

MAR 1 1 2005
WAYS AND MEANS

HOUSE FILE 733
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO HF 425)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the port authorities including providing for
2 the establishment, control, and dissolution of port
3 authorities and providing for certain powers, limitations, and
4 requirements including issuing revenue bonds and pledge
5 orders, charging fees, entering into contracts and agreements,
6 employing persons and peace officers, and providing for the
7 use of revenues and exemption from property taxes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF-733

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1 Section 1. NEW SECTION. 28J.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Authorized purposes" means an activity that enhances,
5 fosters, aids, provides, or promotes transportation, economic
6 development, housing, recreation, education, governmental
7 operations, culture, or research within the jurisdiction of a
8 port authority.

9 2. "Board" means the board of directors of a port
10 authority established pursuant to section 28J.2.

11 3. "City" means the same as defined in section 362.2.

12 4. "Construction" means alteration, creation, development,
13 enlargement, erection, improvement, installation,
14 reconstruction, remodeling, and renovation.

15 5. "Contracting governmental agency" means any
16 governmental agency or taxing district of the state that, by
17 action of its legislative authority, enters into an agreement
18 with a port authority pursuant to section 28J.17.

19 6. "Cost" as applied to a port authority facility means
20 any of the following:

21 a. The cost of construction contracts, land, rights-of-
22 way, property rights, easements, franchise rights, and
23 interests required for acquisition or construction.

24 b. The cost of demolishing or removing any buildings or
25 structures on land, including the cost of acquiring any lands
26 to which those buildings or structures may be moved.

27 c. The cost of diverting a highway, interchange of a
28 highway, and access roads to private property, including the
29 cost of land or easements, and relocation of a facility of a
30 utility company or common carrier.

31 d. The cost of machinery, furnishings, equipment,
32 financing charges, interest prior to and during construction
33 and for no more than twelve months after completion of
34 construction, engineering, and expenses of research and
35 development with respect to a facility.

1 e. Legal and administrative expenses, plans,
2 specifications, surveys, studies, estimates of cost and
3 revenues, engineering services, and other expenses necessary
4 or incident to determining the feasibility or practicability
5 of acquiring or constructing a facility.

6 f. The interest upon the revenue bonds and pledge orders
7 during the period or estimated period of construction and for
8 twelve months thereafter, or for twelve months after the
9 acquisition date, reserve funds as the port authority deems
10 advisable in connection with a facility and the issuance of
11 port authority revenue bonds and pledge orders.

12 g. The costs of issuance of port authority revenue bonds
13 and pledge orders.

14 7. "Facility" or "port authority facility" means real or
15 personal property owned, leased, or otherwise controlled or
16 financed by a port authority and related to or in furtherance
17 of one or more authorized purposes.

18 8. "Governmental agency" means a department, division, or
19 other unit of state government of this state or any other
20 state, city, county, township, or other governmental
21 subdivision, or any other public corporation or agency created
22 under the laws of this state, any other state, the United
23 States, or any department or agency thereof, or any agency,
24 commission, or authority established pursuant to an interstate
25 compact or agreement or combination thereof.

26 9. "Person" means the same as defined in section 4.1.

27 10. "Pledge order" means a promise to pay out of the net
28 revenues of a port authority, which is delivered to a
29 contractor or other person in payment of all or part of the
30 cost of a facility.

31 11. "Political subdivision" means a city, county, city-
32 county consolidation, or multicounty consolidation, or
33 combination thereof.

34 12. "Political subdivisions comprising the port authority"
35 means the political subdivisions which created or participated

1 in the creation of the port authority under section 28J.2, or
2 which joined an existing port authority under section 28J.4.

3 13. "Port authority" means an entity created pursuant to
4 section 28J.2.

5 14. "Port authority revenue bonds" means revenue bonds and
6 revenue refunding bonds issued pursuant to section 28J.21.

7 15. "Public roads" means all public highways, roads, and
8 streets in this state, whether maintained by the state or by a
9 county or city.

10 16. "Revenues" means rental fees and other charges
11 received by a port authority for the use or services of a
12 facility, a gift or grant received with respect to a facility,
13 moneys received with respect to the lease, sublease, sale,
14 including installment sale or conditional sale, or other
15 disposition of a facility, moneys received in repayment of and
16 for interest on any loans made by the port authority to a
17 person or governmental agency, proceeds of port authority
18 revenue bonds for payment of principal, premium, or interest
19 on the bonds authorized by the port authority, proceeds from
20 any insurance, condemnation, or guarantee pertaining to the
21 financing of the facility, and income and profit from the
22 investment of the proceeds of port authority revenue bonds or
23 of any revenues.

24 Sec. 2. NEW SECTION. 28J.2 CREATION AND POWERS OF PORT
25 AUTHORITY.

26 1. Two or more political subdivisions may create a port
27 authority under this chapter by resolution. If a proposal to
28 create a port authority receives a favorable majority of the
29 members of the elected legislative body of the political
30 subdivision, the port authority is created at the time
31 provided in the resolution. The jurisdiction of a port
32 authority includes the territory described in section 28J.8.

33 2. A port authority created pursuant to this section may
34 sue and be sued, complain, and defend in its name and has the
35 powers and jurisdiction enumerated in this chapter.

1 3. At the time a port authority is created pursuant to
2 this section, the political subdivisions comprising the port
3 authority may restrict the powers granted the port authority
4 pursuant to this chapter by specifically adopting such
5 restrictions in the resolution creating the port authority.

6 4. The political subdivisions comprising the port
7 authority whose powers have been restricted pursuant to
8 subsection 3 may at any time adopt a resolution to grant
9 additional powers to the port authority, so long as the
10 additional powers do not exceed the powers permitted under
11 this chapter.

12 Sec. 3. NEW SECTION. 28J.3 APPROPRIATION AND EXPENDITURE
13 OF PUBLIC FUNDS -- DISSOLUTION.

14 1. The political subdivisions comprising a port authority
15 may appropriate and expend public funds to finance or
16 subsidize the operation and authorized purposes of the port
17 authority. A port authority shall control tax revenues
18 allocated to the facilities the port authority administers and
19 all revenues derived from the operation of the port authority,
20 the sale of its property, interest on investments, or from any
21 other source related to the port authority.

22 2. All revenues received by the port authority shall be
23 held in a separate fund in a manner agreed to by the political
24 subdivisions comprising the port authority. Revenues may be
25 paid out only at the direction of the board of directors of
26 the port authority.

27 3. A port authority shall comply with section 331.341,
28 subsections 1, 2, 4, and 5, and section 331.342, when
29 contracting for public improvements.

30 4. Subject to making due provisions for payment and
31 performance of any outstanding obligations, the political
32 subdivisions comprising the port authority may dissolve the
33 port authority, and transfer the property of the port
34 authority to the political subdivisions comprising the port
35 authority in a manner agreed upon between the political

1 subdivisions comprising the port authority prior to the
2 dissolution of the port authority.

3 Sec. 4. NEW SECTION. 28J.4 JOINING AN EXISTING PORT
4 AUTHORITY.

5 1. A political subdivision which is contiguous to either a
6 political subdivision which participated in the creation of
7 the port authority or a political subdivision which proposes
8 to join the port authority at the same time which is
9 contiguous to a political subdivision which participated in
10 the creation of the port authority may join the port authority
11 by resolution.

12 2. If more than one such political subdivision proposes to
13 join the port authority at the same time, the resolution of
14 each such political subdivision shall designate the political
15 subdivisions which are to be so joined.

