CHAPTER 67

An act to provide for the establishment of the San Diego Unified Port District; to provide for the calling of municipal elections therefor; describing the powers, duties, and functions thereof, authorizing the district to borrow money and issue bonds for district purposes; to provide means of raising revenues for the operation, maintenance and bond redemption of the district; and to provide for the transfer to such district of tidelands and lands lying under inland navigable waters.

[Approved by Governor May 8, 1962. Filed with Secretary of State May 9, 1962.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the San Diego Unified Port District Act.

SEC. 2. It is hereby declared to be the policy of the State of California to develop the harbors and ports of this State for multiple purpose use for the benefit of the people. A necessity exists within San Diego County for such development. Because of the several separate cities and unincorporated populated areas in the area hereinafter described, only a specially created district can operate effectively in developing the harbors and port facilities. Because of the unique problems presented by this area, and the facts and circumstances relative to the development of harbor and port facilities, the adoption of a special act and the creation of a special district is required.

SEC. 3. For the purposes of this act the following words shall have the following meanings:

(a) "District" or "port district" shall mean the San Diego Unified Port District.

(b) "Board" or "board of commissioners" shall mean the Board of Commissioners of the San Diego Unified Port District.

(c) "County" shall mean the County of San Diego.

SEC. 4. A port district for the acquisition, construction, maintenance, operation, development and regulation of harbor works and improvements, including rail, water and air terminal facilities, for the development, operation, maintenance, control, regulation and management of the Harbor of San Diego upon the tidelands and lands lying under the inland navigable waters of San Diego Bay, and for the promotion of commerce, navigation, fisheries, and recreation thereon, may be established or organized and governed as provided in this act and it may exercise the powers expressly granted herein.

Anything herein to the contrary notwithstanding, the powers and authority herein are to be used only as necessary or incident to the development and operation of a port and shall not apply to public utilities operated under the jurisdiction of the Public Utilities Commission of the State of California.

SEC. 5. The area to be embraced in the district shall include all of the corporate area of each of the cities of San Diego, Chula Vista, Coronado, National City, and Imperial Beach which establish the district as provided in this act, and any unincorporated territory in the County of San Diego contiguous thereto, which is economically linked to the development and operation of the Bay of San Diego, included in the district by the board of supervisors of the county as provided in this act.

The jurisdiction of the district to exercise its powers shall extend only over the following areas:

(a) The tidelands and submerged lands granted to the district pursuant to the provisions of this act.

(b) Any airport or airports now or hereafter owned and operated by any of the above-named cities which establish the district, or San Diego County, and which are conveyed to the district by such city or cities or San Diego County.

(c) Any other lands conveyed to the district by any city or by the County of San Diego

SEC. 6. The Board of Supervisors of San Diego County shall call an election in the area to be included within the district not later than the 1964 State Primary Election on the question of the formation of the district if either of the two conditions specified below is met:

(a) A petition calling for the formation of the district is filed with the board of supervisors from each of the five cities specified in Section 5. Each of the petitions from the five respective cities shall be signed by at least five percent (5%) of the voters registered for the last municipal election in each particular city.

(b) A resolution of consent calling for the formation of the district is filed with the board of supervisors from each of the city councils of the five cities specified in Section 5; provided, that the requirements of this section shall be deemed to have been met if a combination of petitions and resolutions of consent have been filed with the board of supervisors, so long as each of the five cities specified in Section 5, either through a petition or by a vote of the city council, has authorized the calling of an election for the formation of the district.

SEC. 7. The petition or the resolution of consent shall contain:

(a) A declaration calling for the creation of the San Diego Unified Port District, for the purpose of improving and developing the harbor.

(b) A declaration that the tide and submerged lands owned by the particular city should be granted to the district.

SEC. 8. Each signer of a petition within a particular city shall be a registered voter and resident of that city.

SEC. 9. The publication of the petition and the hearing on the petition shall be governed by the provisions of Section 6014 of the Harbors and Navigation Code.

SEC. 10. The election shall be called, noticed, held, and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, oaths of office administered, and all other proceedings incidental to and connected with the election shall be regulated and done, as nearly as may be practicable, in accordance with the provisions of law regulating municipal elections in general law cities.

For the purposes of the election, the terms "board of trustees" and "city clerk," respectively, as used in the Elections Code provisions respecting the conduct of elections in general law cities, shall mean the county board of supervisors and the county clerk, respectively, for the purpose of the election held under this act.

An election called pursuant to the provisions of this act may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

SEC. 11. The count of the vote in the election shall be conducted in two parts. One part shall consist of those votes cast in the City of San Diego, and the other part shall consist of all of those votes cast in the other four cities specified in Section 5 and outside territory.

SEC. 12. If the electors in the City of San Diego and the electors in the other four cities specified in Section 5 and outside territory, approve of the formation of the district at an election held pursuant to the provisions of this act, the district shall be established.

SEC. 13. If from the canvass it appears and the board of supervisors finds that a majority of the votes cast in the City of San Diego and a majority of the votes cast in the other four cities and outside territory, the votes of such other four cities and outside territory being combined together, were cast in favor of the formation of the district, it shall enter that fact upon its minutes, together with a description of the boundaries of the district, its name, the official name or names by which the district is commonly known and enter its order declaring the district duly formed and existing in the county.

