Reprinted
January 29, 2008

HOUSE BILL No. 1341

DIGEST OF HB 1341 (Updated January 28, 2008 7:57 pm - DI 71)

Citations Affected: IC 4-4; IC 5-14; IC 6-1.1; IC 6-3; IC 8-10; IC 8-15.7; noncode.

Synopsis: Ports of Indiana. Changes the name of the Indiana port commission to the ports of Indiana (the "POI"). Provides that the POI is governed by a commission and authorizes the commission to perform certain administrative functions. Provides that interviews and negotiations between the POI and industrial or commercial prospects may be held in executive session. Provides that certain records concerning negotiations between the POI and industrial, research, or commercial prospects may be excepted from disclosure at the discretion of the POI. Requires the POI to make the terms of its final offer of public financial resources available for inspection and copying after negotiations with a prospect have terminated. Deletes a provision stating that the current port commission is not immune from liability. Renames the executive director or manager of the POI as its chief executive. Provides that the POI may limit or halt public fishing within certain areas if required to maintain port security. Makes conforming changes. Deletes obsolete language.

Effective: Upon passage; July 1, 2008.

Stemler, Buck, Van Haaften

January 15, 2008, read first time and referred to Committee on Roads and Transportation.
January 24, 2008, reported — Do Pass.
January 28, 2008, read second time, amended, ordered engrossed.

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Reprinted
January 29, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1341

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-4-10.9-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. "Person" means any individual ~~partnership, firm, association, joint venture, limited liability company, or corporation~~ **or entity.**

SECTION 2. IC 4-4-11-15, AS AMENDED BY P.L.162-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under the affected statutes, including but not limited to the following:

(1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.

(2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, guidelines, and policies not inconsistent with the affected statutes, and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of

the authority and conduct its business under the affected statutes. These bylaws, rules, guidelines, and policies must be made by a resolution of the authority introduced at one (1) meeting and approved at a subsequent meeting of the authority.

(3) Sue and be sued in its own name.

(4) Have an official seal and alter it at will.

(5) Maintain an office or offices at a place or places within the state as it may designate.

(6) Make, execute, and enforce contracts and all other instruments necessary, convenient, or desirable for the purposes of the authority or pertaining to:

(A) a purchase, acquisition, or sale of securities or other investments; or

(B) the performance of the authority's duties and execution of any of the authority's powers under the affected statutes.

(7) Employ architects, engineers, attorneys, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation.

(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by the affected statutes. Notwithstanding any other law, the:

(A) issuance by the authority of any indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to required levels; or

(B) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the authority;

is subject to review by the budget committee and approval by the budget director.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority, including the power to pay premiums on any insurance

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or reinsurance.

(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the affected statutes, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with the affected statutes.

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including participants (as defined in IC 13-11-2-151.1) for any purpose permitted under IC 13-18-13 or IC 13-18-21, borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in IC 5-28-31-1), rural development project (as defined in IC 5-28-31-20), industrial development project, purpose permitted under IC 13-18-13 and IC 13-18-21, or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to the affected statutes.

(14) Provide technical assistance to local public bodies and to profit and nonprofit entities in the development or operation of agricultural enterprises, rural development projects, and industrial development projects.

(15) To the extent permitted under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

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(16) To the extent permitted under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of this state, the reduction can be made without jeopardizing the economic stability of the agricultural enterprise, rural development project, or industrial development project being financed.

(17) Notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

(18) Fix and revise periodically, and charge and collect, fees and charges as the authority determines to be reasonable in connection with:

(A) the authority's loans, guarantees, advances, insurance, commitments, and servicing; and

(B) the use of the authority's services or facilities.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of the affected statutes.

(22) Take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to any industrial development project when a guaranteed loan thereon is clearly in default and when in the opinion of the authority such acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease or rent such industrial

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development project for any use.

(23) Expend money provided to the authority by the Indiana economic development corporation from the industrial development project guaranty fund created by IC 5-28-30, subject to the terms of any agreement with the Indiana economic development corporation governing the expenditure of that money.

(24) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve industrial development projects, including land, machinery, equipment, or any combination thereof.

(25) Lease industrial development projects to users or developers, with or without an option to purchase.

(26) Sell industrial development projects to users or developers, for consideration to be paid in installments or otherwise.

(27) Make direct loans from the proceeds of the bonds to users or developers for:

(A) the cost of acquisition, construction, or installation of industrial development projects, including land, machinery, equipment, or any combination thereof; or

(B) eligible expenditures for an educational facility project described in IC 4-4-10.9-6.2(a)(2);

with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.

(28) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to such lender to be used for making a loan to a developer or user for the financing of industrial development projects under this chapter.

(29) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct industrial development projects to be leased from or to be acquired by the authority.

(30) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal and interest on the bonds.

(31) Adopt rules and guidelines governing its activities authorized under the affected statutes.

(32) Use the proceeds of bonds to make guaranteed participating loans.

(33) Purchase, discount, sell, and negotiate, with or without

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guaranty, notes and other evidences of indebtedness.
(34) Sell and guarantee securities.
(35) Make guaranteed participating loans under IC 4-4-21-26.
(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.
(37) Provide performance bond guarantees to support eligible export loan transactions, subject to the terms of the affected statutes.
(38) Provide financial counseling services to Indiana exporters.
(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.
(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.
(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.
(42) Cooperate with the Indiana economic development corporation in taking any actions necessary for the administration of the agricultural loan and rural development project guarantee fund established by IC 5-28-31.
(43) In cooperation with the Indiana economic development corporation, take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the Indiana economic development corporation the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.
(44) Expend money provided to the authority by the Indiana economic development corporation from the agricultural loan and rural development project guarantee fund created by IC 5-28-31, subject to the terms of any agreement with the Indiana economic development corporation governing the expenditure of that money.
(45) Reimburse from bond proceeds expenditures for industrial

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development projects under this chapter.

(46) Acquire, hold, use, and dispose of the authority's income, revenues, funds, and money.

(47) Purchase, acquire, or hold debt securities or other investments for the authority's own account at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable.

(48) Fix and establish terms and provisions with respect to:

(A) a purchase of securities by the authority, including dates and maturities of the securities;

(B) redemption or payment before maturity; and

(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority.

(49) To the extent permitted under the authority's contracts with the holders of bonds or notes, amend, modify, and supplement any provision or term of:

(A) a bond, a note, or any other obligation of the authority; or

(B) any agreement or contract of any kind to which the authority is a party.

(50) Subject to the authority's investment policy, do any act and enter into any agreement pertaining to a swap agreement (as defined in IC 8-9.5-9-4) related to the purposes of the affected statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7, whether the action is incidental to the issuance, carrying, or securing of bonds or otherwise.

(51) Do any act necessary or convenient to the exercise of the powers granted by the affected statutes, or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers. The omission of a power from the list in subsection (a) does not imply that the authority lacks that power. The authority may exercise any power that is not listed in subsection (a) but is consistent with the powers listed in subsection (a) to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that

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may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

(d) The authority shall work with and assist the Indiana housing and community development authority established by IC 5-20-1-3, the **ports of** Indiana ~~port commission~~ established under ~~IC 8-10-1,~~ **IC 8-10-1-3,** and the state fair commission established by IC 15-1.5-2-1 in the issuance of bonds, notes, or other indebtedness. The Indiana housing and community development authority, the **ports of** Indiana, ~~port commission,~~ and the state fair commission shall work with and cooperate with the authority in connection with the issuance of bonds, notes, or other indebtedness.

SECTION 3. IC 5-14-1.5-6.1, AS AMENDED BY P.L.179-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.1. (a) As used in this section, "public official" means a person:

(1) who is a member of a governing body of a public agency; or

(2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

(1) Where authorized by federal or state statute.

(2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.

(C) The implementation of security systems.

(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana finance authority, **the ports of Indiana,** an economic development commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision.

(5) To receive information about and interview prospective employees.

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(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter

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by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 4. IC 5-14-3-4, AS AMENDED BY P.L.172-2007, SECTION 1, AND AS AMENDED BY P.L.179-2007, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider,

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unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the board of the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the Indiana economic development corporation, **the ports of Indiana,** the Indiana finance authority, ~~or~~ *an* economic development ~~commissions,~~ *commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision* with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, **the ports of Indiana,** the Indiana finance authority, ~~or~~ *an* economic development ~~commissions~~ *commission, or a governing body of a political subdivision* to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect

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have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under

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personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

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(E) threat assessments;
(F) intelligence assessments;
(G) domestic preparedness strategies;
(H) the location of community drinking water wells and surface water intakes;
(I) the emergency contact information of emergency responders and volunteers;
(J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
(K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:
(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):
(A) Telephone number.
(B) Address.
(C) Social Security number.

