CHAPTER 5

Port and Terminal Utilities and Commissions in Cities

**SECTION 54‑5‑10.** Establishment and operation of port and terminal utilities.

 All cities of this State having a population of fifty thousand inhabitants or more, located upon a navigable stream, whether tidal or nontidal, may purchase or otherwise acquire, within or without or partly within and partly without the corporate limits of such cities, lands, water or riparian rights, wharves, docks, warehouses, buildings, rights of way and any other property for the purpose and with the right of establishing, constructing, developing, improving, maintaining and operating the port and terminal utilities of such cities in aid of the commerce and for the public use and benefit of such cities and their citizens, with the right to make any and all contracts, rules, rates and regulations necessary or incident to that end.

HISTORY: 1962 Code Section 54‑101; 1952 Code Section 54‑101; 1942 Code Section 7558; 1932 Code Section 7574; Civ. C. ‘22 Section 4756; 1920 (31) 969.

CROSS REFERENCES

Waterfront improvements, see Sections 5‑35‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 74, Port Utilities Commissions.

S.C. Jur. Shipping Law Section 75, Powers of State Ports Authority Over Utilities.

NOTES OF DECISIONS

In general 1

1. In general

The city of Charleston can operate its utilities through the port utilities commission and make the city liable for the acts of the commission, since the latter is an agency of the city created for that purpose in view of this section and Code 1962 Sections 54‑102 and 54‑106. Mathewes v. Port Utilities Commission of Charleston, S.C., 1929, 32 F.2d 913.

**SECTION 54‑5‑20.** Port utilities commissions; commissioners and their terms.

 For the purpose of exercising the power vested in such city under the provisions of Section 54‑5‑10, there is hereby created for each such city a commission which shall be known as the port utilities commission of \_\_\_\_\_\_\_\_\_\_ (naming the city). This commission shall be composed of nine members and their successors in office who shall, as commissioners, serve in such capacity without compensation. Five of such commissioners shall be voted for by the qualified registered electors as herein provided. Two of such commissioners so elected shall serve until the next ensuing general election for such city and three of such commissioners so elected shall serve until the second next general election of such city. The commissioners who shall serve for the short and long terms shall be determined according to the number of votes received by such commissioners, respectively, the commissioners receiving the highest number of votes, respectively, to serve for the long term and the other commissioners to serve for the short term. Whenever a tie vote shall have resulted in such election, the respective terms of those commissioners so tying shall be determined by lot cast in the presence of the election commissioners as a whole. The term of office of each commissioner elected by the qualified electors after the first term herein provided for shall be eight years. The remaining four commissioners shall be the mayor of such city, ex officio, the chairman of the committee on railroads of the city council of such city, ex officio, and two commissioners who shall be appointed by the Governor and who shall hold office for a term of two years.

HISTORY: 1962 Code Section 54‑102; 1952 Code Section 54‑102; 1942 Code Section 7560; 1932 Code Section 7576; Civ. C. ‘22 Section 4758; 1920 (31) 969.

CROSS REFERENCES

Waterfront improvements, see Sections 5‑35‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 74, Port Utilities Commissions.

**SECTION 54‑5‑30.** Elections for commissioners.

 The election for the commissioners of the port utilities commission of such cities may be held in the following manner: Upon the duly signed petition of registered electors qualified to vote in such cities equal in number to twenty‑five per cent of the votes cast for all candidates for mayor at the last preceding city election of such city, showing the residence and occupation of each petitioner, the mayor shall, by proclamation, order a special election to be held at a time specified in such proclamation, not later than two months and not earlier than two weeks after such petition shall be duly filed with the proper officer. Those entitled to vote at such special election shall be all those who are then duly qualified registered electors of such cities. Such special election shall be held and conducted as is provided by law for the conduct of municipal elections.

HISTORY: 1962 Code Section 54‑103; 1952 Code Section 54‑103; 1942 Code Section 7561; 1932 Code Section 7577; Civ. C. ‘22 Section 4759; 1920 (31) 969.

CROSS REFERENCES

Waterfront improvements, see Sections 5‑35‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 74, Port Utilities Commissions.

**SECTION 54‑5‑40.** Organization of commission.

 The persons so elected, designated or appointed to such office shall qualify by taking the oath taken by the election officers of any such city. The mayor of such city shall notify the persons elected as members of the port utilities commission within ten days after the result of any election is declared and promptly call a meeting for the purpose of organizing the commission. At the first meeting of the port utilities commission of any such city after each election for commissioners it shall organize by election from among the commissioners one to act as chairman of the commission. A secretary shall, as soon as possible, be appointed and shall serve for such period and be paid such salary as may be determined by the commission and until such appointment the clerk of any such city shall act as secretary of the commission.

HISTORY: 1962 Code Section 54‑104; 1952 Code Section 54‑104; 1942 Code Section 7560; 1932 Code Section 7576; Civ. C. ‘22 Section 4758; 1920 (31) 969.

CROSS REFERENCES

Waterfront improvements, see Sections 5‑35‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 74, Port Utilities Commissions.

**SECTION 54‑5‑50.** Vacancies in commission.

 The mayor and alderman of any such city shall fill any vacancy occurring in the commission by appointment for the unexpired term, except in the case of the two members appointed by the Governor, in which event the vacancy shall be filled by the Governor.