SEC. 14. Upon the establishment of the district, every city specified in Section 5 shall convey to the district all its right, title and interest in and to the tidelands and submerged lands, together with any facilities thereon, which are owned by the city, including any such lands which have been granted in trust to the city by the State in the Bay of San Diego. The City of San Diego shall convey to the district all its right, title and interest in and to such pueblo lands as lie within the tidelands and submerged lands in the Bay of San Diego, together with any facilities thereon, which are owned by the City of San Diego. Thereafter the title to such lands shall reside in the district, and the district shall hold such lands in trust for the uses and purposes and upon the conditions which are declared in

this act. Notwithstanding any other provision of this act, the City of San Diego shall not be required to convey to the district those lands described in Chapter 778 of the Statutes of 1929, and the City of Coronado shall not be required to convey to the district those lands described in Chapter 1839 of the Statutes of 1953.

SEC. 15. The Board of Supervisors of the County of San Diego may, by ordinance, include within the district unincorporated territory which the board has determined would be benefited by the district.

SEC. 16. The district shall be governed by a board of commissioners who shall be known as "port commissioners." Each city council, respectively, of the cities which are included in the district pursuant to the provisions of this act shall appoint the commissioner or commissioners to which it is entitled, pursuant to this section, to represent that particular city on the board. Three of the commissioners shall be residents of the City of San Diego, one shall be a resident of the City of National City, one shall be a resident of the City of Chula Vista, one shall be a resident of the City of Coronado, and one shall be a resident of the City of Imperial Beach. The commissioners shall be residents of the respective cities they represent at the time of their appointments, and during the term of their office. All of the powers and duties conferred upon the district shall be exercised through the board of commissioners.

SEC. 17. The term of each commissioner shall be for four years, except as provided in this section. Any vacancy shall be filled by appointment by the city council of the city from which the vacancy has occurred. Each commissioner shall continue, however, to hold office until his successor has been appointed and qualified. Each commissioner, before entering upon the duties of his office, shall take and subscribe the oath as provided in Section 1360 of the Government Code of the State of California, and a certificate of the same shall be filed with the city clerk of the city from which the commissioner shall have been appointed, and a copy of which shall be filed with the district. A commissioner may be removed from the board by a four-fifths vote of the city council which appointed such commissioner.

The first board of commissioners appointed after the formation of the district shall so classify themselves by lot that three commissioners shall serve for four years, and the remainder of the commissioners for two years. Thereafter the term of office of each commissioner shall be four years.

SEC. 18. Immediately after their appointment, the commissioners shall enter upon the performance of their duties. The board shall annually elect one of its members as chairman and another as vice chairman, and shall also elect annually a secretary, who may or may not be a member of the board. A majority shall constitute a quorum for the transaction of business.

The board shall make rules and regulations for its own government and procedure, and shall hold at least one regular meeting each month, and may hold such special meetings as it may deem necessary.

The commissioners shall receive no salaries but shall be entitled to reimbursement for necessary traveling and other expenses incurred while engaged in the performance of their duties.

SEC. 19. The board shall draft a master plan for harbor and port improvement and for the use of all of the tidelands and submerged lands which shall be conveyed to the district pursuant to the provisions of this act. A two-thirds vote of the board shall be required to adopt the plan. The board may from time to time modify the master plan by a two-thirds vote of the board.

The provisions in the master plan shall not override or supersede any local existing zoning ordinance which was in effect on April 30, 1962; provided, that if any local zoning ordinance is repealed, or expires, or becomes nonoperative for any reason, thereafter the provisions of the master plan adopted by the board shall control as to all lands and waters under the jurisdiction of the district.

SEC. 20. The board shall establish a fiscal year for its operations and shall at the end of each fiscal year or as soon as possible after the end of each fiscal year, make a complete report of the affairs and financial condition of the district for the preceding fiscal year, which shall show the sources of all receipts and the purposes of all disbursements during the year. The report shall be verified by the chairman of the board and the secretary thereof. The board shall draw up a budget for each fiscal year.

SEC. 21. The board may pass all necessary ordinances and resolutions for the regulation of the district.

SEC. 22. The board may employ engineers, attorneys and any other officers and employees necessary in the work of the district. The port director shall appoint a treasurer whose duty it shall be to receive and safely keep all moneys of the district. He shall comply with all provisions of law governing the deposit and securing of public funds. He shall pay out moneys only on warrants duly authorized by the board and not otherwise; provided, however, that no warrants need be issued for the payment of principal and interest on bonds of the district. He shall at regular intervals, at least once each month, submit to the secretary of the district a written report and accounting of all receipts and disbursements and fund balances, a copy of which report he shall file with the board.

The treasurer may appoint a deputy or deputies for whose acts he and his bondsmen shall be responsible Such deputy or deputies shall hold office subject to the pleasure of the treasurer and shall receive such compensation as may be provided by the board. The treasurer shall execute a bond covering the faithful performance by him of the duties of his office and his

duties with respect to all moneys coming into his hands as treasurer in such amount as shall be fixed by resolution of said board. The surety bond herein required shall be executed only by a surety company authorized to do business in the State of California and the premium therefor shall be paid by the district out of its general fund. The bond shall be approved by the board and filed with the secretary of the district. The treasurer before entering upon the duties of his office shall take and file with the secretary of the district the oath of office required by the Constitution of this State.