16 3. Any territory or city not included in a port authority
17 which is annexed to a city included within the jurisdiction of
18 a port authority shall, on such annexation and without further
19 proceedings, be annexed to and be included in the jurisdiction
20 of the port authority.

21 4. Before a political subdivision is joined to a port
22 authority, other than by annexation to a city, the political
23 subdivisions comprising the port authority shall agree upon
24 the terms and conditions pursuant to which such political
25 subdivision is to be joined.

26 5. For the purpose of this chapter, such political
27 subdivision shall be considered to have participated in the
28 creation of the port authority, except that the initial term
29 of any director of the port authority appointed by a joining
30 political subdivision shall be four years.

31 6. After each resolution proposing a political subdivision
32 to join a port authority has become effective and the terms
33 and conditions of joining the port authority have been agreed
34 to, the board of directors of the port authority shall by
35 resolution either accept or reject the proposal. Such

1 proposal to join a port authority shall be effective upon
2 adoption of the resolution by the board of directors of the
3 port authority and thereupon the jurisdiction of the port
4 authority includes the joining political subdivision.

5 Sec. 5. NEW SECTION. 28J.5 MEMBERSHIP OF BOARD OF
6 DIRECTORS.

7 1. A port authority created pursuant to section 28J.2
8 shall be governed by a board of directors. Members of a board
9 of directors of a port authority shall be divided among the
10 political subdivisions comprising the port authority in such
11 proportions as the political subdivisions may agree and shall
12 be appointed by the respective political subdivision's elected
13 legislative body.

14 2. The number of directors comprising the board shall be
15 determined by agreement between the political subdivisions
16 comprising the port authority, and which number may be changed
17 by resolution of the political subdivisions comprising the
18 port authority.

19 3. A majority of the directors shall have been qualified
20 electors of, or owned a business or been employed in, one or
21 more political subdivisions within the area of the
22 jurisdiction of the port authority for a period of at least
23 three years preceding appointment.

24 4. The directors of a port authority first appointed shall
25 serve staggered terms. Thereafter each successor director
26 shall serve for a term of four years, except that any person
27 appointed to fill a vacancy shall be appointed to only the
28 unexpired term. A director is eligible for reappointment.

29 5. The board may provide procedures for the removal of a
30 director who fails to attend three consecutive regular
31 meetings of the board. If a director is so removed, a
32 successor shall be appointed for the remaining term of the
33 removed director in the same manner provided for the original
34 appointment. The appointing body may at any time remove a
35 director appointed by it for misfeasance, nonfeasance, or

1 malfeasance in office.

2 6. The board may adopt bylaws and shall elect one director
3 as chairperson and one director as vice chairperson, designate
4 terms of office, and appoint a secretary who need not be a
5 director.

6 7. A majority of the board of directors shall constitute a
7 quorum for the purpose of holding a meeting of the board. The
8 affirmative vote of a majority of a quorum shall be necessary
9 for any action taken by the port authority unless the board
10 determines that a greater number of affirmative votes is
11 necessary for particular actions to be taken by the port
12 authority. A vacancy in the membership of the board shall not
13 impair the rights of a quorum to exercise all the rights and
14 perform all the duties of the port authority.

15 8. Each director shall be entitled to receive from the
16 port authority such sum of money as the board may determine as
17 compensation for services as a director and reimbursement for
18 reasonable expenses in the performance of official duties.

19 Sec. 6. NEW SECTION. 28J.6 CIVIL IMMUNITY OF DIRECTORS.

20 A director of a port authority shall not be personally
21 liable for any monetary damages that arise from actions taken
22 in the performance of the director's official duties, except
23 for acts or omissions that are not in good faith or that
24 involve intentional misconduct, a knowing violation of law, or
25 any transaction from which the director derived an improper
26 personal benefit.

27 Sec. 7. NEW SECTION. 28J.7 EMPLOYEES, ADVISORY BOARD,
28 SPECIAL PEACE OFFICERS.

29 1. A port authority shall employ and fix the
30 qualifications, duties, and compensation of any employees and
31 enter into contracts for any services that may be required to
32 conduct the business of the port authority, and may appoint an
33 advisory board, which shall serve without compensation.

34 2. An employee of a port authority is a public employee
35 for the purposes of collective bargaining under chapter 20.

1 3. a. A port authority may provide for the administration
2 and enforcement of the laws of the state by employing special
3 peace officers who shall have all the powers conferred by law
4 on peace officers of this state with regard to the
5 apprehension of violators upon all property under its control
6 within and without the port authority. The peace officers may
7 seek the assistance of other appropriate law enforcement
8 officers to enforce its rules and maintain order.

9 b. Special peace officers employed by a port authority
10 shall pass a regular mental and physical civil service
11 examination for police officers appointed under the civil
12 service law of chapter 400 and shall participate in the
13 retirement system established by chapter 411.

14 c. Special peace officers employed by a port authority
15 shall serve as a peace officer force with respect to the
16 property, grounds, buildings, equipment, and facilities under
17 the control of the port authority, to prevent hijacking of
18 aircraft or watercraft, protect the property of the authority
19 and the property of others located thereon, suppress nuisances
20 and disturbances and breaches of the peace, and enforce laws
21 and the rules of the port authority for the preservation of
22 good order. Special peace officers are vested with the same
23 powers of arrest as peace officers under section 804.7.

24 4. If an employee of a political subdivision comprising
25 the port authority is transferred to a comparable position
26 with the port authority, the employee is entitled to suffer no
27 loss in pay, pension, fringe benefits, or other benefits and
28 shall be entitled to a comparable rank and grade as the
29 employee's prior position. Sick leave, longevity, and
30 vacation time accrued to such employees shall be credited to
31 them as employees of the port authority. All rights and
32 accruals of such employees as members of the Iowa public
33 employees' retirement system pursuant to chapter 97B and the
34 retirement system for police officers pursuant to chapter 411
35 shall remain in force and shall be automatically transferred

1 to the port authority.

2 Sec. 8. NEW SECTION. 28J.8 AREA OF JURISDICTION.

3 1. The area of jurisdiction of a port authority shall
4 include all of the territory of the political subdivisions
5 comprising the port authority and, if the port authority owns
6 or leases a railroad line or airport, the territory on which
7 the railroad's line, terminals, and related facilities or the
8 airport's runways, terminals, and related facilities are
9 located, regardless of whether the territory is located in the
10 political subdivisions comprising the port authority.

11 2. A political subdivision that has created a port
12 authority or joined an existing port authority shall not be
13 included in any other port authority.

14 Sec. 9. NEW SECTION. 28J.9 POWERS OF PORT AUTHORITY.

15 A port authority may exercise all of the following powers:

16 1. Adopt bylaws for the regulation of the port authority's
17 affairs and the conduct of the port authority's business.

18 2. Adopt an official seal.

19 3. Maintain a principal office and branch offices within
20 the port authority's jurisdiction.

21 4. Acquire, construct, furnish, equip, maintain, repair,
22 sell, exchange, lease, lease with an option to purchase,
23 convey interests in real or personal property, and operate any
24 property of the port authority in connection with
25 transportation, recreational, governmental operations, or
26 cultural activities in furtherance of an authorized purpose.

27 5. Straighten, deepen, and improve any channel, river,
28 stream, or other watercourse or way which may be necessary or
29 proper in the development of the facilities of the port
30 authority.

31 6. Make available the use or services of any facility of
32 the port authority to any person or governmental agency.

33 7. Issue bonds or pledge orders pursuant to the
34 requirements and limitations in section 28J.21.