(21) The following personal information about a complainant

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contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 5. IC 5-14-3-4.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.9. (a) Records relating to negotiations between the ports of Indiana and industrial, research, or commercial prospects are excepted from section 3 of this chapter at the discretion of the ports of Indiana if the records are created while negotiations are in progress.**

(b) Notwithstanding subsection (a), the terms of the final offer of public financial resources communicated by the ports of Indiana to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(c) When disclosing a final offer under subsection (b), the ports of Indiana shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

SECTION 6. IC 6-1.1-40-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "commission" refers to the **ports of** Indiana ~~port commission~~ established by ~~IC 8-10-1.~~ **IC 8-10-1-3.**

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SECTION 7. IC 6-1.1-40-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "district" means a geographic territory designated as a maritime opportunity district by the **ports of** Indiana ~~port commission~~ under section 7 of this chapter.

SECTION 8. IC 6-3-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) As used in this section, "export income" means the gross receipts from the sale, transfer, or exchange of tangible personal property destined for international markets that is:

(1) manufactured at a plant located within a maritime opportunity district established under IC 6-1.1-40; and

(2) shipped through a port operated by the state.

(b) As used in this section, "export sales ratio" means the quotient of:

(1) the taxpayer's export income; divided by

(2) the taxpayer's gross receipts from the sale, transfer, or exchange of tangible personal property, regardless of its destination.

(c) As used in this section, "taxpayer" means a person or corporation that has export income.

(d) The **ports of** Indiana ~~port commission~~ established by ~~IC 8-10-1~~ **IC 8-10-1-3** shall notify the department when a maritime opportunity district is established under IC 6-1.1-40. The notice must include:

(1) the resolution passed by the commission to establish the district; and

(2) a list of all taxpayers located in the district.

(e) The ~~port commission~~ **ports of Indiana** shall also notify the department of any subsequent changes in the list of taxpayers located in the district.

(f) A taxpayer is entitled to a deduction from the taxpayer's adjusted gross income in an amount equal to the lesser of:

(1) the taxpayer's adjusted gross income; or

(2) the product of the export sales ratio multiplied by the percentage set forth in subsection (g).

(g) The percentage to be used in determining the amount a taxpayer is entitled to deduct under this section depends upon the number of years that the taxpayer could have taken a deduction under this section. The percentage to be used in subsection (f) is as follows:

YEAR OF DEDUCTION	PERCENTAGE
1st through 4th	100%
5th	80%

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6th	60%
7th	40%
8th	20%
9th and thereafter	0%

(h) The department shall determine, for each taxpayer claiming a deduction under this section, the taxpayer's export sales ratio for purposes of IC 6-1.1-40. The department shall certify the amount of the ratio to the department of local government finance.

SECTION 9. IC 8-10-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. In order to promote the agricultural, industrial, and commercial development of the state and to provide for the general welfare by the construction and operation, in cooperation with the federal government, or otherwise, of a modern port system with terminal facilities to accommodate water, rail, truck, air-borne, and other forms of transportation, the **ports of** Indiana ~~Port Commission~~ is hereby authorized and empowered to construct, maintain, and operate, in cooperation with the federal government, or otherwise, at such locations as shall be approved by the governor, projects, including without limitation public ports with terminal facilities and traffic exchange points throughout Indiana for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens from all forms of transportation, and ~~to~~ issue revenue bonds of the state payable solely from revenues to pay the cost of such projects. The ~~commission's~~ **ports of Indiana's** powers are not limited to ports and may be exercised throughout Indiana for projects that enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

SECTION 10. IC 8-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "commission" shall mean the ~~Indiana Port~~ commission created by ~~section 3~~ **section 3(b)** of this chapter, or, if said commission shall be abolished, the board, body or commission succeeding to the principal functions thereof, or to whom the powers given by this chapter to the commission shall be given by law.

(b) The word "port" shall include any combination of:

(1) any place or places on Lake Michigan, the Ohio River, the Wabash River, or other water bodies, natural or artificial, in which water-borne vessels capable of carrying articles of

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commerce over navigable bodies of water may be loaded, unloaded, or accommodated; and

(2) nonmaritime port and traffic exchange points throughout Indiana for the transfer of goods and passengers between all modes of transportation.

(c) The word "project" shall include:

(1) any facilities, adjuncts, and appurtenances necessary or useful to operate a modern port, whether or not permanently situated at the port, including:

(A) the dredging of approaches to a port; and

(B) breakwaters, inner harbors, outer harbors, channels, canals, turning basins, docks, wharves, piers, quays, slips, loading, unloading, handling and storage equipment, warehouses, refrigerating plants and equipment, elevators for the handling and storage of grain, coal and other bulk commodities, terminal buildings or facilities, railroad equipment and trackage, roadways, airplane landing fields, parking lots, garages, automotive equipment, tugs, ferries, maintenance and construction vessels, communication systems, sewers, drains, works for the treatment of sewage, garbage and wastes, and the furnishing of utility service necessary to serve the property under the jurisdiction or control of the ~~commission,~~ **ports of Indiana** and other buildings and facilities which the ~~commission~~ **ports of Indiana** may deem necessary for the operation of the port; and

(2) any other project located in Indiana, other than at a port, that the ~~commission~~ **ports of Indiana** finds will enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

(d) The word "cost" as applied to a port or project means:

(1) the cost of construction;

(2) the cost of acquisition of all land, rights-of-way, property, rights, easements and interests, including lands under water and riparian rights acquired by the ~~commission~~ **ports of Indiana** for construction;

(3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved;

(4) the cost of relocating public roads;

(5) the cost of land or easements for roads;

(6) the cost of all machinery and equipment;

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(7) financing charges;
(8) interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction;
(9) the cost of engineering and legal expenses, plans, specifications, surveys, and estimates of cost, traffic and revenues;
(10) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;
(11) administrative expense;
(12) other expenses as may be necessary or incident to the acquisition or construction of the project, the financing of the acquisition or construction, and the placing of the project in operation, including the amount authorized in the resolution of the ~~port~~ commission providing for the issuance of ~~port commission~~ revenue bonds to be paid into any special funds from the proceeds of the bonds; and
(13) any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering services, or any other cost described in this section that is incurred in connection with the acquisition or construction of a project may be regarded as part of the cost of the project and may be reimbursed out of the proceeds of ~~port commission~~ revenue bonds as authorized by this chapter.

(e) The word "owner" shall include all individuals, copartnerships, associations, or corporations having any title or interest in any property, rights, easements, and other interests authorized to be acquired by this chapter.

(f) The word "revenues" shall mean all fees, tolls, rentals, gifts, grants, moneys, and all other funds coming into the possession or under the control of the ~~commission~~ **ports of Indiana** by virtue of the terms and provisions of this article, but shall not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under provisions of this chapter.

(g) The word "public roads" shall include all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(h) "Ports of Indiana" means the ports of Indiana created by section 3(a) of this chapter.

SECTION 11. IC 8-10-1-3, AS AMENDED BY P.L.235-2005, SECTION 109, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2008]: Sec. 3. (a) ~~There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and be impleaded. The commission hereby~~ **The ports of Indiana is** created ~~is~~ **as** a body both corporate and politic in the state of Indiana, and the exercise ~~by the commission~~ of the powers conferred by this article in the construction, operation, and maintenance of a port or project shall be deemed and held to be essential governmental functions of the state. ~~but the commission shall not however be immune from liability by reason thereof.~~

(b) The ~~commission~~ **ports of Indiana** shall ~~consist~~ **be governed by a commission consisting** of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state, and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965, and the first two (2) members appointed after January 1, 1975, shall continue in office for terms expiring July 1, 1977, for one (1) member and July 1, 1979, for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term **and until a successor is duly appointed and qualified,** and a member of the commission shall be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of ~~such~~ **the** commission. The commission shall ~~thereafter~~ elect one (1) of the members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum, and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. ~~No~~ **A** vacancy in the membership of the commission ~~shall~~ **does not** impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

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(c) Before the issuance of any revenue bonds under the provisions of this article:

(1) each appointed member of the commission;

(2) the secretary-treasurer; and

(3) any other employee or agent of the ~~commission~~ **ports of Indiana** authorized by resolution of the commission to handle funds or sign checks;

shall give a surety bond to the state in the penal sum of fifty thousand dollars ($50,000). Each such surety bond must be conditioned upon the faithful performance of the individual's duties, to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an annual salary of seven thousand five hundred dollars ($7,500), payable in monthly instalments. ~~However, no members of such commission as appointed hereunder shall receive any salary except a per diem as fixed and approved by the budget director until said commission is able to carry on the full operations as intended by this chapter, and the budget director, subject to the approval of the governor of the state of Indiana, shall determine when said salaries for said commission members shall commence.~~

(e) Each member shall be reimbursed for the member's actual expenses necessarily incurred in the performance of the member's duties.

(f) All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article and no liability or obligation shall be incurred by the ~~commission~~ **ports of Indiana** hereunder beyond the extent to which moneys shall have been provided under the authority of this article.

(g) The commission:

(1) is responsible for implementing the powers and duties of the ports of Indiana under this article; and

(2) may adopt bylaws for the regulation of the affairs of the commission and the conduct of the business of the ports of Indiana.