SEC. 23. It may sue and be sued in the name of the district in all courts and tribunals of competent jurisdiction.

SEC. 24. It may adopt a seal.

SEC. 25. It may take by grant, purchase, gift, devise, lease or otherwise acquire, hold and enjoy and lease and dispose of real and personal property of every kind, within the district, necessary to the full or convenient exercise of its power.

SEC. 26. Any proposed use by the district of any particular land within its jurisdiction which would constitute a public nuisance may be prohibited by ordinance adopted by the city within which such land is located.

SEC 27. It may exercise the right of eminent domain within the boundaries of the district in the manner provided by law for the condemnation of private property for public use and take any property necessary or convenient to the exercise of its powers. In the proceedings relative to the exercise of such right the district has the same rights, powers and privileges as a municipal corporation.

SEC. 28. It may borrow money and incur indebtedness and issue bonds or other evidence of indebtedness. All bond elections called by the board shall be conducted and held pursuant to Article 1 (commencing with Section 43600) of Chapter 4 of Division 4, Title 4 of the Government Code.

When in that article, the word "city" is used it includes the district and whenever the words "legislative body" are used they mean the board.

The purposes for which bonded indebtedness may be incurred by the district are described in Section 26.

All bonds issued shall be signed by the board and the district shall not incur a bonded indebtedness which in the aggregate exceeds 15 percent of the assessed value of all the real and personal property in the district.

SEC. 29. Whenever the improvement and development work for which any issue of bonds has been voted has been constructed and the proceeds of the bonds sold have not been entirely expended, the board may by resolution order that the unexpended proceeds be placed in the fund provided for the purpose of paying principal and interest of the bonds or the board may by resolution direct that all or a part of the unexpended proceeds be used for the purpose of purchasing outstanding bonds of the district. The bonds may be purchased only after the publication at least twice in a newspaper of

general circulation in the district of a notice inviting sealed proposals for the sale of bonds to the district. The notice shall state the time and place when the proposals will be opened and the amount of money available for the purchase of the bonds. The board may reject any or all proposals and if it rejects all thereof, may within a period of 30 days thereafter purchase for cash any outstanding bonds of the district but in that event the purchase price shall not be more than the lowest purchase price at which bonds were tendered to the district in the public bidding.

Any bonds purchased under the authority of this section shall be canceled immediately.

SEC. 30. The board may regulate and control the anchoring, mooring, towing, and docking of all vessels.

SEC. 31. It may perform the functions of warehousemen, stevedores, lighterers, reconditioners, shippers and reshippers of properties of all kinds.

SEC. 32. It may manage the business of the district and promote the maritime and commercial interests by proper advertisement of its advantages and by the solicitation of business within or without the district, within other states or in foreign countries, through such employees or agencies as are expedient.

SEC. 33. It may acquire, purchase, take over, construct, maintain, operate, develop, and regulate grain elevators, bunkering facilities, belt or other railroads, floating plants, lighterage, towage facilities, and any and all other facilities, aids, equipment, or property necessary for or incident to the development and operation of a harbor or for the accommodation and promotion of commerce, navigation, fisheries, or recreation in the district.

SEC. 34 It may by resolution order that all or any of the funds under its control and not necessary for current operating expenses be invested in obligations, bonds or securities of the United States of America or of any agency or instrumentality thereof.

SEC. 35. The board may do all other acts necessary and convenient for the exercise of its powers.

SEC. 36. The board shall by ordinance fix the rate of wharfage charges and other charges which are appropriate for the use of any of the facilities owned and constructed or services furnished or provided by the district.

SEC. 37. The district may itself, without letting contracts therefor, do work and make improvements. The work shall be done under the direction of its officers or employees.

In the construction, reconstruction or repair of public buildings, streets, utilities and other public works, and in furnishing supplies, materials, equipment or contractual services for the same, when the expenditure therefor shall exceed the sum of two thousand five hundred dollars ($2,500), the same shall be done by written contract, except as otherwise provided

in this act, and the board, on the recommendation of the port director, shall let the same to the lowest responsible and reliable bidder, not less than 10 days after advertising for one day in the official newspaper of the district for sealed proposals for the work contemplated. If the cost of the public contract work exceeds the sum of one thousand dollars ($1,000), but is not in excess of two thousand five hundred dollars ($2,500), the board may let the contract without advertising for bids, but not until the port director shall have secured competitive prices from contractors interested, which shall be taken under consideration by the board before the contract is let. The board may, however, upon the recommendation of the port director and by a vote of five of its members, order the performance of any such construction and reconstruction or repair work by appropriate district forces when the estimates submitted as part of the port director's recommendation indicate that the work can be done by the district forces more economically than if let by contract.

In case of a great public calamity, such as extraordinary fire, flood, storm, epidemic or other disaster the board may, by resolution passed by a vote of five of its members, determine and declare that the public interest or necessity demands the immediate expenditure of district money to safeguard life, health or property, and thereupon they may proceed, without advertising for bids or receiving the same, to expend, or enter into a contract involving the expenditure of, any sum required in such emergency, on hand in the district fund and available for such purpose. All contracts before execution shall be approved as to form and legality by the attorney for the district.