35 8. Issue port authority revenue bonds beyond the limit of

1 bonded indebtedness provided by law, payable solely from
2 revenues as provided in section 28J.21, for the purpose of
3 providing funds to pay the costs of any facility or facilities
4 of the port authority or parts thereof.

5 9. Apply to the proper authorities of the United States
6 for the right to establish, operate, and maintain foreign
7 trade zones and establish, operate, and maintain foreign trade
8 zones and to acquire, exchange, sell, lease to or from, lease
9 with an option to purchase, or operate facilities, land, or
10 property in accordance with the federal Foreign Trade Zones
11 Act, 19 U.S.C. § 81a-81u.

12 10. Enjoy and possess the same legislative and executive
13 rights, privileges, and powers granted cities under chapter
14 364 and counties under chapter 331, except the power to levy
15 taxes.

16 11. Maintain such funds as it considers necessary and
17 adhere to the public funds investment standards of chapter
18 12B, as applicable.

19 12. Direct port authority agents or employees, after at
20 least five days' written notice, to enter upon lands within
21 the port authority's jurisdiction to make surveys and
22 examinations preliminary to location and construction of works
23 for the port authority, without liability of the port
24 authority or its agents or employees except for actual
25 damages.

26 13. Promote, advertise, and publicize the port authority
27 and its facilities, and provide information to shippers and
28 other commercial interests.

29 14. Adopt bylaws, not in conflict with state or federal
30 law, necessary or incidental to the performance of the duties
31 of and the execution of the powers of the port authority under
32 this chapter.

33 15. Do any of the following in regard to interests in real
34 or personal property, including machinery, equipment, plants,
35 factories, offices, and other structures and facilities

1 related to or in furtherance of any authorized purpose as the
2 board in its sole discretion may determine:

3 a. Loan money to any person or governmental agency for the
4 acquisition, construction, furnishing, or equipping of the
5 property.

6 b. Acquire, construct, maintain, repair, furnish, or equip
7 the property.

8 c. Sell to, exchange with, lease, convey other interests
9 in, or lease with an option to purchase the same or any lesser
10 interest in the property to the same or any other person or
11 governmental agency.

12 d. Guarantee the obligations of any person or governmental
13 agency.

14 e. Accept and hold as consideration for the conveyance of
15 property or any interest therein such property or interests
16 therein as the board may determine, notwithstanding any
17 restrictions that apply to the investment of funds by a port
18 authority.

19 16. Sell, lease, or convey other interests in real and
20 personal property, and grant easements or rights-of-way over
21 property of the port authority. The board shall specify the
22 consideration and terms for the sale, lease, or conveyance of
23 other interests in real and personal property. A
24 determination made by the board under this subsection shall be
25 conclusive. The sale, lease, or conveyance may be made
26 without advertising and the receipt of bids.

27 17. Exercise the right of eminent domain to appropriate
28 land, rights, rights-of-way, franchises, easements, or other
29 property, necessary or proper for any authorized purpose,
30 pursuant to the procedure provided in chapter 6A as if the
31 port authority were a city or county, if funds equal to the
32 appraised value of the property to be acquired as a result of
33 such proceedings are available for that purpose. However,
34 this chapter does not authorize a port authority to take or
35 disturb property or a facility belonging to a governmental

1 agency, utility company, or common carrier, which property or
2 facility is necessary and convenient in the operation of the
3 governmental agency, utility company, or common carrier,
4 unless provision is made for the restoration, relocation, or
5 duplication of such property or facility, or upon the election
6 of the governmental agency, utility company, or common
7 carrier, for the payment of compensation, if any, at the sole
8 cost of the port authority, provided that both of the
9 following apply:

10 a. If a restoration or duplication proposed to be made
11 under this subsection involves a relocation of the property or
12 facility, the new facility and location shall be of at least
13 comparable utilitarian value and effectiveness and shall not
14 impair the ability of the utility company or common carrier to
15 compete in its original area of operation.

16 b. If a restoration or duplication made under this
17 subsection involves a relocation of the property or facility,
18 the port authority shall acquire no interest or right in or to
19 the appropriated property or facility, until the relocated
20 property or facility is available for use and until marketable
21 title thereto has been transferred to the utility company or
22 common carrier.

23 18. a. Make and enter into all contracts and agreements
24 and execute all instruments necessary or incidental to the
25 performance of the duties of and the execution of powers of
26 the port authority under this chapter.

27 b. Except as provided in paragraph "c", when the cost of a
28 contract for the construction of a building, structure, or
29 other improvement undertaken by a port authority involves an
30 expenditure exceeding twenty-five thousand dollars, and the
31 port authority is the contracting entity, the port authority
32 shall make a written contract after notice calling for bids
33 for the award of the contract has been given by publication
34 twice, with at least seven days between publications, in a
35 newspaper of general circulation in the area of the port

1 authority. Each such contract shall be let to the lowest
2 responsive and responsible bidder. Every contract shall be
3 accompanied by or shall refer to plans and specifications for
4 the work to be done, prepared for and approved by the port
5 authority, and signed by an authorized officer of the port
6 authority and by the contractor.

7 c. The board of directors may provide criteria for the
8 negotiation and award without competitive bidding of any
9 contract as to which the port authority is the contracting
10 entity for the construction of any building or structure or
11 other improvement under any of the following circumstances:

12 (1) A real and present emergency exists that threatens
13 damage or injury to persons or property of the port authority
14 or other persons, provided that a statement specifying the
15 nature of the emergency that is the basis for the negotiation
16 and award of a contract without competitive bidding shall be
17 signed by the officer of the port authority that executes that
18 contract at the time of the contract's execution and shall be
19 attached to the contract.

20 (2) A commonly recognized industry or other standard or
21 specification does not exist and cannot objectively be
22 articulated for the improvement.

23 (3) The contract is for any energy conservation measure as
24 defined in section 7D.34.

25 (4) With respect to material to be incorporated into the
26 improvement, only a single source or supplier exists for the
27 material.

28 (5) A single bid is received by the port authority after
29 complying with the provisions of paragraph "b".

30 d. (1) If a contract is to be negotiated and awarded
31 without competitive bidding for the reason set forth in
32 paragraph "c", subparagraph (2), the port authority shall
33 publish a notice calling for technical proposals at least
34 twice, with at least seven days between publications, in a
35 newspaper of general circulation in the area of the port

1 authority. After receipt of the technical proposals, the port
2 authority may negotiate with and award a contract for the
3 improvement to the person making the proposal considered to be
4 the most advantageous to the port authority.

5 (2) If a contract is to be negotiated and awarded without
6 competitive bidding for the reason set forth in paragraph "c",
7 subparagraph (4), construction activities related to the
8 incorporation of the material into the improvement also may be
9 provided without competitive bidding by the source or supplier
10 of that material.

11 e. A purchase, exchange, sale, lease, lease with an option
12 to purchase, conveyance of other interests in, or other
13 contract with a person or governmental agency that pertains to
14 the acquisition, construction, maintenance, repair,
15 furnishing, equipping, or operation of any real or personal
16 property, related to or in furtherance of economic development
17 and the provision of adequate housing, shall be made in such
18 manner and subject to such terms and conditions as may be
19 determined in the board's discretion. This paragraph applies
20 to all contracts that are subject to this section,
21 notwithstanding any other provision of law that might
22 otherwise apply, including a requirement of notice,
23 competitive bidding or selection, or for the provision of
24 security. However, this paragraph shall not apply to a
25 contract secured exclusively by or to be paid exclusively from
26 the general revenues of the port authority. For the purposes
27 of this paragraph, any revenues derived by the port authority
28 under a lease or other agreement that, by its terms,
29 contemplates the use of amounts payable under the agreement
30 either to pay the costs of the improvement that is the subject
31 of the contract or to secure obligations of the port authority
32 issued to finance costs of such improvement, are excluded from
33 general revenues.