The commission may delegate to staff, including the chief executive, such administrative functions as the commission deems necessary or desirable to accomplish the purposes of the ports of Indiana under this article. The chief executive may delegate the chief executive's authority to the appropriate staff.

SECTION 12. IC 8-10-1-4, AS AMENDED BY P.L.232-2005,

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SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. Revenue bonds issued under the provisions of this article:

(1) do not constitute a debt of the ~~commission,~~ **ports of Indiana,** the state, or any political subdivision of the state, or a pledge of the faith and credit of the ~~commission,~~ **ports of Indiana,** the state, or any political subdivision of the state;

(2) are payable solely from the funds pledged for their payment as authorized in this article, unless the bonds are refunded by refunding bonds issued under the provisions of this chapter, which shall be payable solely from funds pledged for their payment as authorized in this article; and

(3) must contain on their face a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the ~~commission,~~ **ports of Indiana,** the state, or of any political subdivision of the state, but are payable solely from revenues pledged for their payment.

All expenses incurred in carrying out the provisions of this article are payable solely from funds provided under the authority of this article and nothing in this article shall be construed to authorize the ~~commission~~ **ports of Indiana** to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of the state.

SECTION 13. IC 8-10-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. Except as specifically authorized by the general assembly, the ~~commission~~ **ports of Indiana** may not pledge, in any form, to:

(1) seek funding from the state in the event of any default in the payment of revenue bonds; or

(2) specify, in any form, in an agreement related to revenue bonds that money appropriated by the general assembly may or shall be deposited in a debt service fund or reserve fund for the revenue bonds.

SECTION 14. IC 8-10-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The **ports of** Indiana ~~port commission~~ may:

(1) prepare sketches, plans, and descriptive material relating to ports or projects, as in its discretion may seem feasible, to compile data and prepare literature as to the necessity or advisability thereof, and to do other acts and things it considers necessary to promote the ports or projects and deems to be in the public interest;

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(2) carry on, in its discretion, negotiations and enter into agreements and contracts with the federal government or agencies of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake Michigan, the Ohio River, the Wabash River, or in waters adjacent to Indiana;

(3) locate and acquire suitable sites for ports or projects;

(4) construct, develop, maintain, and operate the same in cooperation with the federal government, any agency of the federal government, a corporation established under IC 36-7-23, or otherwise, in such a manner and on such terms as will, in the discretion of the ~~commission,~~ **ports of Indiana,** best serve the commercial, industrial, and agricultural interests of the state;

(5) provide adequate port and terminal facilities to accommodate water, rail, truck, and airborne transportation; and

(6) provide a traffic exchange point for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens by the opening of the St. Lawrence Seaway and river transportation.

(b) The title to all property included in any port or project shall be taken in the name of, and shall be in, the state of Indiana.

SECTION 15. IC 8-10-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The ~~commission~~ **ports of Indiana** is authorized and empowered to do the following:

~~(1) To adopt bylaws for the regulation of its affairs and the conduct of its business.~~

~~(2)~~ **(1)** To adopt an official seal which shall not be the seal of the state of Indiana.

~~(3)~~ **(2)** To maintain a principal office and sub-offices at such place or places within the state as it may designate.

~~(4)~~ **(3)** To sue and be sued, and to plead and be impleaded in ~~its own~~ **the** name **of the ports of Indiana.** However, actions at law against the ~~commission~~ **ports of Indiana** shall be brought in the circuit court of the county in which the principal office of the ~~commission~~ **ports of Indiana** is located or in the circuit court of the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the ~~commission~~ **ports of Indiana** by leaving a copy thereof at the principal office of the ~~commission~~ **ports of Indiana** with the person in charge thereof or with the secretary of the ~~commission.~~ **ports of Indiana.** However, no such

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action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is served upon the attorney general of Indiana.

~~(5)~~ **(4)** To acquire, lease, construct, maintain, repair, police, and operate a port or project as provided in this chapter, and to establish rules and regulations for the use of the port or project, and other property subject to the jurisdiction and control of the ~~commission.~~ **ports of Indiana.**

~~(6)~~ **(5)** To issue both taxable and tax exempt revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or project.

~~(7)~~ **(6)** To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares, merchandise, or articles of commerce in, on, or around the port or project.

~~(8)~~ **(7)** To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or project.

~~(9)~~ **(8)** To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

~~(10)~~ **(9)** To designate the location and establish, limit, and control points of ingress to and egress from a port or project.

~~(11)~~ **(10)** To lease to others for development or operation such portions of any port or project, on such terms and conditions as the ~~commission~~ **ports of Indiana** shall deem advisable.

~~(12)~~ **(11)** To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than twenty-five thousand dollars ($25,000), the ~~commission~~ **ports of Indiana** shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in the county where the construction will occur and in such other publications as the ~~commission~~ **ports of Indiana** shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be

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accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The ~~commission~~ **ports of Indiana** may reject any and all bids. A bond with good and sufficient surety as shall be approved by the ~~commission,~~ **ports of Indiana** shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

~~(13)~~ **(12)** To construct, assemble, or otherwise build, own, lease, operate, manage, or otherwise control any project throughout Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities within Indiana.

~~(14)~~ **(13)** To employ ~~an executive director or manager~~ **a chief executive,** consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation **and title,** but no compensation of any employee of the ~~commission~~ **ports of Indiana** shall exceed the compensation of the highest paid officer or employee of the state.

~~(15)~~ **(14)** To receive and accept from any federal agency grants for or in aid of the construction of any port or project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

~~(16)~~ **(15)** To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

~~(17)~~ **(16)** To do all acts and things necessary or proper to carry out the powers expressly granted in this article.

~~(18)~~ **(17)** To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the ~~commission.~~ **ports of Indiana.**

SECTION 16. IC 8-10-1-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.1. (a) The ~~commission~~ **ports of Indiana** shall:

(1) adopt:

(A) rules under IC 4-22-2; or

(B) a policy;

establishing a code of ethics for its employees; or

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(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted by rule or policy under this section must be consistent with state law and approved by the governor.

SECTION 17. IC 8-10-1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.5. The department of natural resources may establish and maintain, within all ports created under this chapter and in operation on July 1, 1975, areas for the use of the citizens of this state for public fishing from the shore. The ~~commission~~ **ports of Indiana** shall cooperate fully with the department of natural resources in the implementation of this section. However, if the site of any public fishing area established under this section is subsequently leased to others for agricultural, industrial, or commercial purposes, **or if required to maintain port security,** the ~~commission~~ **ports of Indiana** may limit or halt public fishing in that area.

SECTION 18. IC 8-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. If the ~~commission~~ **ports of Indiana** shall find it necessary to change the location of any portion of any public road, highway, railroad, or public utility facility, ~~it~~ **the ports of Indiana** shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway, or railroad or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility, shall be ascertained and paid by the ~~commission~~ **ports of Indiana** as a part of the cost of the port or project. The ~~commission~~ **ports of Indiana** shall have authority to petition the circuit court of the county wherein is situated any public road or part thereof, affected by the location therein of any port or project, for the vacation or relocation of such road or any part thereof with the same force and effect as statutes in effect on March 2, 1961, to the inhabitants of any municipality or governmental subdivision of the state. The proceedings upon such petition, whether it be for the appointment of appraisers or otherwise, shall be the same as provided by statutes in effect on March 2, 1961, for similar proceedings upon such petitions. In addition to the foregoing powers, the ~~commission~~ **ports of Indiana** and ~~its~~ **the** authorized agents and employees **of the ports of Indiana** after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are necessary or proper for the purposes

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of this article, and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; provided, that before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved at least five (5) days in advance of such entry, and provided, that no survey, sounding, drilling, and examination shall be made between the rails, or so close to a railroad track, as would render said track unusable. The ~~commission~~ **ports of Indiana** shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters and premises, as a result of such activities. The state of Indiana, subject to the approval of the governor, hereby consents to the use of lands owned by ~~it,~~ **the state of Indiana,** including lands lying under water and riparian rights, which are necessary or proper for the construction or operation of any port or project, provided adequate compensation is made for such use. The ~~commission~~ **ports of Indiana** shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (referred to in this section as "public utility facilities") of any public utility in, on, along, over, or under any port or project. Whenever the ~~commission~~ **ports of Indiana** shall determine that it is necessary that any such public utility facilities which are, on or after March 2, 1961, located in, on, along, over, or under any port or project should be relocated or should be removed from the port or project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the ~~commission.~~ **ports of Indiana.** However, the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the ~~commission~~ **ports of Indiana** as a part of the cost of the port or project, excepting, however, cases in which such equipment or facilities are located within the limits of highways or public thoroughfares being constructed, reconstructed, or improved under the provisions of this chapter. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as ~~it~~ **the public utility** had the right to maintain

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and operate such facilities in their former location or locations subject, however, to the state's right of regulation under its police powers.