SEC. 37.5. The board may, without advertising for bids, negotiate with the government of the United States for the purpose of assisting the board in the performance of any of the work authorized by this act, and the board may contribute to the United States all or any portion of the estimated cost of any work authorized by this act which is to be done by or under contract with the United States.

SEC. 38. By resolution, the board may provide for the creation and accumulation of a fund for capital outlays.

SEC. 39. At any time after the creation of the fund, the board may transfer to the Capital Outlay Fund any unencumbered surplus funds raised for any purpose whatever, remaining on hand at the end of any fiscal year or years.

SEC. 40. The Capital Outlay Fund shall remain inviolate for the making of any capital outlays and the money shall not be disbursed from the fund except for such a purpose unless the district board submits a proposition to the electors of the district to obtain their consent to use the money in the fund for some other specific purpose. The proposition may be submitted at any election. A two-thirds vote of all the voters voting at the election is necessary to authorize the expenditure of the money for such other purpose.

SEC. 41. Notwithstanding any other provision of this act, the board may borrow money by issuance of promissory notes, or execute conditional sales contracts to purchase personal property, in an amount or of a value not exceeding in the aggregate at any one time the sum of two hundred thousand dollars ($200,000), for the purposes of constructing or operating any work, project, or facility authorized by Section 26 or for the making of improvements or the purchase of equipment or for the maintenance thereof.

All moneys borrowed pursuant to this section shall not be borrowed for a term exceeding five years, and said indebtednesses shall not incur a rate of interest in excess of six percent (6%) per annum. Each such indebtedness shall be authorized by a resolution of the board of commissioners unanimously adopted.

As a condition precedent to the borrowing of any money or the execution of any conditional sales contract, as provided in this section, in excess of twenty-five thousand dollars ($25,000), the board shall first unanimously approve by resolution and have on file a report approved by the port director on the engineering and economic feasibility relating to the project contemplated for the expenditure of said borrowed money or conditional sales contract. Said feasibility report shall be prepared and signed by an engineer or engineers licensed and registered under the laws of the State of California.

The district shall budget, levy and collect taxes, and pay for all such indebtedness without limitation by any other provision of this act.

SEC. 42. As to any service which the district is authorized to perform pursuant to the provisions of this act, the district may contract for the performance of such service by the city within which the particular tidelands are located.

SEC. 43. All bonds issued pursuant to this act, except for those authorized by Sections 51 and 52 of this act, are obligations of the district and so long as the bonds are outstanding and unpaid the board of supervisors of the county shall at the time of fixing the general tax levy and in the manner provided for such general tax levy until the bonds are paid or until there is a sum in the treasury of the district set apart for that purpose, sufficient to meet all sums coming due for principal and interest, levy and collect annually a tax sufficient to pay the annual interest on such bonds as it comes due and such part of the principal thereof as will become due before the proceeds of another tax levy made at the time of the next general tax levy for county purposes can be made available for the payment of said principal.

In the event the district has moneys on hand in any year sufficient to meet all or part of the sum coming due for principal and interest on the bonds prior to the time that the proceeds of a tax levy made at the time of the next general tax levy for county purposes can be made available for the payment of the principal and interest and the moneys have been

placed in a fund for the purpose of payment of the principal and interest the amount of moneys to be raised by the annual tax for that year may be reduced to a sum sufficient to provide the balance of moneys necessary for the purpose of payment of the principal and interest.

All taxes collected for the payment of principal and interest, shall when collected by the county tax collector, be paid to the treasurer of the district.

SEC. 44. The board shall, at least 30 days before the meeting of the board of supervisors at which the general tax levy is fixed, notify the board of supervisors in writing of the amount of money necessary to be raised by taxation to meet the payment of principal and interest on outstanding bonds which will become payable before the proceeds of another tax levy made at the time of the next general tax levy for county purposes can be made available for payment of the principal and interest. In fixing the amount of money to be raised by taxation the board of commissioners may take into account all moneys on hand and set aside in a fund for the purpose of paying the principal and interest and the amount of moneys to be raised by taxation shall be the amount required in addition to any moneys on hand and so set aside for the purpose of payment of the principal and interest.

SEC. 45. The taxes shall be levied upon all of the taxable property within the district taxable for county purposes and are in addition to all other taxes levied for all other county purposes and shall be collected at the same time and in the same manner as other county taxes are collected and shall be used for no purpose other than for the payment of the bonds and accrued interest.

SEC. 46. On or before the 15th of June of each year, the district board shall estimate and determine the amount of money required by the harbor district and shall adopt a preliminary budget which shall be divided into the following main classes:

(1) Ordinary annual expenses.

(2) Capital outlay and Capital Outlay Fund.

(3) Prior indebtedness.

SEC. 47. On or before the 15th day of June of each year, the board shall publish a notice pursuant to Section 6061 of the Government Code throughout the district stating:

(1) That the preliminary budget has been adopted and is available at a time and at a place within the district specified in the notice for inspection by interested taxpayers.

