf and harbor machinery and equipment as may be necessary for the efficient handling of all freight and passenger traffic between the said waterways and railways or between said railways and waterways.

2. Before any of said plans shall be carried out by said board, they shall be submitted to the common council of such city for approval or modification. If said common council shall approve of any of said plans, said board shall have power to proceed to carry them out and for that purpose shall proceed in the manner hereinafter provided.

Section 959z—6. 1. All work done or supplies or material purchased in carrying out the purposes of the statutes relating to the board of harbor commissioners when involving the expenditure of five hundred dollars, or more, shall be by contract awarded to the lowest competent and reliable bidder, in accordance with the laws of this state and ordinances then applicable to any city having a board of harbor commissioners having reference to the letting of public work by and through the board or commissioner of public works, or other officer or officers, or department of such city, except that said board of harbor commissioners shall discharge the duties imposed by such laws upon the board or commissioner of public works, or other officer or officers, or department of such city; but said board of harbor commissioners shall have power to purchase without public advertise-

ment or first receiving competitive bids, or the intervention of a formal contract, any patented article, appliance, apparatus, material or process, or any article, appliance, apparatus, material or process made or manufactured by one party only.

2. Whenever any bidder for any work to be let by the board of harbor commissioners shall be, in the judgment of said board, incompetent or otherwise unreliable for the performance of the work for which he bids, the said board may accept the bid of the person who, in its judgment, is the lowest competent and reliable bidder for said work, stating its reasons therefor, or relet the same anew. The board of harbor commissioners may permit a sum of money or a certified check payable to the order of the board to be filed with any bid or proposal in such an amount as in the judgment of the said board will save the city from any loss if the bidder shall fail to execute a contract pursuant to law, in case his bid is accepted and the contract awarded to him.

3. Every contract made by the board of harbor commissioners shall contain an agreement on the part of the contractor and his sureties that in case such contractor shall fail to fully and completely perform his contract within the time therein limited for the performance thereof, such contractor shall pay to the city as liquidated damages for such default, a certain fixed sum to be named in the contract, which shall be such a sum as in the judgment of said board will save the city from any loss on account of such default and insure the prompt completion of the contract, or in lieu of such an agreement contain an agreement on the part of the contractor and his sureties that in case such contractor shall fail to fully and completely perform his part of the contract within the time therein limited for the performance thereof, such contractor shall pay to the city as liquidated damages for such default a definite sum, to be named in the contract, for each day's delay in completing said contract after the time therein limited for its completion, which daily sum shall be such an amount as in the judgment of said board will save the city from loss in case of such default and insure the prompt completion of the contract.

4. Every contract shall also be executed by at least two sufficient sureties, or a surety company, to be approved by the board of harbor commissioners, who shall guarantee the full performance of the contract by the contractor to the satisfaction of the said board, according to the plans and specifications of the said board, and be liable for such performance of the contract, as sureties, in an amount equal to the said board's estimate of the aggregate cost of the work. When a contractor shall proceed properly and with due diligence to perform and complete a con-

tract, the said board may, in its discretion, from time to time as the work progresses, grant to said contractor an estimate of the amount already earned for the work done, withholding in all cases until final completion and acceptance of the contract fifteen per cent of said estimate when said estimate is less than one hundred thousand dollars, and ten per cent of said estimate when said estimate is one hundred thousand dollars or over, which shall entitle the contractor to receive said estimate less the amount withheld.

5. Said board shall be empowered, if it see fit, to insert in the specifications of any such work reasonable and lawful conditions as to hours of labor, wages, and the residence and character of workmen to be employed by the contractor, and especially so far as may be practicable in the judgment of said board, such reasonable and lawful conditions as will tend to confine employment on such work, in whole or in part, to permanent and bona fide residents of the state of Wisconsin; and provided, however, also that said board may do any part or parts of any such work under such conditions in every respect as it may prescribe by day labor. Any and all bids or parts of bids for any such work or supplies or materials may be rejected by said board. The said board shall have the power to demand of such bidders and contractors that all contracts shall be let subject to the provisions of section 2394—1 to section 2394—95, inclusive, of the statutes, and all acts amendatory thereof and supplemental thereto, to the end that said board and such city shall be held harmless.

Section 959z—7. Said board shall have exclusive charge and control over such docks, wharves, warehouses, piers, slips, basins or other structures and harbor facilities and waterways adjacent thereto and all railway tracks and belt railways connecting with them, belonging to such city, and also of the building, alteration, repair, operation and maintenance of the same and all the cleaning, grading, dredging and deepening in and about the same.