SECTION 19. IC 8-10-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The ~~commission~~ **ports of Indiana** shall have power to adopt such by-laws, rules and regulations as ~~it~~ **the ports of Indiana** may deem advisable for the control and regulation of any port or project or traffic on any port or project, for the protection of and preservation of property under its jurisdiction and control, and for the maintenance and preservation of good order within the property under its control, and such by-laws, rules and regulations shall be published in a newspaper of general circulation in Marion County, Indiana, and in such other manner as the ~~commission~~ **ports of Indiana** shall prescribe; however, such rules and regulations shall provide that public officers shall be afforded ready access, while in performance of their official duty, to all property under the jurisdiction or control of the ~~commission~~ **ports of Indiana** without the payment of tolls.

(b) Such rules and regulations adopted under this section shall be adopted under IC 4-22-2.

(c) A person who violates a rule or regulation of the ~~commission~~ **ports of Indiana** commits a Class C infraction.

SECTION 20. IC 8-10-1-10, AS AMENDED BY P.L.232-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The ~~commission~~ **ports of Indiana** is hereby authorized and empowered to acquire by purchase whenever ~~it~~ **the ports of Indiana** shall deem such purchase expedient, any land, property, rights, rights of way, franchises, easements, and other interests in lands, including lands under water and riparian rights, as ~~it~~ **the ports of Indiana** may deem necessary or convenient for the construction and operation of any port or project, upon such terms and at such price as may be considered by ~~it~~ **the ports of Indiana** to be reasonable and can be agreed upon between the ~~commission~~ **ports of Indiana** and the owner thereof, and to take title thereto in the name of the state.

(b) The ~~commission~~ **ports of Indiana** is hereby further authorized and empowered to sell, transfer, and convey any such land or any interest therein so acquired, or any portion thereof, when the same shall no longer be needed for such purposes. The ~~commission~~ **ports of Indiana** is further authorized and empowered to transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any port or project, or as otherwise required under the provisions of this article. However, no such sale

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shall be made without first obtaining the approval of the governor, and a sale may not be made at less than the appraised value established by three (3) independent appraisers appointed by the governor. The ~~commission~~ **ports of Indiana** shall be authorized to restrict the use of any land so sold by ~~it~~ **the ports of Indiana** and provide for a reversion to the ~~commission~~ **ports of Indiana** in the event the land shall not be used for the purpose represented by the purchaser, and such restrictions and reversions shall be set out in appropriate covenants in the deeds of conveyance, which deeds shall be subject to the approval of the governor.

(c) The ~~commission~~ **ports of Indiana** shall also be authorized to lease, or grant options to lease, to others for development any portion of the land owned by the ~~commission,~~ **ports of Indiana,** on such terms as the ~~commission~~ **ports of Indiana** shall determine to be advantageous. All such leases or options to lease which leases cover a period of more than four (4) years shall be subject to the approval of the governor. Leases of lands under the jurisdiction or control of the ~~commission~~ **ports of Indiana** shall be made only for such uses and purposes as are calculated to contribute to the growth and development of ports, terminal facilities, and projects under the jurisdiction or control of the ~~commission.~~ **ports of Indiana.** In the event the ~~commission~~ **ports of Indiana** shall lease to others a building or structure financed by the issuance of revenue bonds under IC 8-10-4, the transaction must be structured as a self-liquidating or nonrecourse project (as defined in IC 8-10-4-1).

(d) No tenant, lessee, licensee, owner of real estate located within a port or project, or other person or entity has any right, claim, title, or interest in any real estate, personal property, or common property owned by the ~~commission,~~ **ports of Indiana,** a port, a project, or the state, unless a written agreement entered into by the ~~commission~~ **ports of Indiana** expressly provides:

(1) the exact nature and extent of the right, claim, title, or interest;

(2) all the conditions under which the right, claim, title, or interest is granted; and

(3) a legal or complete description of the specific property.

SECTION 21. IC 8-10-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. The ~~commission~~ **ports of Indiana** is hereby authorized and empowered to acquire by appropriation, under the provisions of the eminent domain law of the state, any land, including lands under water and riparian rights, property, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of

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any port or project. The ~~commission~~ **ports of Indiana** shall also be empowered to exercise such powers of eminent domain as may be conferred upon the ~~commission~~ **ports of Indiana** by an act of Congress of the United States now in force, or which may hereafter be enacted. Title to the property condemned shall be taken in the name of the state of Indiana. Nothing herein shall authorize the ~~commission~~ **ports of Indiana** to take or disturb property or facilities constituting all or part of any presently existing or operating public port and nothing herein shall authorize the ~~commission~~ **ports of Indiana** to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the ~~commission~~ **ports of Indiana** excepting however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares.

SECTION 22. IC 8-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the following:

(1) Acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port or project site, and incidental expenses incurred in connection with such acquisition.

(2) Studies in connection with the port or project.

(3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation.

(4) Transfers to the fund established by IC 14-13-2-19 to carry out the purposes of IC 14-13-2.

(5) Administrative expenses of the ~~commission.~~ **ports of Indiana.**

The fund shall be held in the name of the **ports of** Indiana, ~~port commission,~~ shall be administered by the ~~commission,~~ **ports of Indiana,** and all expenditures therefrom shall be made by the ~~commission,~~ **ports of Indiana,** subject, however, to the approval by governor and the ~~state~~ budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land

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to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. ~~All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others. However, not to exceed one hundred thousand dollars ($100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port or project site, and incidental expenses incurred in connection with such acquisition.~~

(b) Upon the sale of revenue bonds for any port or project, the funds expended from the Indiana port fund in connection with the development of such port or project and any obligation or expense incurred by the ~~commission~~ **ports of Indiana** for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such port or project shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 23. IC 8-10-1-13, AS AMENDED BY P.L.2-2007, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) Subject to the approval of the governor, the ~~commission~~ **ports of Indiana** is hereby authorized to provide by resolution **of the commission,** at one (1) time or from time to time, for the issuance of revenue bonds of the state for the purpose of paying all or any part of the cost of a port or project under this chapter or IC 8-10-4. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding thirty-five (35) years from the date thereof, as may be determined by the ~~commission,~~ **ports of Indiana,** and may be made redeemable before maturity, at the option of the ~~commission,~~ **ports of Indiana,** at such price or prices and under such terms and conditions as may be fixed by the ~~commission~~ **ports of Indiana** in the authorizing resolution.

(b) The ~~commission~~ **ports of Indiana** shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

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(c) The bonds shall be signed in the name of the ~~commission,~~ **ports of Indiana** by ~~its~~ **the** chairman or vice chairman **of the commission or chief executive of the ports of Indiana,** or by the facsimile signature of ~~such~~ **the** chairman or vice chairman **of the commission or chief executive of the ports of Indiana** and the official seal of the ~~commission,~~ **ports of Indiana** or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery.

(d) All bonds issued under this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the ~~commission~~ **ports of Indiana** may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 21-32-3, except as provided in IC 8-10-4.

(g) No action to contest the validity of any bonds issued by the ~~commission~~ **ports of Indiana** under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

(h) The ~~commission~~ **ports of Indiana** shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds under this chapter or IC 8-10-4.

SECTION 24. IC 8-10-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the port or project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the ~~commission~~ **ports of Indiana** may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in this chapter securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than

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such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from that same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the port or project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds. Prior to the preparation of definitive bonds, the ~~commission~~ **ports of Indiana** may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The ~~commission~~ **ports of Indiana** may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds and any other instruments or the security for the bonds and other instruments that are authorized by this article may be issued under the provisions of this article without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this chapter.

SECTION 25. IC 8-10-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. The ~~commission~~ **ports of Indiana** is hereby authorized to provide by resolution for the issuance of refunding bonds of the state payable solely from revenues for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of section 13 of this chapter or IC 8-10-4-2, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the ~~commission,~~ **ports of Indiana,** for the additional purpose of constructing improvements, extensions, or enlargements of the port or project in connection with which the bonds to be refunded shall have been issued. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the ~~commission~~ **ports of Indiana** in respect of the same, shall be governed by the provisions of this article insofar as the same may be applicable.