(2) That on a specified date not less than one month after the publication of the notice and at a specified time and place, the district board will meet for the purposes of fixing the final budget, and that any taxpayer may appear and be heard regarding the increase, decrease or omission of any item in the budget or for the inclusion of additional items.

SEC. 48. At the time and place designated in the published notice for the meeting, any taxpayer may appear and be heard

regarding the increase, decrease or omission of any item in the budget or for the inclusion of additional items. The hearing on the budget may be continued from time to time.

SEC. 49. The district board shall report the final budget to the board of supervisors after the budget hearing but not later than the first day of August each year after making any changes in the preliminary budget it deems advisable during or after the hearing, including deductions, increases or additions.

SEC. 49.5. The Board of Supervisors shall at the time of levying the county taxes levy a tax upon all the taxable property within the district sufficient to meet the amounts set forth in the final budget submitted by the district board. The money when collected by the tax collector of the county shall be paid to the treasurer of said district; provided further, that any levy for capital outlay or for Capital Outlay Fund shall not exceed three cents ($0.03) per hundred dollars ($100) assessed valuation of all real and personal property in the district.

SEC. 50. Bonds issued by the district pursuant to this act are legal investments for all trust funds, and for the funds of all insurers, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may, by law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts or municipalities in this State, such money or funds may be invested in bonds of the district organized pursuant to this act.

SEC. 51. The district may create a revenue bond indebtedness for the acquisition and construction, or acquisition or construction of any improvements or property or facilities contained within its powers. The issuance of the bonds shall be authorized by ordinance adopted by two-thirds of all the members of the board, to take effect upon its publication. The secretary shall publish the ordinance once in a newspaper of general circulation printed in the district, and if there is none, then in such newspaper published in the county in which the district is located. The ordinance shall specify the total amount, denomination, method of maturity, and the rate or maximum rate of interest of the bonds, and in general terms, the acquisitions and improvements to be constructed thereby; and, in addition, shall contain such other and further provisions as in the judgment of the board are deemed advisable.

SEC. 52. The proceeds of the revenue bonds shall be placed in an account in the treasury of the district to be entitled San Diego Unified Port District Revenue Construction Fund No. _____, and used exclusively for the objects and purposes mentioned in the ordinance. The lien of the bonds of the same issue shall be prior and superior to all revenue bonds subsequently issued. Proceedings for the issuance of the bonds shall be had, the board shall have such powers and duties, and the bondholders shall have such rights and remedies, all in

substantial accordance with and with like legal effect as provided in Sections 54344 to 54346, inclusive, 54347, 54348, 54350, 54351, 54352, and in Articles 4 to 11, inclusive, of Chapter 6, Part 1, Division 2, Title 5 of the Government Code. As used therein the word "resolution" shall mean ordinance, the words "local agency" shall mean district, and the words "legislative body" shall mean board.

SEC. 53. In the manner provided in this act, there may be annexed to the district any of the following territory which is in the same county as the district:

a. Any territory contiguous to the district.

b. Any territory, any point of which touches the district.

c. Any territory separated from the district by a "separating barrier," which term includes a street, road, highway, railway line, railway crossing, railway right-of-way, watercourse, lagoon, or other natural barrier.

d. Any territory specified in this section may consist of one or more separate parcels of land, but it is not necessary that all parcels shall constitute in the aggregate one tract of land.

SEC. 54. Any territory specified in Section 53 may be annexed in the manner provided for sanitary districts in the Health and Safety Code. The alteration of boundaries shall be ordered by the board of supervisors of the county in which the property is located.

SEC. 55. The board shall:

(a) Make and enforce all necessary rules and regulations governing the use and control of all navigable waters and all tidelands and submerged lands, filled or unfilled, and other lands within the territorial limits of the district.

(b) Regulate and control the anchoring, mooring, towing and docking of all vessels

(c) Establish and maintain a system of harbor police and may establish harbor fire protection within the territorial limits of the district for the enforcement of the ordinances, rules and regulations of the district, and employ the necessary officers, who shall as to such matters have all the power of peace officers and firemen within the district; or in the alternative, the district may contract with the municipalities whose territorial limits are adjacent to or contiguous to those of the district to provide such services.

SEC. 56. The board shall make and enforce such local police and sanitary regulations relative to the construction, maintenance, operation and use of all public services and public utilities in the district, operated in connection with or for the promotion or accommodation of commerce, navigation, fisheries, and recreation therein as are now vested in the district.

SEC. 57. The board may acquire, erect, maintain or operate within the district, all improvements, utilities, appliances or facilities which are necessary or convenient for the promotion and accommodation of commerce, navigation, fisheries, and recreation, or their use in connection therewith upon the lands

and waters under the control and management of the board, and it may acquire, maintain and operate facilities of all kinds within the district.

SEC. 58. In case of emergency the board may suspend, modify or amend any rule or regulation of the board, or it may place in effect any emergency rule or regulations, for periods not exceeding thirty (30) days, and every such ordinance shall so provide.