34 19. Employ managers, superintendents, and other employees
35 and retain or contract with consulting engineers, financial

1 consultants, accounting experts, architects, attorneys, and
2 any other consultants and independent contractors as are
3 necessary in the port authority's judgment to carry out this
4 chapter, and fix the compensation thereof. All expenses
5 thereof shall be payable from any available funds of the port
6 authority or from funds appropriated for that purpose by the
7 political subdivisions comprising the port authority.

8 20. Receive and accept from a governmental agency grants
9 and loans for the construction of a port authority facility,
10 for research and development with respect to a port authority
11 facility, or any other authorized purpose, and receive and
12 accept aid or contributions from any source of moneys,
13 property, labor, or other things of value, to be held, used,
14 and applied only for the purposes for which the grants, loans,
15 aid, or contributions are made.

16 21. Engage in research and development with respect to a
17 port authority facility.

18 22. Purchase fire and extended coverage and liability
19 insurance for a port authority facility and for the principal
20 office and branch offices of the port authority, insurance
21 protecting the port authority and its officers and employees
22 against liability for damage to property or injury to or death
23 of persons arising from its operations, and any other
24 insurance the port authority may agree to provide under a
25 resolution authorizing port authority revenue bonds, pledge
26 orders, or in any trust agreement securing the same.

27 23. Charge, alter, and collect rental fees and other
28 charges for the use or services of a port authority facility
29 as provided in section 28J.16.

30 24. Perform all acts necessary or proper to carry out the
31 powers expressly granted in this chapter.

32 Sec. 10. NEW SECTION. 28J.10 PARTICIPATION OF PRIVATE
33 ENTERPRISE.

34 The port authority shall foster and encourage the
35 participation of private enterprise in the development of the

1 port authority facilities to the fullest extent practicable in
2 the interest of limiting the necessity of construction and
3 operation of the facilities by the port authority.

4 Sec. 11. NEW SECTION. 28J.11 PROVISIONS DO NOT AFFECT
5 OTHER LAWS OR POWERS.

6 This chapter shall not do any of the following:

7 1. Impair a provision of law directing the payment of
8 revenues derived from public property into sinking funds or
9 dedicating those revenues to specific purposes.

10 2. Impair the powers of a political subdivision to develop
11 or improve a port and terminal facility except as restricted
12 by section 28J.15.

13 3. Enlarge, alter, diminish, or affect in any way, a lease
14 or conveyance made, or action taken prior to the creation of a
15 port authority under section 28J.2 by a city or a county.

16 4. Impair or interfere with the exercise of a permit for
17 the removal of sand or gravel, or other similar permits issued
18 by a governmental agency.

19 5. Impair or contravene applicable federal regulations.

20 Sec. 12. NEW SECTION. 28J.12 CONVEYANCE, LEASE, OR
21 EXCHANGE OF PUBLIC PROPERTY.

22 A port authority may convey or lease, lease with an option
23 to purchase, or exchange with any governmental agency or other
24 port authority without competitive bidding and on mutually
25 agreeable terms, any personal or real property, or any
26 interest therein.

27 Sec. 13. NEW SECTION. 28J.13 ANNUAL BUDGET -- USE OF
28 RENTS AND CHARGES.

29 The board shall annually prepare a budget for the port
30 authority. Revenues received by the port authority shall be
31 used for the general expenses of the port authority and to pay
32 interest, amortization, and retirement charges on money
33 borrowed. Except as provided in section 28J.26, if there
34 remains, at the end of any fiscal year, a surplus of such
35 funds after providing for the above uses, the board shall pay

1 such surplus into the general funds of the political
2 subdivisions comprising the port authority as agreed to by the
3 subdivisions.

4 Sec. 14. NEW SECTION. 28J.14 SECRETARY TO FURNISH BOND
5 -- DEPOSIT AND DISBURSEMENT OF FUNDS.

6 Before receiving any revenues, the secretary of a port
7 authority shall furnish a bond in such amount as shall be
8 determined by the port authority with sureties satisfactory to
9 the port authority, and all funds coming into the hands of the
10 secretary shall be deposited by the secretary to the account
11 of the port authority in one or more such depositories as
12 shall be qualified to receive deposits of county funds, which
13 deposits shall be secured in the same manner as county funds
14 are required to be secured. A disbursement shall not be made
15 from such funds except in accordance with policies and
16 procedures adopted by the port authority.

17 Sec. 15. NEW SECTION. 28J.15 LIMITATION ON CERTAIN
18 POWERS OF POLITICAL SUBDIVISIONS.

19 A political subdivision creating or participating in the
20 creation of a port authority in accordance with section 28J.2
21 shall not, during the time the port authority is in existence,
22 exercise the rights and powers provided in chapters 28A, 28K,
23 and 384 relating to the political subdivision's authority over
24 a port, wharf, dock, harbor or other facility substantially
25 similar to that political subdivision's authority under a port
26 authority granted under this chapter.

27 Sec. 16. NEW SECTION. 28J.16 RENTALS OR CHARGES FOR USE
28 OR SERVICES OF FACILITIES -- AGREEMENTS WITH GOVERNMENTAL
29 AGENCIES.

30 1. a. A port authority may charge, alter, and collect
31 rental fees or other charges for the use or services of any
32 port authority facility and contract for the use or services
33 of a facility, and fix the terms, conditions, rental fees, or
34 other charges for the use or services.

35 b. If the services are furnished in the jurisdiction of

1 the port authority by a utility company or a common carrier,
2 the port authority's charges for the services shall not be
3 less than the charges established for the same services
4 furnished by a utility company or common carrier in the port
5 authority jurisdiction.

6 c. The rental fees or other charges shall not be subject
7 to supervision or regulation by any other authority,
8 commission, board, bureau, or governmental agency of the state
9 and the contract may provide for acquisition of all or any
10 part of the port authority facility for such consideration
11 payable over the period of the contract or otherwise as the
12 port authority determines to be appropriate, but subject to
13 the provisions of any resolution authorizing the issuance of
14 port authority revenue bonds or any trust agreement securing
15 the bonds.

16 d. A governmental agency that has power to construct,
17 operate, and maintain a port authority facility may enter into
18 a contract or lease with a port authority for the use or
19 services of a port authority facility as may be agreed to by
20 the port authority and the governmental agency.

21 2. a. A governmental agency may cooperate with the port
22 authority in the acquisition or construction of a port
23 authority facility and shall enter into such agreements with
24 the port authority as may be appropriate, which shall provide
25 for contributions by the parties in a proportion as may be
26 agreed upon and other terms as may be mutually satisfactory to
27 the parties including the authorization of the construction of
28 the facility by one of the parties acting as agent for all of
29 the parties and the ownership and control of the facility by
30 the port authority to the extent necessary or appropriate.

31 b. A governmental agency may provide funds for the payment
32 of any contribution required under such agreements by the levy
33 of taxes or assessments if otherwise authorized by the laws
34 governing the governmental agency in the construction of the
35 type of port authority facility provided for in the

1 agreements, and may pay the proceeds from the collection of
2 the taxes or assessments; or the governmental agency may issue
3 bonds or notes, if authorized by law, in anticipation of the
4 collection of the taxes or assessments, and may pay the
5 proceeds of the bonds or notes to the port authority pursuant
6 to such agreements.