SECTION 26. IC 8-10-1-16, AS AMENDED BY P.L.232-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. In the discretion of the ~~commission~~ **ports of Indiana** any bonds issued under the provisions of this act may be

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secured by a trust agreement by and between the ~~commission~~ **ports of Indiana** and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state, except as provided in IC 8-10-4. Any resolution adopted by the commission providing for the issuance of revenue bonds and any trust agreement pursuant to which such bonds are issued may pledge or assign all or any portion of the revenues received or to be received by the ~~commission~~ **ports of Indiana** except such part as may be necessary to pay the cost of the ~~commission's~~ **ports of Indiana's** administrative expenses, operation, maintenance and repair and to provide reserves therefor and depreciation reserves required by any bond resolution adopted or trust agreement executed by the ~~commission,~~ **ports of Indiana,** but the ~~commission~~ **ports of Indiana** shall not convey or mortgage any port or project or any part thereof, except for self liquidating or nonrecourse projects under IC 8-10-4. In authorizing the issuance of bonds for any particular port or project, the ~~commission~~ **ports of Indiana** may limit the amount of such bonds that may be issued as a first lien and charge against the revenues pledged to the payment of such bonds or the ~~commission~~ **ports of Indiana** may authorize the issuance from time to time thereafter of additional bonds secured by the same lien to provide funds for the completion of the port or project on account of which the original bonds were issued, or to provide funds to pay the cost of additional projects undertaken in connection with the development of the port or project, or for both such purposes. Such additional bonds shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the commission and in the trust agreement or any agreement supplemental thereto and may be secured equally and ratably without preference, priority, or distinction with the original issue of bonds or may be made junior thereto. Any pledge or assignment made by the ~~commission~~ **ports of Indiana** pursuant hereto shall be valid and binding from the time that the pledge or assignment is made and the revenues so pledged and thereafter received by the ~~commission~~ **ports of Indiana** shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the ~~commission~~ **ports of Indiana** irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the ~~commission.~~ **ports of Indiana.** Any such trust agreement or any resolution providing for the

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issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the ~~commission~~ **ports of Indiana** in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the port or project in connection with which such bonds shall have been authorized, the rates of fees, tolls, rentals, or other charges, to be collected for the use of the project, and the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such project. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or other funds of the ~~commission,~~ **ports of Indiana,** to furnish such indemnifying bonds or to pledge such securities as may be required by the ~~commission.~~ **ports of Indiana.** Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the ~~commission~~ **ports of Indiana** may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the port or project.

SECTION 27. IC 8-10-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. The ~~commission~~ **ports of Indiana** shall be authorized to fix, review, charge, and collect fees, tolls, rentals, and other charges for the use of the ports, projects, terminal facilities, and lands under the jurisdiction or control of the ~~commission~~ **ports of Indiana** or services rendered by the ~~commission,~~ **ports of Indiana,** and the aggregate thereof shall provide revenues at least sufficient to pay the cost of operation, maintenance, and repair of the port or project and terminal facilities, including the administration expenses of the ~~commission,~~ **ports of Indiana,** and in case revenue bonds are issued, sufficient to pay the interest on and principal of the bonds in accordance with their terms, and also sufficient to establish and maintain reserves created for all such purposes and for depreciation purposes. The fixing and collection of such fees, tolls, rentals and other charges and the expenditure of the revenues derived therefrom shall not be subject to the supervision or regulation by any

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other officer, commission, board, bureau, or agency of the state. After such bonds have been fully paid and discharged and all obligations under any trust agreement securing the same have been performed or satisfied, any remaining surplus net revenues and all surplus net revenues thereafter derived from the operation of the port or project shall be paid into the state general fund.

SECTION 28. IC 8-10-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. All money received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds, from revenues, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this chapter, but prior to the time when needed for use may be invested to the extent and in the manner provided by IC 5-13-10.5, insofar as applicable. Such funds shall be kept in depositories designated as depositories for funds of the state as selected by the ~~commission,~~ **ports of Indiana,** in the manner provided by the governing statutes in so far as applicable. The resolution **of the commission** authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such money shall be entrusted, shall act as trustee of such money and shall hold and apply the same for the purposes hereof, subject to the provisions of this chapter and of the authorizing resolution or trust agreement.

SECTION 29. IC 8-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given in this chapter may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the statutes of the state or granted under this chapter or under such trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the ~~commission~~ **ports of Indiana** or by any officer thereof, including the fixing, charging, and collecting of fees, tolls, rentals, or other charges for the use of the port or project.

SECTION 30. IC 8-10-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. Each port or project, as defined in section 2 of this chapter, when constructed and placed in operation shall be maintained and kept in good condition and repair by the ~~commission.~~ **ports of Indiana.** Each such project shall

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also be policed and operated by such force of police, tolltakers, and other operating employees as the ~~commission~~ **ports of Indiana** may in its discretion employ. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.

SECTION 31. IC 8-10-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. All counties, cities, towns, townships, and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant, or convey to the ~~commission~~ **ports of Indiana** at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court, or other action or formality, other than the regular and formal action of the authorities concerned, any real or personal property owned by any such municipality or governmental subdivision which may be necessary or convenient to the effectuation of the authorized purposes of the ~~commission.~~ **ports of Indiana.**

SECTION 32. IC 8-10-1-22, AS AMENDED BY P.L.235-2005, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) The ~~commission~~ **ports of Indiana** shall cause an audit of its books and accounts to be made at least once each year by certified public accountants, and the cost thereof may be treated as a part of the cost of construction or of operations of the ~~commission's~~ ports and projects **of the ports of Indiana.** The accounts, books, and records of the **ports of** Indiana ~~port commission~~ shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the ~~commission's~~ ports and projects **of the ports of Indiana.**

(b) The ~~commission~~ **ports of Indiana** shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. Each report shall set forth a complete operating and financial statement for the ~~commission~~ **ports of Indiana** during the fiscal year it covers.

SECTION 33. IC 8-10-1-23 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. A member, agent, or employee of the ~~commission~~ **ports of Indiana** who knowingly is interested in any contract with the ~~commission,~~ **ports of Indiana,** or in the sale of any property, either real or personal, to the ~~commission,~~ **ports of Indiana,** commits a Class A misdemeanor. All such contracts are void. This section does not apply to contracts for purchases of property, real or personal, between the ~~commission~~ **ports of Indiana** and other departments, municipalities, or subdivisions of state government.

SECTION 34. IC 8-10-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. Revenue bonds issued by the ~~commission~~ **ports of Indiana** under the provisions of this article shall constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, and industrial loan and investment companies, and any other financial institutions organized under Indiana statutes. The bonds are also made securities that may be deposited with and received by all public officers and bodies of Indiana or any agency or political subdivision of Indiana and all municipalities and public commissions for any purpose for which the deposit of bonds or other obligations of Indiana is now or may be later authorized by law.

SECTION 35. IC 8-10-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. All final actions of the ~~commission~~ **ports of Indiana** shall be journalized and said journal shall be open to the inspection of the public at all reasonable times.

SECTION 36. IC 8-10-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) The exercise of the powers granted by this article will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions.

(b) As the operation and maintenance of a port or project by the ~~commission~~ **ports of Indiana** will constitute the performance of essential governmental functions, the ~~commission~~ **ports of Indiana** shall not be required to pay any taxes or assessments upon any port or project or any property acquired or used by the ~~commission~~ **ports of Indiana** under the provisions of this article or upon the income therefrom. The bonds issued by the ~~commission,~~ **ports of Indiana,** the

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interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(c) Notwithstanding any other statute, a lessee's leasehold estate in land that is part of a port and that is owned by the state or the ~~commission~~ **ports of Indiana** is exempt from property taxation. However, an exemption under this subsection is not available for land not located at a port.

SECTION 37. IC 8-10-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 29. (a) Unless the ~~commission~~ **ports of Indiana** ~~publicly~~ declares an emergency, ~~it~~ **the ports of Indiana** may not during any six (6) month period make separate contracts with another party for similar construction projects or the purchase of similar equipment, materials, or supplies under IC 8-10-1-7(5) without advertising for and accepting public bids, if the aggregate cost of the separate contracts is more than twenty-five thousand dollars ($25,000).

(b) A commission member **or an employee of the ports of Indiana** who knowingly violates subsection (a) commits a Class D felony.

(c) A person who accepts a contract with the ~~commission~~ **ports of Indiana** knowing that subsection (a) was violated in connection with the contract commits a Class D felony and may not be a party to or benefit from any contract with a public body in the state for two (2) years from the date of the person's conviction.

SECTION 38. IC 8-10-1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 30. The state pledges and agrees with the holders of any bonds issued under this article that the state will not limit or alter the rights vested in the ~~commission~~ **ports of Indiana** to fulfill the terms of any agreements made with the holders or in any way impair the rights or remedies of the holders until the bonds, together with the interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The ~~commission~~ **ports of Indiana** is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.

SECTION 39. IC 8-10-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as**

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otherwise provided by this chapter, the definitions set forth in IC 8-10-1-2 apply throughout this chapter.

(b) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, the ~~commission,~~ **ports of Indiana,** in order to promote the agricultural, industrial, and commercial development of the state or to provide for the general welfare, and in order to connect any port under its jurisdiction with any other waterway or as part of a plan to ultimately connect such port with any other waterway, shall have the power and is hereby authorized, in cooperation with the federal government or otherwise, to construct a new canal or canals or to improve any canal, river, or other waterway, or both, including but not limited to dredging and all other work required in the design and construction of shipping channels, canals, and turning basins in a manner to accommodate water-borne transportation and the construction of wharves, docks, piers, warehouses, and other facilities for the unloading of barges and other boats. In exercising the powers hereby granted, the ~~commission~~ **ports of Indiana** shall have only such powers granted to it by this article in connection with a port project as may relate to the construction of a new canal or canals or the improvement of any canal, river, or other waterway, or both, and the term "port project", as used in this article, shall be deemed to include the construction of a new canal or canals or the improvement of any canal, river, or other waterway, or both, including but not limited to dredging and all other work required in the design and construction of wharves, docks, piers, warehouses, and other facilities for the unloading of barges and other boats. ~~provided,~~ However, ~~that~~ the ~~commission~~ **ports of Indiana** shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharfs, piers, boat docks, warehouses, and pipeline equipment resulting from such construction and other activities. Nothing in this section shall authorize the **ports of** Indiana ~~port commission~~ to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port.