HISTORY: 1962 Code Section 54‑105; 1952 Code Section 54‑105; 1942 Code Section 7560; 1932 Code Section 7576; Civ. C. ‘22 Section 4758; 1920 (31) 969.

CROSS REFERENCES

Waterfront improvements, see Sections 5‑35‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 74, Port Utilities Commissions.

**SECTION 54‑5‑60.** General powers of commission.

 The port utilities commission of any such city may in its name carry out on behalf of such city the intent and purposes of the provisions of Section 54‑5‑10 and to that end may exercise all the rights, powers and privileges conferred upon such cities in Section 54‑5‑10. But the commission shall have no power to contract debts except as provided in Section 54‑5‑80. The commission may adopt a seal and may sue and be sued in any of the courts of this State by the name: The port utilities commission of \_ (naming the city). It may require an exact payment of such rates and charges as in the discretion of the commission it is deemed wise to establish from time to time, giving such public notice thereof as it may determine to be reasonable, and may change or modify such rates and charges as circumstances may seem to the commission to warrant.

HISTORY: 1962 Code Section 54‑106; 1952 Code Section 54‑106; 1942 Code Section 7562; 1932 Code Section 7578; Civ. C. ‘22 Section 4760; 1920 (31) 969.

CROSS REFERENCES

Waterfront improvements, see Sections 5‑35‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 74, Port Utilities Commissions.

S.C. Jur. Shipping Law Section 75, Powers of State Ports Authority Over Utilities.

**SECTION 54‑5‑70.** Actions for injury or wrongful death from construction or operation of port or terminal facilities.

 Any person who sustains injuries to his person or whose property is damaged by the negligent construction, development, improvement, maintenance or operation of any wharf, dock, warehouse, building, right of way, terminal railway or other property under the control of any city or any commission of any city of over fifty thousand inhabitants in connection with the maintenance or operation of the port or terminal facilities of such city in this State may recover actual damages in an action against such city or such commission of such city for such injuries to his person or damage to his property as though he had been injured or his property had been damaged by the agency of a private corporation. But there shall be no recovery in any such action for an amount in excess of ten thousand dollars. Whenever the death of a person shall be caused by any injuries sustained under such circumstances and conditions as would have entitled the party so injured to recover damages under this section, if death had not ensued, then the right of action for such injuries and death shall survive to and may be enforced by the personal representative of such person in the same manner as is now provided by law for actions by administrators and executors when death results from personal injuries and such provisions of law shall be applicable to all such actions. But there shall be no recovery in any such action for an amount in excess of ten thousand dollars.

HISTORY: 1962 Code Section 54‑107; 1952 Code Section 54‑107; 1942 Code Section 7566; 1932 Code Section 7573; 1930 (36) 1225.

CROSS REFERENCES

Civil action for wrongful act causing death, see Section 15‑51‑10.

Waterfront improvements, see Sections 5‑35‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 87, Damages Limited in Suits Against Port Terminals.

**SECTION 54‑5‑80.** Power of commission to incur indebtedness.

 The commission shall have no power to incur any indebtedness whatsoever without the express authority or concurrence of the city council of any such city.

HISTORY: 1962 Code Section 54‑113; 1952 Code Section 54‑113; 1942 Code Section 7562; 1932 Code Section 7578; Civ. C. ‘22 Section 4760; 1920 (31) 969.

CROSS REFERENCES

Waterfront improvements, see Sections 5‑35‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 74, Port Utilities Commissions.

S.C. Jur. Shipping Law Section 75, Powers of State Ports Authority Over Utilities.

**SECTION 54‑5‑90.** Monthly financial statement.

 The port utilities commission of any such city shall make a full statement to the city council of such city at the end of each month of its receipts, disbursements and outstanding accounts of all kinds for the preceding month.

HISTORY: 1962 Code Section 54‑115; 1952 Code Section 54‑115; 1942 Code Section 7562; 1932 Code Section 7578; Civ. C. ‘22 Section 4760; 1920 (31) 969.

CROSS REFERENCES

Waterfront improvements, see Sections 5‑35‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 74, Port Utilities Commissions.

S.C. Jur. Shipping Law Section 75, Powers of State Ports Authority Over Utilities.

**SECTION 54‑5‑100.** Tax exemption of port and terminal utilities.

 All property acquired by any city of this State for the purpose of establishing, developing, maintaining or operating the port and terminal utilities of such city in pursuance of the provisions of this chapter shall be exempt from taxation so long as it shall be maintained and used for such purposes.

HISTORY: 1962 Code Section 54‑116; 1952 Code Section 54‑116; 1942 Code Section 7565; 1932 Code Section 7581; 1926 (34) 947.

CROSS REFERENCES

Waterfront improvements, see Sections 5‑35‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 74, Port Utilities Commissions.

**SECTION 54‑5‑110.** Chapter is cumulative.

 The powers conferred by this chapter upon such cities of this State are, and shall be taken, deemed and construed to be, in addition to the powers otherwise enjoyed by such cities.

HISTORY: 1962 Code Section 54‑117; 1952 Code Section 54‑117; 1942 Code Section 7564; 1932 Code Section 7580; Civ. C. ‘22 Section 4762; 1920 (31) 969.

CROSS REFERENCES

Waterfront improvements, see Sections 5‑35‑10 et seq.