7 c. A governmental agency may provide the funds for the
8 payment of a contribution by the appropriation of moneys or,
9 if otherwise authorized by law, by the issuance of bonds or
10 notes and may pay the appropriated moneys or the proceeds of
11 the bonds or notes to the port authority pursuant to such
12 agreements.

13 3. When the contribution of any governmental agency is to
14 be made over a period of time from the proceeds of the
15 collection of special assessments, the interest accrued and to
16 accrue before the first installment of the assessments is
17 collected, which is payable by the governmental agency on the
18 contribution under the terms and provisions of the agreements,
19 shall be treated as part of the cost of the improvement for
20 which the assessments are levied, and that portion of the
21 assessments that is collected in installments shall bear
22 interest at the same rate as the governmental agency is
23 obligated to pay on the contribution under the terms and
24 provisions of the agreements and for the same period of time
25 as the contribution is to be made under the agreements. If
26 the assessment or any installment thereof is not paid when
27 due, it shall bear interest until the payment thereof at the
28 same rate as the contribution and the county auditor shall
29 annually place on the tax list and duplicate the interest
30 applicable to the assessment and the penalty thereon as
31 otherwise authorized by law.

32 4. A governmental agency, pursuant to a favorable vote in
33 an election regarding issuing bonds to provide funds to
34 acquire, construct, or equip, or provide real estate and
35 interests in real estate for a port authority facility,

1 whether or not the governmental agency at the time of the
2 election had the authority to pay the proceeds from the bonds
3 or notes issued in anticipation of the bonds to the port
4 authority as provided in this section, may issue such bonds or
5 notes in anticipation of the issuance of the bonds and pay the
6 proceeds of the bonds or notes to the port authority in
7 accordance with an agreement with the port authority;
8 provided, that the legislative authority of the governmental
9 agency finds and determines that the port authority facility
10 to be acquired or constructed in cooperation with the
11 governmental agency will serve the same public purpose and
12 meet substantially the same public need as the facility
13 otherwise proposed to be acquired or constructed by the
14 governmental agency with the proceeds of the bonds and notes.

15 Sec. 17. NEW SECTION. 28J.17 CONTRACTS, ARRANGEMENTS,
16 AND AGREEMENTS.

17 1. a. A port authority may enter into a contract or other
18 arrangement with a person, railroad, utility company,
19 corporation, governmental agency including sewerage, drainage,
20 conservation, conservancy, or other improvement districts in
21 this or other states, or the governments or agencies of
22 foreign countries as may be necessary or convenient for the
23 exercise of the powers granted by this chapter. The port
24 authority may purchase, lease, or acquire land or other
25 property in any county of this state and in adjoining states
26 for the accomplishment of authorized purposes of the port
27 authority, or for the improvement of the harbor and port
28 facilities over which the port authority may have jurisdiction
29 including development of port facilities in adjoining states.
30 The authority granted in this section to enter into contracts
31 or other arrangements with the federal government includes the
32 power to enter into any contracts, arrangements, or agreements
33 that may be necessary to hold and save harmless the United
34 States from damages due to the construction and maintenance by
35 the United States of work the United States undertakes.

1 b. A political subdivision that has participated in the
2 creation of a port authority, or is within, or adjacent to a
3 political subdivision that is within the jurisdiction of a
4 port authority, may enter into an agreement with the port
5 authority to accomplish any of the authorized purposes of the
6 port authority. The agreement may set forth the extent to
7 which the port authority shall act as the agent of the
8 political subdivision.

9 2. A port authority may enter into an agreement with a
10 contracting governmental agency, whereby the port authority or
11 the contracting governmental agency undertakes, and is
12 authorized by the port authority or a contracting governmental
13 agency, to exercise any power, perform any function, or render
14 any service, on behalf of the port authority or a contracting
15 governmental agency, which the port authority or the
16 contracting governmental agency is authorized to exercise,
17 perform, or render.

18 3. A port authority or any contracting governmental agency
19 shall not acquire by virtue of any agreement entered into
20 under this section the power to levy or exempt from taxes or
21 the power to exercise eminent domain within, and on behalf of,
22 any other governmental agency unless approved by a majority of
23 the electors of that contracting governmental agency.

24 Sec. 18. NEW SECTION. 28J.18 REVENUE BONDS ARE LAWFUL
25 INVESTMENTS.

26 Port authority revenue bonds issued pursuant to this
27 chapter are lawful investments of banks, credit unions, trust
28 companies, savings and loan associations, deposit guaranty
29 associations, insurance companies, trustees, fiduciaries,
30 trustees or other officers having charge of the bond
31 retirement funds or sinking funds of port authorities and
32 governmental agencies, and taxing districts of this state, the
33 pension and annuity retirement system, the Iowa public
34 employees' retirement system, the police and fire retirement
35 systems under chapters 410 and 411, a revolving fund of a

1 governmental agency of this state, and are acceptable as
2 security for the deposit of public funds under chapter 12C.

3 Sec. 19. NEW SECTION. 28J.19 PROPERTY TAX EXEMPTION.

4 A port authority shall be exempt from and shall not be
5 required to pay taxes on real property belonging to a port
6 authority that is used exclusively for an authorized purpose
7 as provided in section 427.1, subsection 34. This exemption
8 shall not apply to property occupied and used during a tax
9 year by a person who is a lessee of the property for that tax
10 year under a written lease with a remaining term longer than
11 one year except real or personal property, leased to a lessee,
12 which property would be exempt from taxes under chapter 427 if
13 such property belonged to that lessee. This section does not
14 eliminate the lessor's or the lessee's obligation to comply
15 with other provisions of the Code to obtain an exemption for
16 such property.

17 Sec. 20. NEW SECTION. 28J.20 LOANS FOR ACQUISITION OR
18 CONSTRUCTION OF FACILITY -- SALE OF FACILITY -- POWER TO
19 ENCUMBER PROPERTY.

20 1. With respect to the financing of a facility for an
21 authorized purpose, under an agreement whereby the person to
22 whom the facility is to be leased, subleased, or sold, or to
23 whom a loan is to be made for the facility, is to make
24 payments sufficient to pay all of the principal of, premium,
25 and interest on the port authority revenue bonds issued for
26 the facility, the port authority, in addition to other powers
27 under this chapter, may do any of the following:

28 a. Make loans for the acquisition or construction of the
29 facility to such person upon such terms as the port authority
30 may determine or authorize including secured or unsecured
31 loans, and enter into loan agreements and other agreements,
32 accept notes and other forms of obligation to evidence such
33 indebtedness and mortgages, liens, pledges, assignments, or
34 other security interests to secure such indebtedness, which
35 may be prior or subordinate to or on a parity with other

1 indebtedness, obligations, mortgages, pledges, assignments,
2 other security interests, or liens or encumbrances, and take
3 actions considered appropriate to protect such security and
4 safeguard against losses, including, without limitation,
5 foreclosure and the bidding upon and purchase of property upon
6 foreclosure or other sale.

7 b. Sell the facility under terms as the port authority may
8 determine, including sale by conditional sale or installment
9 sale, under which title may pass prior to or after completion
10 of the facility or payment or provisions for payment of all
11 principal of, premium, and interest on the revenue bonds, or
12 at any other time provided in the agreement pertaining to the
13 sale, and including sale under an option to purchase at a
14 price which may be a nominal amount or less than true value at
15 the time of purchase.

