

REPORT

Report: Overview of Port Board Powers & Responsibilities under the Charter, and Board Member Legislative Immunity. **(Port Attorney)**

MEETING DATE: 11/8/2018

SUBMITTED BY: Danny Wan, Port Attorney

APPROVED BY: Danny Wan, Port Attorney

SUMMARY

The Port Attorney will present information on the Port Board of Commissioners' powers and duties under the City of Oakland City Charter, and its ability to delegate day-to-day operations, and administrative powers and duties to Port staff.

With respect to Commissioners' work, the presentation will include discussion of the Board members' legislative immunity. The common law of California that was later incorporated into the Tort Claims Act provides that a governmental official has personal immunity from lawsuits challenging his or her discretionary acts within the scope of authority. This common law immunity was said to extend to "all executive public officers when performing within the scope of their power acts which require the exercise of discretion or judgment." The historical basis of the rule was that fear of civil lawsuits might deter officials from the zealous discharge of their public duties.

But there are limits to the immunity, including personal liability when government officials act in an administrative capacity and when law specifically excludes certain wrongful acts from immunity or provides for personal liability. The presentation will discuss areas of potential personal liability for government officials and best practices to avoid them.