SEC. 59. Any person who violates the provisions of any ordinance, or any local police or sanitary regulation, of the board shall be guilty of a misdemeanor. The prosecution shall be conducted by the City Attorney of San Diego if the infraction occurred within the corporate limits of the City of San Diego on lands or waters subject to the jurisdiction of the district. The prosecution shall be conducted by the District Attorney of San Diego County if the infraction occurred without the corporate limits of the City of San Diego but otherwise on lands or waters subject to the jurisdiction of the district. The complaint shall be filed in the judicial district within which the infraction occurred.

SEC. 60. In the absence of the adoption of any police, fire and sanitary regulations by the district, the police, fire and sanitary regulations of any municipal corporation whose boundaries are adjacent to or contiguous to the territorial limits of the district shall be applicable.

SEC. 62. The enacting clause of all ordinances passed by the board shall be in substantially the following form:

"The Board of Port Commissioners of San Diego Unified Port District do ordain as follows:"

All ordinances and resolutions shall be signed by the chairman of the board and attested by the clerk.

SEC. 63. All ordinances and resolutions shall be entered in the minutes. All ordinances passed by the board shall be published, with the names of the members voting for and against them at least once in some daily newspaper of general circulation printed and published in the County of San Diego.

SEC. 64. An ordinance passed by the board shall not go into effect until the expiration of 30 days from its publication.

This section does not apply to any ordinance ordering or otherwise relating to:

(a) An election.

(b) The adoption of the annual budget.

(c) The bringing or conducting of suits or actions.

(d) The condemnation of private property for public use.

(e) The immediate preservation of the public peace, health or safety, which ordinance shall contain a specific statement showing its urgency and be passed by a two-thirds vote of the board.

All ordinances of the classes excepted, take effect upon their publication. A grant or franchise, lease, right or privilege shall never be construed to be an urgency measure.

All grants or franchises, leases, rights or privileges shall be made by ordinance.

Irrevocable permits shall not be granted or issued to any person.

SEC. 65. The district created in accordance with the provisions of this act is a public corporation created for the purposes set forth herein.

SEC. 66. The district may contribute money to the federal or the state government or to the county in which it is located or to any city within the district, for the purpose of defraying the whole or a portion of the cost and expenses of work and improvement to be performed, either within or without the territorial limits of the district, by the federal, state, county or city government, in improving rivers, streams, or in doing other work, when such work will improve navigation and commerce, in or to the navigable waters in the district.

SEC. 67. The district shall take over and assume the bonded indebtedness incurred for development of tide and submerged lands of the county or any city specified in this act which shall have heretofore issued bonds or created any bonded indebtedness for harbor development or improvement in the Bay of San Diego and to issue any bonds for the retirement of any such outstanding bonded indebtedness. For the purpose of retiring bonds assumed by the district, the revenues, if any, from the facility or facilities constructed through the use of the bond proceeds shall be used to retire such bonds. Proceeds raised through taxation may also be used to retire such bonds.

The district shall also take over and assume other indebtedness, including indebtedness arising out of contractual obligations, of the county or any city specified in this act which indebtedness shall have been incurred for development of tide and submerged lands.

SEC. 68. The State hereby consents to the county or any city which has elected to join the district established under the provisions of this act to grant its right, title and interest in and to the tidelands, submerged lands, whether filled or unfilled, swamp, overflowed, and salt marshlands in the Bay of San Diego, which are owned by the county or any city, including any such lands which have been granted in trust to the county or city by the State, to the district in trust for the uses and purposes and upon the conditions specified in this act. The county or such city may also transfer, relinquish and surrender to the district its power to manage, conduct and operate the harbor in or adjacent to which such portion of such lands are situated. The district shall, upon its establishment in accordance with the provisions of this act, become the successor of the county or such city whose tide and submerged lands shall have been included therein with respect to the management, conduct and operation of the harbor and with respect to the use, possession and title to such portions of such lands, and

they shall continue to be held and used by the district pursuant to this act.

SEC. 69. If the district is dissolved by operation of law, or otherwise, any such lands so granted thereto pursuant to this act, together with any and all improvements thereon, and the management, conduct and operation of such harbor, reverts to and is revested in the county or city so granting the same to the district. The lands reverting to the cities or the county pursuant to this section shall be held by the respective cities or the county in trust subject to the conditions, terms, and purposes of this act.

SEC. 70. Whenever the district is established under the provisions of this act it is the successor of the county and each of the cities included therein as to all powers theretofore vested in the county or each such city or exercisable by its officers, which are by the provisions of this act granted to the district or are exercisable by its officers. Such powers are relinquished by the county and the cities and surrendered to the district. The title to, and possession and control of, any works, structures, appliances, improvements and equipment of the kinds designated in this act, owned or held by or in trust for the county and each of the cities, or by any officer or board thereof, in trust or otherwise, for any purpose for which the district is authorized to acquire and use property pursuant to this act, are upon the establishment of the district, transferred to and vested in the district and are thereafter owned, operated and controlled by the district pursuant to this act.

SEC. 71. Upon the establishment of the district, all persons then occupying the several offices of or under the government, of the county and each of the cities included therein, except as otherwise provided, whose several powers and duties are within the powers of the district or within the powers or duties of the several officers thereof, shall immediately quit and surrender the occupancy or possession of such offices which shall thereupon cease and determine, except as to any persons who have powers and perform duties for the county and the cities other than those mentioned, whose offices shall not cease and determine as to such other powers and duties but shall continue with respect thereto the same as if the district had not been established.