16 c. Grant a mortgage, lien, or other encumbrance on, or
17 pledge or assignment of, or other security interest with
18 respect to, all or any part of the facility, revenues, reserve
19 funds, or other funds established in connection with the bonds
20 or with respect to a lease, sublease, sale, conditional sale
21 or installment sale agreement, loan agreement, or other
22 agreement pertaining to the lease, sublease, sale, or other
23 disposition of a facility or pertaining to a loan made for a
24 facility, or a guaranty or insurance agreement made with
25 respect thereto, or an interest of the port authority therein,
26 or any other interest granted, assigned, or released to secure
27 payments of the principal of, premium, or interest on the
28 bonds or to secure any other payments to be made by the port
29 authority, which mortgage, lien, encumbrance, pledge,
30 assignment, or other security interest may be prior or
31 subordinate to or on a parity with any other mortgage,
32 assignment, or other security interest, or lien or
33 encumbrance.

34 d. Contract for the acquisition or construction of the
35 facility or any part thereof and for the leasing, subleasing,

1 sale, or other disposition of the facility in a manner
2 determined by the port authority in its sole discretion,
3 without necessity for competitive bidding or performance
4 bonds.

5 e. Make appropriate provision for adequate maintenance of
6 the facility.

7 2. With respect to a facility referred to in this section,
8 the authority granted by this section is cumulative and
9 supplementary to all other authority granted in this chapter.
10 The authority granted by this section does not alter or impair
11 a similar authority granted elsewhere in this chapter for or
12 with respect to other facilities.

13 Sec. 21. NEW SECTION. 28J.21 ISSUANCE OF REVENUE AND
14 REFUNDING BONDS.

15 1. A port authority may issue revenue bonds and pledge
16 orders payable solely from the net revenues of the port
17 authority including the revenues generated from a facility
18 pursuant to section 28J.20. The revenue bonds may be issued
19 in such principal amounts as, in the opinion of the port
20 authority, are necessary for the purpose of paying the cost of
21 one or more port authority facilities or parts thereof.

22 2. a. The resolution to issue the bonds must be adopted
23 at a regular or special meeting of the board called for that
24 purpose by a majority of the total number of members of the
25 board. The board shall fix a date, time, and place of meeting
26 at which it proposes to take action, and give notice by
27 publication in the manner directed in section 331.305. The
28 notice must include a statement of the date, time, and place
29 of the meeting, the maximum amount of the proposed revenue
30 bonds, the purpose for which the revenue bonds will be issued,
31 and the net revenues to be used to pay the principal and
32 interest on the revenue bonds.

33 b. At the meeting the board shall receive oral or written
34 objections from any resident or property owner within the
35 jurisdiction of the port authority. After all objections have

1 been received and considered, the board, at the meeting or a
2 date to which it is adjourned, may take additional action for
3 the issuance of the bonds or abandon the proposal to issue
4 bonds. Any resident or property owner within the jurisdiction
5 of the port authority may appeal a decision of the board to
6 take additional action in district court within fifteen days
7 after the additional action is taken, but the additional
8 action of the board is final and conclusive unless the court
9 finds that the board exceeded its authority.

10 3. The board may sell revenue bonds or pledge orders at
11 public or private sale and may deliver revenue bonds and
12 pledge orders to the contractors, sellers, and other persons
13 furnishing materials and services constituting a part of the
14 cost of the port authority facility in payment therefor. The
15 pledge of any net revenues of a port authority is valid and
16 effective as to all persons including but not limited to other
17 governmental bodies when it becomes valid and effective
18 between the port authority and the holders of the revenue
19 bonds or pledge orders.

20 4. A revenue bond is valid and binding for all purposes if
21 it bears the signatures or a facsimile of the signature of the
22 officer designated by the port authority. Port authority
23 revenue bonds may bear dates, bear interest at rates not
24 exceeding those permitted by chapter 74A, bear interest at a
25 variable rate or rates changing from time to time in
26 accordance with a base or formula, mature in one or more
27 installments, be in registered form, carry registration and
28 conversion privileges, be payable as to principal and interest
29 at times and places, be subject to terms of redemption prior
30 to maturity with or without premium, and be in one or more
31 denominations, all as provided by the resolution of the board
32 authorizing their issuance. The resolution may also prescribe
33 additional provisions, terms, conditions, and covenants which
34 the port authority deems advisable, consistent with this
35 chapter, including provisions for creating and maintaining

1 reserve funds, the issuance of additional revenue bonds
2 ranking on a parity with such revenue bonds and additional
3 revenue bonds junior and subordinate to such revenue bonds,
4 and that such revenue bonds shall rank on a parity with or be
5 junior and subordinate to any revenue bonds which may be then
6 outstanding. Port authority revenue bonds are a contract
7 between the port authority and holders and the resolution is a
8 part of the contract.

9 5. The port authority may issue revenue bonds to refund
10 revenue bonds, pledge orders, and other obligations which are
11 by their terms payable from the net revenues of the same port
12 authority, at lower, the same, or higher rates of interest. A
13 port authority may sell refunding revenue bonds at public or
14 private sale and apply the proceeds to the payment of the
15 obligations being refunded, and may exchange refunding revenue
16 bonds in payment and discharge of the obligations being
17 refunded. The principal amount of refunding revenue bonds may
18 exceed the principal amount of the obligations being refunded
19 to the extent necessary to pay any premium due on the call of
20 the obligations being refunded and to fund interest accrued
21 and to accrue on the obligations being refunded.

22 6. The final maturity of any original issue of port
23 authority revenue bonds shall not exceed forty years from the
24 date of issue, and the final maturity of port authority
25 revenue bonds that refund outstanding port authority revenue
26 bonds shall not be later than the later of forty years from
27 the date of issue of the original issue of bonds or the date
28 by which it is expected, at the time of issuance of the
29 refunding bonds, that the useful life of all of the property
30 refinanced with the proceeds of the bonds, other than
31 interests in land, will have expired. Such bonds or notes
32 shall be executed in a manner as the resolution may provide.

33 7. The port authority may contract to pay an amount not to
34 exceed ninety-five percent of the engineer's estimated value
35 of the acceptable work completed during the month to the

1 contractor at the end of each month for work, material, or
2 services. Payment may be made in warrants drawn on any fund
3 from which payment for the work may be made. If such funds
4 are depleted, anticipatory warrants may be issued bearing a
5 rate of interest not exceeding that permitted by chapter 74A
6 even if income from the sale of bonds which have been
7 authorized and are applicable to the public improvement takes
8 place after the fiscal year in which the warrants are issued.
9 If the port authority arranges for the private sale of
10 anticipatory warrants, the warrants may be sold and the
11 proceeds used to pay the contractor. The warrants may also be
12 used to pay other persons furnishing services constituting a
13 part of the cost of the public improvement.

14 8. Port authority revenue bonds, pledge orders, and
15 warrants issued under this section are negotiable instruments.

16 9. The board may issue pledge orders pursuant to a
17 resolution adopted by a majority of the total number of
18 supervisors, at a regular or special meeting, ordering their
19 issuance and delivery in payment for all or part of the cost
20 of a project. Pledge orders may bear interest at rates not
21 exceeding those permitted by chapter 74A.

22 10. Except as provided in section 28J.20, the physical
23 properties of the port authority shall not be pledged or
24 mortgaged to secure the payment of revenue bonds, pledge
25 orders, or refunding bonds, or the interest thereon.

26 11. The members of the board of the port authority and any
27 person executing the bonds or pledge orders shall not be
28 personally liable on the bonds or pledge orders or be subject
29 to any personal liability or accountability by reason of the
30 issuance thereof.

31 Sec. 22. NEW SECTION. 28J.22 BONDS MAY BE SECURED BY
32 TRUST AGREEMENT.

33 1. In the discretion of the port authority, a port
34 authority revenue bond issued under this chapter may be
35 secured by a trust agreement between the port authority and a

1 corporate trustee that may be any trust company or bank having
2 the powers of a trust company within this or any other state.