SECTION 40. IC 8-10-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, the ~~commission,~~ **ports of Indiana,** whenever ~~it~~ **the ports of Indiana** finds that the economic welfare of the state would thereby be benefited, by additional employment opportunities,

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or by additional diversification of industry within the state, or by increased income or prosperity to the state and its residents, or for any other reason, shall have the power to acquire, construct, maintain, repair, police, and lease to others such facilities for manufacturing, storage, or processing of goods, or for the carrying on of commercial, business, or recreational activities as the ~~commission~~ **ports of Indiana** further finds will increase the traffic into or out of the project. Any such facilities and the site thereof shall not be exempt from property taxation, and the lessee in any lease thereof shall agree to pay all property taxes levied on such facilities and the site thereof.

(b) In exercising the powers granted in this section, the ~~commission~~ **ports of Indiana** shall have all the powers granted to it by this article, in connection with a project, and the term "project", as used in IC 8-10-1, shall be deemed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

(c) It is further declared that the acquisition, construction, maintenance, repair, policing of, and leasing to others of such facilities under the conditions set forth in this section is a public purpose.

(d) Nothing in this section shall authorize the **ports of** Indiana ~~port commission~~ to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port. The **ports of** Indiana ~~port commission~~ shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharves, piers, boat docks, warehouses, and pipeline equipment resulting from the exercise by it of any powers granted to it by this section.

SECTION 41. IC 8-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. Subject to the approval of the governor, the ~~state~~ budget agency, and the ~~state~~ budget committee, the **ports of** Indiana ~~port commission~~ may, notwithstanding the provisions of IC 8-10-1-12 or the provisions of any other statute relating to or appropriating money to the Indiana port fund, expend moneys without further appropriation than the provisions of this chapter from the Indiana port fund for the operation and maintenance of a "port" or "port project" as those terms are defined in this article, and in connection with the issuance of bonds, may covenant to set aside and may set aside moneys from the Indiana port fund in a separate fund or account with a corporate trustee or otherwise to be applied on the cost of such operation and maintenance.

SECTION 42. IC 8-10-3-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as otherwise provided by this chapter, the definitions set forth in IC 8-10-1-2 apply throughout this chapter.**

(b) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, the ~~commission~~ **ports of Indiana** shall have the power whenever ~~it~~ **the ports of Indiana** finds it either desirable or necessary in order to increase the water borne traffic into or out of the port to acquire, lease, construct, maintain, repair, and police facilities, adjuncts, and appurtenances for use in the business of in transit processing, finishing, reduction, conversion, completion, packaging, bottling, transshipment, or handling of commodities. In exercising the powers granted in this section, the ~~commission~~ **ports of Indiana** shall have all the powers granted to ~~it~~ **the ports of Indiana** by this article in connection with a port project, and the term "port project", as used in this article, shall be deemed and construed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

SECTION 43. IC 8-10-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. ~~Such~~ **The ports of** Indiana, ~~port commission,~~ or a public or private agency or corporation of the state of Indiana designated by the **ports of** Indiana, ~~port commission,~~ is hereby authorized to make application to the board established by the act of Congress approved June 18, 1934 (48 Stat. 998-1003; 19 United States Code 81a-81u) (Public Law 397, 73rd Congress) entitled "an act to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States to expedite and encourage foreign commerce and other purposes," and all acts amendatory thereto, for a grant to ~~such~~ **the ports of** Indiana, ~~port commission,~~ or a public or private agency or corporation of the state of Indiana designated by the **ports of** Indiana, ~~port commission,~~ of the privilege of establishing, operating, and maintaining a foreign-trade zone at such places within the state of Indiana as ~~such commission~~ **the ports of Indiana** may determine, including lake ports, river ports, and elsewhere, pursuant to the provisions of such act, and if such application be granted to accept such grant and to establish, operate, and maintain such zone in accordance with law.

SECTION 44. IC 8-10-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. ~~Such~~ **The ports of** Indiana ~~port commission~~ in any appropriation of property, under the provisions of the appropriate eminent domain law, may take either a fee simple title in any property, or easement, or right-of-way, or riparian

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right, or any other estate therein as in any particular instance as to any parcel of property may be deemed necessary by the ~~commission.~~ **ports of Indiana.**

SECTION 45. IC 8-10-4-1, AS AMENDED BY P.L.232-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) As used in this chapter, "self-liquidating or nonrecourse project" means:

(1) a project for which a lease or leases have been executed providing for payment in an amount the ~~commission~~ **ports of Indiana** determines to be sufficient to pay:

(A) the interest and principal of the bonds to be issued to finance the cost of the project; and

(B) all costs of maintenance, repair, and insurance of the project; or

(2) a project that is structured in such a manner that the ~~commission~~ **ports of Indiana** determines there is no recourse against the state or the **ports of** Indiana. ~~port commission.~~

(b) Other words and terms used in this chapter shall have the same meaning as in **IC 8-10-1-2 and the** other provisions of this article, unless otherwise specifically provided.

SECTION 46. IC 8-10-4-2, AS AMENDED BY P.L.2-2007, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, and subject to subsection (b), the ~~commission,~~ **ports of Indiana,** in connection with any self-liquidating or nonrecourse project, shall have the following powers notwithstanding any other provision of this article to the contrary:

(1) The revenue bonds issued by the ~~commission~~ **ports of Indiana** to finance the cost of such self-liquidating or nonrecourse project may be issued without regard to any maximum interest rate limitation in this article or any other law.

(2) The revenue bonds issued by the ~~commission~~ **ports of Indiana** to finance the cost of such self-liquidating or nonrecourse project may be sold in such manner, either at public or private sale, as the ~~commission~~ **ports of Indiana** may determine, and the provisions of IC 21-32-3 shall not be applicable to such sale.

(3) IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9, IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a self-liquidating or

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nonrecourse project.

(b) The issuance of revenue bonds by the ~~commission~~ **ports of Indiana** under this chapter is subject to the approval of the governor.

SECTION 47. IC 8-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. Any lease of a project may provide that the lessee, as its reasonable portion of the ~~commission's~~ **ports of Indiana's** administrative expense incurred **by the ports of Indiana** during the term of the lease which the lessee is required to pay by IC 8-10-1-10, shall pay to the ~~commission~~ **ports of Indiana** for the use of the harbor, the public docking facilities and public wharves and piers, all harbor, dockage, and wharfage charges established by the ~~commission.~~ **ports of Indiana.**

SECTION 48. IC 8-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The cost of any project may include, instead of the cost of the acquisition of the land constituting the site of such project, the value of such land as determined by the ~~commission.~~ **ports of Indiana.** The proceeds of any revenue bonds representing the value of such land shall be deposited in the Indiana port fund.

SECTION 49. IC 8-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The ~~commission~~ **ports of Indiana** may contract for the use of any license, process or device, whether patented or not, which the ~~commission~~ **ports of Indiana** finds is necessary for the operation of any project, and may permit the use thereof by any lessee on such terms and conditions as the ~~commission~~ **ports of Indiana** may determine. The cost of such license, process, or device may be included as part of the cost of the project.

SECTION 50. IC 8-15.7-8-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. For the purpose of financing a qualifying project, the operator and the authority or the department may do the following:

(1) Propose to use all or part of the revenues available to them.

(2) Enter into grant agreements.

(3) Access any designated transportation trust funds.

(4) Access any other funds available to the authority or the department and the operator.

(5) Accept grants from the authority, the ~~port commission,~~ **ports of Indiana,** any other state infrastructure bank, or any other agency or entity.

SECTION 51. [EFFECTIVE UPON PASSAGE] **(a) As used in this**

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SECTION, "Indiana port commission" means the Indiana port commission established by IC 8-10-1-3, as in effect before the effective date of this act.

(b) As used in this SECTION, "ports of Indiana" means the ports of Indiana established by IC 8-10-1-3, as amended by this act.

(c) After June 30, 2008, a reference to the Indiana port commission in a statute, a rule, or other document is considered a reference to the ports of Indiana, as the successor entity.

SECTION 52. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1341, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

AUSTIN, Chair

Committee Vote: yeas 10, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1341 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-4-10.9-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. "Person" means any individual ~~partnership, firm, association, joint venture, limited liability company, or corporation~~ **or entity.**".

Page 8, line 1, strike "IC 8-10-1," and insert "**IC 8-10-1-3,**".