Notwithstanding the provisions contained in this section, all employees of the county and any city performing duties in connection with the Port of San Diego or the respective harbor departments, shall be blanketed in as employees of the district; and the district is empowered to contract with the State Employees' Retirement System and may provide retirement and disability benefits for employees under the State Employees' Retirement System pursuant to its rules and regulations. The district may, by contract, continue such employees of the district so blanketed in as members of the retirement system of which they were members while they were employees of the respective cities.

SEC. 72. The officers of the district shall be:

(a) An auditor.

(b) A port director.

(c) An attorney.

(d) A clerk.

(e) A treasurer.

(f) A chief engineer.

The auditor, port director, and attorney shall be appointed by the board. All other officers shall be appointed by the port director and confirmed by the board.

SEC. 73. The salaries of the officers shall be fixed by the board by ordinance. The auditor and attorney shall hold office at the pleasure of the board. All other officers shall be appointed from a classified civil service. All officers shall give such bond as is prescribed by the board; the premium on all bonds on officers and employees shall be paid by the district. All other officers or employees shall be appointed by the port director from a classified civil service. The board shall establish a classified civil service for all offices and phases of employment other than the offices specified herein.

SEC. 75. The board may adopt civil service rules and regulations in accordance with the following provisions:

(a) The civil service rules and regulations shall provide:

(1) For the qualifications and examination of all applicants for employment and for the employment of persons on probation

(2) For the registration of persons, other than unskilled laborers, in the classified civil service, in accordance with their general average standing upon examination.

(3) For promotions on the basis of ascertained merit and seniority in service and examination, and for competitive examinations for promotions.

(4) For the reassignment of persons injured in the service of the district who were at the time of injury actually engaged in the discharge of the duties of their positions.

(5) For leaves of absence.

(6) For the transfer from one position to a similar position of the same class.

(7) For the reinstatement to the list of eligibles on recommendation of the port director, of persons who have become separated from the service or have been reduced in rank, other than persons who have been removed for cause.

(8) For the keeping of service records of all employees in the civil service, and for their use as one of the bases for promotions or layoffs through stoppage or lack of work.

(9) For the procedure for the removal, discharge or suspension of employees; for the investigation by the board of the grounds thereof, and for the reinstatement or restoration to duty of persons found to have been removed, discharged or suspended for insufficient grounds or for reasons which are not sustained by investigation.

(10) Generally for any other purpose which may be necessary or appropriate to carry out the objects and purposes of the civil service system and the rules herein specifically authorized.

(b) Upon the request of the port director, the following persons may be exempted by the board, by ordinance, from the civil service:

(1) Persons employed to render professional, scientific, technical or expert service of a temporary or exceptional character.

(2) The first and second deputies or assistants of any officer of the district or of the chief engineer in the service of the district.

(3) Persons employed on the construction of district works, improvements, buildings or structures.

(4) Persons receiving a salary not exceeding fifty dollars ($50) a month.

Any exemption so made may be terminated at any time by resolution of the board.

(c) All officers and employees who, at the time of the establishment of the district, would be included in the classified civil service of the district, if a classified civil service is established, and who have been continuously in the service of the harbor department of a municipal corporation included in the district for a period of six months prior to the district's establishment, are deemed to have the necessary qualifications required by the provisions of this act and they retain the same respective or equivalent positions as nearly as practicable under the district which they formerly held in such municipal corporation.

(d) All officers and employees who, at the time of the establishment of the district, would be included in the classified civil service, if a classified civil service is established, but who have been in the service of the harbor department of any such municipal corporation for a period of less than six months, are deemed to be in the service of the district under probation, and are subject to the same regulations as other applicants for appointment to the civil service of the district serving under probation in accordance with rules and regulations established by the board.

SEC. 76. Nothing herein contained shall prevent the board from contracting with the County of San Diego to utilize the services of its civil service commission office or department to effectuate the purposes hereof.

SEC. 77. The salaries or wages of all officers and employees of the district shall be paid either monthly, semimonthly or weekly as the board by ordinance may determine.

SEC. 78. Such persons shall severally forthwith deliver and turn over to the proper officers of the district, all property of the county and each city in their hands or under their control

including any and all works, structures, appliances, improvements and equipment of the character, kinds or classes enumerated or designated in this act and pertaining to harbor improvements or affairs.

SEC. 79. The provisions of this act shall apply to any municipal corporation which is governed under a freeholders' charter even if such provisions are inconsistent with the charter or its amendments, it being hereby declared that such provisions are a matter of statewide concern and are to prevail over any inconsistent provisions in any such charter. If the district is dissolved by operation of law or otherwise, any such works, structures, appliances, improvements and equipment are vested in such municipal corporation, together with any other works, structures, appliances, improvements and equipment acquired or constructed by the district in that portion of the district within the limits of each such municipal corporation respectively.