Section 959z—8. Said board shall have power to fix and regulate the tolls, dockage, wharfage, craneage, shedage, storage, rates and rental or other charges which it shall deem necessary to make for the use of all publicly owned docks, wharves, warehouses, piers, slips, basins and other harbor facilities and railway tracks and belt railways, subject, however, to the prior approval of the same by the common council of such city.

Section 959z—9. 1. Such city shall have the power, upon the recommendation of said board, to acquire by gift, purchase, lease or other methods of acquisition, or by condemnation, any lands or interests therein deemed necessary to carry out any harbor plans adopted as aforesaid.

2. Such purchase may be made by land contract, with the privilege of paying the purchase price in not more than ten years and at not more than six per cent interest per annum on all deferred payments, with the privilege of creating a lien on said lands or interests for the purchase price and interest thereon, but without creating any liability against such city therefor.

3. In the condemnation of any lands and interests therein, such city may follow any procedure by which it may be authorized to condemn lands for public grounds or streets.

Section 959z—10. For the repair, maintenance, operation and administration of all the aforesaid harbor facilities and for the redredging of any of said waterways, said board may use any funds provided by said city under any authority to raise a fund for harbor maintenance, repairing docks and necessary redredging. In addition to the aforesaid funds, such city may provide for a sufficient fund for the construction of said harbor improvements, except the aforesaid repair, maintenance, operation and administration and redredging, out of any taxes or bonds which said city may be authorized to levy or issue for permanent harbor improvements.

Section 959z—11. 1. Nothing in this act shall prevent the appointment and definition of the duties of a harbor master in such city as provided by any other law applicable to such city, nor prevent the common council of such city from enacting any ordinance to preserve the harbor and the peace and good order therein and on all property under the control of said harbor board; to prevent any use of said harbor or harbor property, or any act in relation thereto, inconsistent or detrimental to the public health, or calculated to render the waters of the same, or any part thereof, impure or offensive or tending in any degree to fill up or obstruct the same; to prevent and punish the casting or depositing therein of any earth, dead animals, ashes, or other substance or filth, logs or floating matter; to prevent and remove all obstructions therein, and punish the authors thereof; to regulate and prescribe the mode and speed of entering and leaving the harbor, of passing the bridges, and of coming to and departing from the wharves, docks and streets of such city by vessels or water craft of any kind whatsoever; to regulate through a harbor master or other authorized official the location of any vessel or water craft whatsoever, and such changes of station in and use of the harbor as may be necessary to promote order therein, and the safety and equal convenience, as near as may be, of all vessels and water craft whatsoever; and to impose penalties for any violation of such ordinance.

2. This act shall not amend or repeal any law applicable to such city regarding the construction and repair of docks abutting private property, but shall apply to all publicly owned docks and public lands abutting on public waterways. Said board shall have no jurisdiction over public bridges.

3. Hereafter no dock line shall be established by the common council of such city until the proposed line shall have been submitted to and approved by said board.

4. It shall not be mandatory upon such city to follow section 30.04 of the statutes after the establishment of a harbor board under this act.

SECTION 2. This act shall take effect upon passage and publication.

Approved June 5, 1919.

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[Published June 7, 1919.]

## CHAPTER 290.

AN ACT to create paragraph (d) of subsection (2) of section 25.09 of the statutes, relating to trust funds and their management, and to collections from school districts.

*The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. A new paragraph is added to subsection (2) of section 25.09 of the statutes to read: (25.09) (2) (d) When any county clerk or clerks shall fail or neglect to transmit to the secretary of state, a true copy of the statement or statements so certified to him by any school district clerk or clerks, on or before the twentieth day of September in each year as required by this section, then the secretary of state may forthwith dispatch a special messenger to such county clerk to procure same, and all the expenses and disbursements necessarily incurred by such messenger in the discharge of this duty shall be paid by the secretary of state upon proof to his satisfaction that the same are proper and were necessarily so incurred. The secretary of state shall thereupon certify said expenses and disbursements so paid by him, to the clerk of the county or counties to which such messenger or messengers were sent and the same shall be audited and paid by said county or counties in the same manner as any other proper charge or indebtedness thereof. In the event of the failure or neglect of said county or counties so indebted, to pay such charges within sixty days after same has been so certified by the secretary of state, the same shall become a special charge against said county or counties and be included and collected as such in the next apportionment or certification of state taxes