Page 15, line 38, strike "IC 8-10-1." and insert "**IC 8-10-1-3.**".

Page 15, line 42, after "the" insert "**ports of**".

Page 15, line 42, reset in roman "Indiana".

Page 15, line 42, strike "commission".

Page 16, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 8. IC 6-3-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) As used in this section, "export income" means the gross receipts from the sale, transfer, or exchange of tangible personal property destined for international markets that is:

(1) manufactured at a plant located within a maritime opportunity district established under IC 6-1.1-40; and

(2) shipped through a port operated by the state.

(b) As used in this section, "export sales ratio" means the quotient of:

(1) the taxpayer's export income; divided by

(2) the taxpayer's gross receipts from the sale, transfer, or exchange of tangible personal property, regardless of its destination.

(c) As used in this section, "taxpayer" means a person or corporation

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that has export income.

(d) The **ports of** Indiana ~~port commission~~ established by ~~IC 8-10-1~~ **IC 8-10-1-3** shall notify the department when a maritime opportunity district is established under IC 6-1.1-40. The notice must include:

(1) the resolution passed by the commission to establish the district; and

(2) a list of all taxpayers located in the district.

(e) The ~~port commission~~ **ports of Indiana** shall also notify the department of any subsequent changes in the list of taxpayers located in the district.

(f) A taxpayer is entitled to a deduction from the taxpayer's adjusted gross income in an amount equal to the lesser of:

(1) the taxpayer's adjusted gross income; or

(2) the product of the export sales ratio multiplied by the percentage set forth in subsection (g).

(g) The percentage to be used in determining the amount a taxpayer is entitled to deduct under this section depends upon the number of years that the taxpayer could have taken a deduction under this section. The percentage to be used in subsection (f) is as follows:

YEAR OF DEDUCTION	PERCENTAGE
1st through 4th	100%
5th	80%
6th	60%
7th	40%
8th	20%
9th and thereafter	0%

(h) The department shall determine, for each taxpayer claiming a deduction under this section, the taxpayer's export sales ratio for purposes of IC 6-1.1-40. The department shall certify the amount of the ratio to the department of local government finance.

SECTION 9. IC 8-10-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. In order to promote the agricultural, industrial, and commercial development of the state and to provide for the general welfare by the construction and operation, in cooperation with the federal government, or otherwise, of a modern port system with terminal facilities to accommodate water, rail, truck, air-borne, and other forms of transportation, the **ports of** Indiana ~~Port Commission~~ is hereby authorized and empowered to construct, maintain, and operate, in cooperation with the federal government, or otherwise, at such locations as shall be approved by the governor, projects, including without limitation public ports with terminal facilities and traffic exchange points throughout Indiana for all forms

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of transportation, giving particular attention to the benefits which may accrue to the state and its citizens from all forms of transportation, and ~~to~~ issue revenue bonds of the state payable solely from revenues to pay the cost of such projects. The ~~commission's~~ **ports of Indiana's** powers are not limited to ports and may be exercised throughout Indiana for projects that enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

SECTION 10. IC 8-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "commission" shall mean the ~~Indiana Port~~ commission created by ~~section 3~~ **section 3(b)** of this chapter, or, if said commission shall be abolished, the board, body or commission succeeding to the principal functions thereof, or to whom the powers given by this chapter to the commission shall be given by law.

(b) The word "port" shall include any combination of:

(1) any place or places on Lake Michigan, the Ohio River, the Wabash River, or other water bodies, natural or artificial, in which water-borne vessels capable of carrying articles of commerce over navigable bodies of water may be loaded, unloaded, or accommodated; and

(2) nonmaritime port and traffic exchange points throughout Indiana for the transfer of goods and passengers between all modes of transportation.

(c) The word "project" shall include:

(1) any facilities, adjuncts, and appurtenances necessary or useful to operate a modern port, whether or not permanently situated at the port, including:

(A) the dredging of approaches to a port; and

(B) breakwaters, inner harbors, outer harbors, channels, canals, turning basins, docks, wharves, piers, quays, slips, loading, unloading, handling and storage equipment, warehouses, refrigerating plants and equipment, elevators for the handling and storage of grain, coal and other bulk commodities, terminal buildings or facilities, railroad equipment and trackage, roadways, airplane landing fields, parking lots, garages, automotive equipment, tugs, ferries, maintenance and construction vessels, communication systems, sewers, drains, works for the treatment of sewage,

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garbage and wastes, and the furnishing of utility service necessary to serve the property under the jurisdiction or control of the ~~commission,~~ **ports of Indiana** and other buildings and facilities which the ~~commission~~ **ports of Indiana** may deem necessary for the operation of the port; and

(2) any other project located in Indiana, other than at a port, that the ~~commission~~ **ports of Indiana** finds will enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

(d) The word "cost" as applied to a port or project means:

(1) the cost of construction;

(2) the cost of acquisition of all land, rights-of-way, property, rights, easements and interests, including lands under water and riparian rights acquired by the ~~commission~~ **ports of Indiana** for construction;

(3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved;

(4) the cost of relocating public roads;

(5) the cost of land or easements for roads;

(6) the cost of all machinery and equipment;

(7) financing charges;

(8) interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction;

(9) the cost of engineering and legal expenses, plans, specifications, surveys, and estimates of cost, traffic and revenues;

(10) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;

(11) administrative expense;

(12) other expenses as may be necessary or incident to the acquisition or construction of the project, the financing of the acquisition or construction, and the placing of the project in operation, including the amount authorized in the resolution of the ~~port~~ commission providing for the issuance of ~~port commission~~ revenue bonds to be paid into any special funds from the proceeds of the bonds; and

(13) any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering

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services, or any other cost described in this section that is incurred in connection with the acquisition or construction of a project may be regarded as part of the cost of the project and may be reimbursed out of the proceeds of ~~port commission~~ revenue bonds as authorized by this chapter.

(e) The word "owner" shall include all individuals, copartnerships, associations, or corporations having any title or interest in any property, rights, easements, and other interests authorized to be acquired by this chapter.

(f) The word "revenues" shall mean all fees, tolls, rentals, gifts, grants, moneys, and all other funds coming into the possession or under the control of the ~~commission~~ **ports of Indiana** by virtue of the terms and provisions of this article, but shall not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under provisions of this chapter.

(g) The word "public roads" shall include all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(h) "Ports of Indiana" means the ports of Indiana created by section 3(a) of this chapter.

SECTION 11. IC 8-10-1-3, AS AMENDED BY P.L.235-2005, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) ~~There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and be impleaded. The commission hereby~~ **The ports of Indiana is** created ~~is~~ **as** a body both corporate and politic in the state of Indiana, and the exercise ~~by the commission~~ of the powers conferred by this article in the construction, operation, and maintenance of a port or project shall be deemed and held to be essential governmental functions of the state. ~~but the commission shall not however be immune from liability by reason thereof.~~

(b) The ~~commission~~ **ports of Indiana** shall ~~consist~~ **be governed by a commission consisting** of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state, and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965, and the first two (2) members appointed after January 1, 1975, shall

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continue in office for terms expiring July 1, 1977, for one (1) member and July 1, 1979, for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term **and until a successor is duly appointed and qualified,** and a member of the commission shall be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of ~~such~~ **the** commission. The commission shall ~~thereafter~~ elect one (1) of the members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum, and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. ~~No~~ **A** vacancy in the membership of the commission ~~shall~~ **does not** impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(c) Before the issuance of any revenue bonds under the provisions of this article:

(1) each appointed member of the commission;

(2) the secretary-treasurer; and

(3) any other employee or agent of the ~~commission~~ **ports of Indiana** authorized by resolution of the commission to handle funds or sign checks;

shall give a surety bond to the state in the penal sum of fifty thousand dollars ($50,000). Each such surety bond must be conditioned upon the faithful performance of the individual's duties, to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an annual salary of seven thousand five hundred dollars ($7,500), payable in monthly instalments. ~~However, no members of such commission as appointed hereunder shall receive any salary except a per diem as fixed and approved by the budget director until said commission is able to carry on the full operations as intended by this chapter, and the budget director, subject to the approval of the governor of the state of Indiana,~~

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~~shall determine when said salaries for said commission members shall commence.~~

(e) Each member shall be reimbursed for the member's actual expenses necessarily incurred in the performance of the member's duties.

(f) All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article and no liability or obligation shall be incurred by the ~~commission~~ **ports of Indiana** hereunder beyond the extent to which moneys shall have been provided under the authority of this article.

(g) The commission:

(1) is responsible for implementing the powers and duties of the ports of Indiana under this article; and

(2) may adopt bylaws for the regulation of the affairs of the commission and the conduct of the business of the ports of Indiana.

The commission may delegate to staff, including the chief executive, such administrative functions as the commission deems necessary or desirable to accomplish the purposes of the ports of Indiana under this article. The chief executive may delegate the chief executive's authority to the appropriate staff.