3 2. The trust agreement may pledge or assign revenues of
4 the port authority to be received for payment of the revenue
5 bonds. The trust agreement or any resolution providing for
6 the issuance of revenue bonds may contain provisions for
7 protecting and enforcing the rights and remedies of the
8 bondholders as are reasonable and proper and not in violation
9 of law, including covenants setting forth the duties of the
10 port authority in relation to the acquisition of property, the
11 construction, improvement, maintenance, repair, operation, and
12 insurance of the port authority facility in connection with
13 which the bonds are authorized, the rentals or other charges
14 to be imposed for the use or services of any port authority
15 facility, the custody, safeguarding, and application of all
16 moneys, and provisions for the employment of consulting
17 engineers in connection with the construction or operation of
18 any port authority facility.

19 3. A bank or trust company incorporated under the laws of
20 this state, that may act as the depository of the proceeds of
21 bonds or of revenues, shall furnish any indemnifying bonds or
22 may pledge any securities that are required by the port
23 authority. The trust agreement may set forth the rights and
24 remedies of the bondholders and of the trustee, and may
25 restrict the individual right of action by bondholders as is
26 customary in trust agreements or trust indentures securing
27 similar bonds. The trust agreement may contain any other
28 provisions that the port authority determines reasonable and
29 proper for the security of the bondholders. All expenses
30 incurred in carrying out the provisions of the trust agreement
31 may be treated as a part of the cost of the operation of the
32 port authority facility.

33 Sec. 23. NEW SECTION. 28J.23 REMEDY OF HOLDER OF BOND OR
34 COUPON -- STATUTE OF LIMITATIONS.

35 1. The sole remedy for a breach or default of a term of a

1 port authority revenue bond or pledge order is a proceeding in
2 law or in equity by suit, action, or mandamus to enforce and
3 compel performance of the duties required by this chapter and
4 of the terms of the resolution authorizing the issuance of the
5 revenue bonds or pledge orders, or to obtain the appointment
6 of a receiver to take possession of and operate the port
7 authority, and to perform the duties required by this chapter
8 and the terms of the resolution authorizing the issuance of
9 the port authority revenue bonds or pledge orders.

10 2. An action shall not be brought which questions the
11 legality of port authority revenue bonds or pledge orders, the
12 power of a port authority to issue revenue bonds or pledge
13 orders, or the effectiveness of any proceedings relating to
14 the authorization and issuance of revenue bonds or pledge
15 orders, from and after fifteen days from the time the bonds or
16 pledge orders are ordered issued by the port authority.

17 Sec. 24. NEW SECTION. 28J.24 BONDS ARE PAYABLE SOLELY
18 FROM REVENUES AND FUNDS PLEDGED FOR PAYMENT.

19 Port authority revenue bonds and pledge orders issued under
20 this chapter do not constitute a debt, or a pledge of the
21 faith and credit, of the state or a political subdivision of
22 the state, and the holders or owners of the bonds or pledge
23 orders shall not have taxes levied by the state or by a taxing
24 authority of a governmental agency of the state for the
25 payment of the principal of or interest on the bonds or pledge
26 orders, but the bonds and pledge orders are payable solely
27 from the revenues and funds pledged for their payment as
28 authorized by this chapter, unless the notes are issued in
29 anticipation of the issuance of bonds or pledge orders or the
30 bonds and pledge orders are refunded by refunding bonds issued
31 under this chapter, which bonds, pledge orders, or refunding
32 bonds shall be payable solely from revenues and funds pledged
33 for their payment as authorized by those sections. All of the
34 bonds or pledge orders shall contain a statement to the effect
35 that the bonds or pledge orders, as to both principal and

1 interest, are not debts of the state or a political
2 subdivision of the state, but are payable solely from revenues
3 and funds pledged for their payment.

4 Sec. 25. NEW SECTION. 28J.25 FUNDS AND PROPERTY HELD IN
5 TRUST -- USE AND DEPOSIT OF FUNDS.

6 All revenues, funds, properties, and assets acquired by the
7 port authority under this chapter, whether as proceeds from
8 the sale of port authority revenue bonds, pledge orders, or as
9 revenues, shall be held in trust for the purposes of carrying
10 out the port authority's powers and duties, shall be used and
11 reused as provided in this chapter, and shall at no time be
12 part of other public funds. Such funds, except as otherwise
13 provided in a resolution authorizing port authority revenue
14 bonds or in a trust agreement securing the same, or except
15 when invested pursuant to section 28J.26, shall be kept in
16 depositories selected by the port authority in the manner
17 provided in chapter 12C, and the deposits shall be secured as
18 provided in that chapter. The resolution authorizing the
19 issuance of revenue bonds or pledge orders, or the trust
20 agreement securing such bonds or pledge orders shall provide
21 that any officer to whom, or any bank or trust company to
22 which, such moneys are paid shall act as trustee of such
23 moneys and hold and apply them for the purposes hereof,
24 subject to such conditions as this chapter and such resolution
25 or trust agreement provide.

26 Sec. 26. NEW SECTION. 28J.26 INVESTMENT OF EXCESS FUNDS.

27 1. If a port authority has surplus funds after making all
28 deposits into all funds required by the terms, covenants,
29 conditions, and provisions of outstanding revenue bonds,
30 pledge orders, and refunding bonds which are payable from the
31 revenues of the port authority and after complying with all of
32 the requirements, terms, covenants, conditions, and provisions
33 of the proceedings and resolutions pursuant to which revenue
34 bonds, pledge orders, and refunding bonds are issued, the
35 board may transfer the surplus funds to any other fund of the

1 port authority in accordance with this chapter and chapter
2 12C, provided that a transfer shall not be made if it
3 conflicts with any of the requirements, terms, covenants,
4 conditions, or provisions of a resolution authorizing the
5 issuance of revenue bonds, pledge orders, or other obligations
6 which are payable from the revenues of the port authority
7 which are then outstanding.

8 2. This section does not prohibit or prevent the board
9 from using funds derived from any other source which may be
10 properly used for such purpose, to pay a part of the cost of a
11 facility.

12 Sec. 27. NEW SECTION. 28J.27 CHANGE IN LOCATION OF
13 PUBLIC WAY, RAILROAD, OR UTILITY FACILITY -- VACATION OF
14 HIGHWAY.

15 1. When a port authority changes the location of any
16 portion of any public road, railroad, or utility facility in
17 connection with the construction of a port authority facility,
18 the port authority shall reconstruct at such location as the
19 governmental agency having jurisdiction over such road,
20 railroad, or utility facility finds most favorable. The
21 construction of such road, railroad, or utility facility shall
22 be of substantially the same type and in as good condition as
23 the original road, railroad, or utility facility. The cost of
24 such reconstruction, relocation, or removal and any damage
25 incurred in changing the location of any such road, railroad,
26 or utility facility shall be paid by the port authority as a
27 part of the cost of the port authority facility.

28 2. When the port authority finds it necessary that a
29 public highway or portion of a public highway be vacated by
30 reason of the acquisition or construction of a port authority
31 facility, the port authority may request the director of the
32 department of transportation to vacate such highway or portion
33 in accordance with chapter 306 if the highway or portion to be
34 vacated is on the state highway system, or, if the highway or
35 portion to be vacated is under the jurisdiction of a county,

1 the port authority shall petition the board of supervisors of
2 that county, in the manner provided in chapter 306, to vacate
3 such highway or portion. The port authority shall pay to the
4 county, as a part of the cost of such port authority facility,
5 any amounts required to be deposited with a court in
6 connection with proceedings for the determination of
7 compensation and damages and all amounts of compensation and
8 damages finally determined to be payable as a result of such
9 vacation.