SEC. 80. All money received or collected from or arising out of the use or operation of any harbor or port improvement, work, appliance, facility or utility, or vessel, owned, controlled or operated by the district; all tolls, charges and rentals collected by the board, and all compensations or fees required to be paid for franchises or licenses, or otherwise by law or ordinance or order, to the district for the operation of any public service utility upon lands or waters under the control and management of the board, shall be deposited in the treasury of the district to the credit of a fund to be known as the San Diego Unified Port District Revenue Fund. The money in or belonging to the fund shall not be appropriated or used for any purpose except those enumerated in this act.

SEC. 81. The fund may be used for the necessary expenses of conducting the district, including the operation and maintenance of all harbor or port improvements, works, utilities, appliances, facilities and vessels owned, controlled or operated by the district for the promotion and accommodation of commerce, navigation, fisheries, and recreation, or used in connection therewith, and for the purposes set forth in any grants in trust.

SEC. 82. The money in the fund may also be used for advertising the commercial and other advantages and facilities of any harbor in the district, and for encouraging and promoting commerce, navigation and transportation in and through such harbor.

SEC. 83. The money in the fund may also be used for the acquisition, construction, completion and maintenance of harbor and port improvements, works, utilities, appliances, facilities, and vessels, for the promotion and accommodation of commerce, navigation and fisheries, and recreation, or uses in connection therewith; and for extraordinary improvements and betterments to lands and property under the control,

supervision and management of the district, including the purchase or condemnation of necessary lands and other property and property rights.

SEC. 84. The money in the fund may also be used for the payment of the principal, or interest, or both, of district bonds authorized, issued and sold pursuant to this act.

SEC. 85. The money in the fund may also be used for the payment of the principal or interest, or both, of the bonds of the county or any city in the district, for harbor improvements, authorized or outstanding prior to the establishment of the district, or thereafter issued and sold by such county or city for harbor improvements pursuant to this act.

SEC. 86. The port director may make application in writing to the board for a transfer of amounts from one appropriated item to another in the budget allowance. On the approval of the board by a two-thirds vote, the auditor shall make such transfer; but a transfer shall not be made except as herein provided, and in any event a transfer shall not be made from one bond improvement fund to another.

SEC. 87. (a) The tide and submerged lands conveyed to the district by any city included in the district shall be held by the district and its successors in trust and may be used for purposes in which there is a general statewide purpose, as follows:

(1) For the establishment, improvement and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient, for the promotion and accommodation of commerce and navigation.

(2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair and maintenance of commercial and industrial buildings, plants and facilities.

(3) For the establishment, improvement and conduct of airport and heliport or aviation facilities, including but not limited to approach, takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation.

(4) For the construction, reconstruction, repair and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary or convenient for the promotion and accommodation of any of the uses set forth in this section.

(5) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and

meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including but not limited to public golf courses, and for all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(6) For the establishment, improvement and conduct of small boat harbors, marinas, aquatic playgrounds and similar recreational facilities, and for the construction, reconstruction, repair, maintenance and operation of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any of such uses, including but not limited to snack bars, cafes, restaurants, motels, launching ramps and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas.

(b) The district or its successors shall not, at any time, grant, convey, give or alienate said lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that said district, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which said lands are held by the State of California, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from such leases, franchises and privileges. Such lease or leases, franchises and privileges may be for any and all purposes which shall not interfere with commerce and navigation.

(c) Said lands shall be improved without expense to the State; provided, however, that nothing contained in this section shall preclude expenditures for the development of said lands for any public purpose not inconsistent with commerce, navigation and fishery, by the State, or any board, agency or commission thereof, when authorized or approved by the district, nor by the district of any funds received for such purpose from the State or any board, agency or commission thereof.

(d) In the management, conduct, operation and control of said lands or any improvements, betterments, or structures thereon, the district or its successors shall make no discrimination in rates, tolls or charges for any use or service in connection therewith.

(e) The State of California shall have the right to use without charge any transportation, landing or storage improvements, betterments or structures constructed upon said lands for any vessel or other watercraft, aircraft, or railroad owned or operated by the State of California.

(f) There is hereby reserved to the people of the State of California the right to fish in the waters on said lands with the right of convenient access to said water over said lands for said purpose.

(g) There is hereby excepted and reserved in the State of California all deposits of minerals, including oil and gas, in said lands, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from said lands.

(h) Said lands shall be held subject to the express reservation and condition that the State may at any time in the future use said lands or any portion for highway purposes without compensation to the district, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements, betterments or structures have been placed upon the property taken by the State for said purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements, betterments or structures taken or the damages to such interest.

(i) The State Lands Commission shall, at the cost of the district, survey and monument said lands and record a description and plat thereof in the office of the County Recorder of San Diego County.

(j) As to any tide and submerged lands conveyed to the district by a city which are subject to a condition contained in a grant of said lands to the city by the State that said lands shall be substantially improved within a designated period or else they shall revert to the State, such condition shall remain in effect as to said lands and shall be applicable to the district.

As to any tide and submerged lands conveyed to the district by a city which are not subject to such a condition contained in a grant by the State and which have not heretofore been substantially improved, said lands, within 10 years from the effective date of this act, shall be substantially improved by the district without expense to the State. If the State Lands Commission determines that the district has failed to improve said lands as herein required, all right, title and interest of the district in and to said lands shall cease and said lands shall revert and rest in the State