10 3. The port authority may adopt bylaws for the
11 installation, construction, maintenance, repair, renewal,
12 relocation, and removal of railroad or utility facilities in,
13 on, over, or under any port authority facility. Whenever the
14 port authority determines that it is necessary that any such
15 facility installed or constructed in, on, over, or under
16 property of the port authority pursuant to such bylaws be
17 relocated, the utility company owning or operating such
18 facility shall relocate or remove them in accordance with the
19 order of the port authority. The cost and expenses of such
20 relocation or removal, including the cost of installing such
21 facility in a new location, the cost of any lands, or any
22 rights or interests in lands, and any other rights, acquired
23 to accomplish such relocation or removal, shall be paid by the
24 port authority as a part of the cost of the port authority
25 facility. In case of any such relocation or removal of such
26 facilities, the railroad or utility company owning or
27 operating them, its successors, or assigns may maintain and
28 operate such facilities, with the necessary appurtenances, in
29 the new location in, on, over, or under the property of the
30 port authority for as long a period and upon the same terms as
31 the railroad or utility company had the right to maintain and
32 operate such facilities in their former location.

33 Sec. 28. NEW SECTION. 28J.28 FINAL ACTIONS TO BE
34 RECORDED -- ANNUAL REPORT -- CONFIDENTIALITY OF INFORMATION.

35 1. All final actions of the port authority shall be

1 recorded and the records of the port authority shall be open
2 to public examination and copying pursuant to chapter 22. Not
3 later than the first day of April every year, a port authority
4 shall submit a report to the director of the department of
5 economic development detailing the projects and activities of
6 the port authority during the previous calendar year. The
7 report shall include, but not be limited to, all aspects of
8 those projects and activities, including the progress and
9 status of the projects and their costs, and any other
10 information the director determines should be included in the
11 report.

12 2. Financial and proprietary information, including trade
13 secrets, submitted to a port authority or the agents of a port
14 authority, in connection with the relocation, location,
15 expansion, improvement, or preservation of a business or
16 nonprofit corporation is not a public record subject to
17 chapter 22. Any other information submitted under those
18 circumstances is not a public record subject to chapter 22
19 until there is a commitment in writing to proceed with the
20 relocation, location, expansion, improvement, or preservation.

21 3. Notwithstanding chapter 21, the board of directors of a
22 port authority, when considering information that is not a
23 public record under this section, may close a meeting during
24 the consideration of that information pursuant to a vote of
25 the majority of the directors present on a motion stating that
26 such information is to be considered. Other matters shall not
27 be considered during the closed session.

28 Sec. 29. NEW SECTION. 28J.29 PROVISIONS TO BE LIBERALLY
29 CONSTRUED.

30 This chapter shall be liberally construed to effect the
31 chapter's purposes.

32 Sec. 30. Section 427.1, Code 2005, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 34. PORT AUTHORITY PROPERTY. The
35 property of a port authority created pursuant to section

1 28J.2, when devoted to public use and not held for pecuniary
2 profit. This exemption shall not apply to any property
3 occupied and used during a tax year under a written lease with
4 a remaining term longer than one year except real property
5 leased which would otherwise be exempt from taxes under this
6 chapter if such property belonged to that lessee.

7 EXPLANATION

8 This bill relates to the establishment of a port authority
9 by two or more cities, counties, city-county consolidations,
10 multicounty consolidations and provides for certain powers,
11 limitations, and requirements of port authorities. The bill
12 authorizes the creation of a port authority to finance
13 activities that enhance or promote economic development,
14 housing, recreation, education, and other authorized purposes
15 as defined in the bill. The bill provides that port
16 authorities are governed by a board of directors appointed by
17 the political subdivisions that created and comprise the port
18 authority. A port authority may be dissolved by the political
19 subdivisions which created the port authority. The port
20 authority may employ persons, including peace officers, who
21 shall have the right to collectively bargain under Code
22 chapter 20.

23 The bill provides that port authorities may adopt bylaws,
24 adopt an official seal, maintain offices, acquire or sell real
25 or personal property, improve a river or other watercourse,
26 apply to establish foreign trade zones, maintain funds,
27 promote and publicize its facilities, make loans for real or
28 personal property, exercise the right of eminent domain, make
29 and enter into contracts using competitive bidding, employ
30 managers and consultants, receive and accept grants and loans,
31 engage in research and development, purchase insurance, charge
32 fees for use of services and facilities, and perform other
33 acts necessary and proper to carry out other powers.

34 The bill provides that the board of directors shall prepare
35 an annual budget. A secretary of a port authority must post a

1 bond prior to receiving or disbursing revenues of the port
2 authority. Political subdivisions who comprise a port
3 authority may not exercise rights or powers over a port,
4 wharf, dock, harbor, or other facility similar to the
5 authority granted to the port authority under other provisions
6 of the Code. A port authority may charge rent and other fees
7 for the use and services of a port authority facility and may
8 make agreements with other governmental agencies to acquire or
9 construct a port authority facility including the provision of
10 funds. A port authority may enter into contracts necessary to
11 exercise its powers. The bill provides that a port authority
12 is exempt from payment of property taxes when its property is
13 not held for pecuniary profit. A port authority may finance a
14 facility of the port authority by making a loan or mortgage
15 for the acquisition or construction of a facility or entering
16 into a loan agreement or mortgage.

17 The bill provides that a port authority may issue revenue
18 bonds and pledge orders which are payable from the port
19 authority's net revenues. To issue a bond the board of the
20 port authority must pass a resolution at a regular or special
21 meeting of the board after notice of the meeting has been
22 published. Residents and property owners within the
23 jurisdiction of the port authority may object to the issuing
24 of a bond. Port authority revenue bonds and pledge orders may
25 be sold at public or private sale and must be signed by a
26 designated officer of the board. A port authority may also
27 issue revenue bonds to refund revenue bonds, pledge orders, or
28 other obligations payable from the net revenues of the port
29 authority. The final maturity of a revenue bond shall not
30 exceed 40 years. Port authority revenue bonds and pledge
31 orders are subject to the interest rate limitations of Code
32 chapter 74A. Port authority revenue bonds may be secured by a
33 trust agreement which may pledge or assign revenues of the
34 port authority for payment of the revenue bonds. The remedy
35 for breach or default on a port authority revenue bond is an

1 action to compel performance of the duties required by Code
2 chapter 28J and the terms of the resolution authorizing the
3 bond's issuance which must be brought within 15 days after the
4 bonds are issued.

5 The bill provides that all revenues and other assets of a
6 port authority shall be held in trust and used only as
7 provided in Code chapter 28J and shall be kept in depositories
8 authorized to keep public funds. A port authority may
9 transfer surplus funds to another fund of the port authority
10 or to the political subdivisions comprising the port authority
11 as agreed by the political subdivisions.

12 If a port authority changes the location of a public road,
13 railroad, or utility facility when constructing a port
14 authority facility, the port authority shall reconstruct the
15 road, railroad, or facility at another location approved by
16 the appropriate governmental authority.

17 The bill provides that all final actions of the port
18 authority shall be recorded and that all records of the port
19 authority are public records under Code chapter 22. Certain
20 financial and proprietary information provided to a port
21 authority are not public records. When discussing matters
22 relating to information not open to the public, the port
23 authority may consider the information during a closed
24 meeting.

25 The bill makes other corresponding and technical changes.

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