SECTION 12. IC 8-10-1-4, AS AMENDED BY P.L.232-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. Revenue bonds issued under the provisions of this article:

(1) do not constitute a debt of the ~~commission,~~ **ports of Indiana,** the state, or any political subdivision of the state, or a pledge of the faith and credit of the ~~commission,~~ **ports of Indiana,** the state, or any political subdivision of the state;

(2) are payable solely from the funds pledged for their payment as authorized in this article, unless the bonds are refunded by refunding bonds issued under the provisions of this chapter, which shall be payable solely from funds pledged for their payment as authorized in this article; and

(3) must contain on their face a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the ~~commission,~~ **ports of Indiana,** the state, or of any political subdivision of the state, but are payable solely from revenues pledged for their payment.

All expenses incurred in carrying out the provisions of this article are payable solely from funds provided under the authority of this article and nothing in this article shall be construed to authorize the

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~~commission~~ **ports of Indiana** to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of the state.

SECTION 13. IC 8-10-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. Except as specifically authorized by the general assembly, the ~~commission~~ **ports of Indiana** may not pledge, in any form, to:

(1) seek funding from the state in the event of any default in the payment of revenue bonds; or

(2) specify, in any form, in an agreement related to revenue bonds that money appropriated by the general assembly may or shall be deposited in a debt service fund or reserve fund for the revenue bonds.

SECTION 14. IC 8-10-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The **ports of** Indiana ~~port commission~~ may:

(1) prepare sketches, plans, and descriptive material relating to ports or projects, as in its discretion may seem feasible, to compile data and prepare literature as to the necessity or advisability thereof, and to do other acts and things it considers necessary to promote the ports or projects and deems to be in the public interest;

(2) carry on, in its discretion, negotiations and enter into agreements and contracts with the federal government or agencies of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake Michigan, the Ohio River, the Wabash River, or in waters adjacent to Indiana;

(3) locate and acquire suitable sites for ports or projects;

(4) construct, develop, maintain, and operate the same in cooperation with the federal government, any agency of the federal government, a corporation established under IC 36-7-23, or otherwise, in such a manner and on such terms as will, in the discretion of the ~~commission,~~ **ports of Indiana,** best serve the commercial, industrial, and agricultural interests of the state;

(5) provide adequate port and terminal facilities to accommodate water, rail, truck, and airborne transportation; and

(6) provide a traffic exchange point for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens by the opening of the St. Lawrence Seaway and river transportation.

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(b) The title to all property included in any port or project shall be taken in the name of, and shall be in, the state of Indiana.

SECTION 15. IC 8-10-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The ~~commission~~ **ports of Indiana** is authorized and empowered to do the following:

~~(1) To adopt bylaws for the regulation of its affairs and the conduct of its business.~~

~~(2)~~ **(1)** To adopt an official seal which shall not be the seal of the state of Indiana.

~~(3)~~ **(2)** To maintain a principal office and sub-offices at such place or places within the state as it may designate.

~~(4)~~ **(3)** To sue and be sued, and to plead and be impleaded in ~~its own~~ **the** name **of the ports of Indiana.** However, actions at law against the ~~commission~~ **ports of Indiana** shall be brought in the circuit court of the county in which the principal office of the ~~commission~~ **ports of Indiana** is located or in the circuit court of the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the ~~commission~~ **ports of Indiana** by leaving a copy thereof at the principal office of the ~~commission~~ **ports of Indiana** with the person in charge thereof or with the secretary of the ~~commission.~~ **ports of Indiana.** However, no such action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is served upon the attorney general of Indiana.

~~(5)~~ **(4)** To acquire, lease, construct, maintain, repair, police, and operate a port or project as provided in this chapter, and to establish rules and regulations for the use of the port or project, and other property subject to the jurisdiction and control of the ~~commission.~~ **ports of Indiana.**

~~(6)~~ **(5)** To issue both taxable and tax exempt revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or project.

~~(7)~~ **(6)** To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares, merchandise, or articles of commerce in, on, or around the port or project.

~~(8)~~ **(7)** To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or project.

~~(9)~~ **(8)** To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the

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performance of its duties under this chapter.

~~(10)~~ **(9)** To designate the location and establish, limit, and control points of ingress to and egress from a port or project.

~~(11)~~ **(10)** To lease to others for development or operation such portions of any port or project, on such terms and conditions as the ~~commission~~ **ports of Indiana** shall deem advisable.

~~(12)~~ **(11)** To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than twenty-five thousand dollars ($25,000), the ~~commission~~ **ports of Indiana** shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in the county where the construction will occur and in such other publications as the ~~commission~~ **ports of Indiana** shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The ~~commission~~ **ports of Indiana** may reject any and all bids. A bond with good and sufficient surety as shall be approved by the ~~commission,~~ **ports of Indiana** shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

~~(13)~~ **(12)** To construct, assemble, or otherwise build, own, lease, operate, manage, or otherwise control any project throughout Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities within Indiana.

~~(14)~~ **(13)** To employ ~~an executive director or manager~~ **a chief executive,** consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation **and title,** but no compensation of any employee of the ~~commission~~ **ports of Indiana** shall exceed

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the compensation of the highest paid officer or employee of the state.

~~(15)~~ **(14)** To receive and accept from any federal agency grants for or in aid of the construction of any port or project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

~~(16)~~ **(15)** To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

~~(17)~~ **(16)** To do all acts and things necessary or proper to carry out the powers expressly granted in this article.

~~(18)~~ **(17)** To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the ~~commission.~~ **ports of Indiana.**

SECTION 16. IC 8-10-1-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.1. (a) The ~~commission~~ **ports of Indiana** shall:

(1) adopt:

(A) rules under IC 4-22-2; or

(B) a policy;

establishing a code of ethics for its employees; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted by rule or policy under this section must be consistent with state law and approved by the governor.

SECTION 17. IC 8-10-1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.5. The department of natural resources may establish and maintain, within all ports created under this chapter and in operation on July 1, 1975, areas for the use of the citizens of this state for public fishing from the shore. The ~~commission~~ **ports of Indiana** shall cooperate fully with the department of natural resources in the implementation of this section. However, if the site of any public fishing area established under this section is subsequently leased to others for agricultural, industrial, or commercial purposes, **or if required to maintain port security,** the ~~commission~~ **ports of Indiana** may limit or halt public fishing in that area.

SECTION 18. IC 8-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. If the ~~commission~~ **ports of Indiana** shall find it necessary to change the location of any portion of any public road, highway, railroad, or public utility facility, ~~it~~ **the ports of Indiana** shall cause the same to be reconstructed at such

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location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway, or railroad or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility, shall be ascertained and paid by the ~~commission~~ **ports of Indiana** as a part of the cost of the port or project. The ~~commission~~ **ports of Indiana** shall have authority to petition the circuit court of the county wherein is situated any public road or part thereof, affected by the location therein of any port or project, for the vacation or relocation of such road or any part thereof with the same force and effect as statutes in effect on March 2, 1961, to the inhabitants of any municipality or governmental subdivision of the state. The proceedings upon such petition, whether it be for the appointment of appraisers or otherwise, shall be the same as provided by statutes in effect on March 2, 1961, for similar proceedings upon such petitions. In addition to the foregoing powers, the ~~commission~~ **ports of Indiana** and ~~its~~ **the** authorized agents and employees **of the ports of Indiana** after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are necessary or proper for the purposes of this article, and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; provided, that before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved at least five (5) days in advance of such entry, and provided, that no survey, sounding, drilling, and examination shall be made between the rails, or so close to a railroad track, as would render said track unusable. The ~~commission~~ **ports of Indiana** shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters and premises, as a result of such activities. The state of Indiana, subject to the approval of the governor, hereby consents to the use of lands owned by ~~it,~~ **the state of Indiana,** including lands lying under water and riparian rights, which are necessary or proper for the construction or operation of any port or project, provided adequate compensation is made for such use. The ~~commission~~ **ports of Indiana** shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and

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appliances (referred to in this section as "public utility facilities") of any public utility in, on, along, over, or under any port or project. Whenever the ~~commission~~ **ports of Indiana** shall determine that it is necessary that any such public utility facilities which are, on or after March 2, 1961, located in, on, along, over, or under any port or project should be relocated or should be removed from the port or project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the ~~commission.~~ **ports of Indiana.** However, the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the ~~commission~~ **ports of Indiana** as a part of the cost of the port or project, excepting, however, cases in which such equipment or facilities are located within the limits of highways or public thoroughfares being constructed, reconstructed, or improved under the provisions of this chapter. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as ~~it~~ **the public utility** had the right to maintain and operate such facilities in their former location or locations subject, however, to the state's right of regulation under its police powers.

SECTION 19. IC 8-10-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The ~~commission~~ **ports of Indiana** shall have power to adopt such by-laws, rules and regulations as ~~it~~ **the ports of Indiana** may deem advisable for the control and regulation of any port or project or traffic on any port or project, for the protection of and preservation of property under its jurisdiction and control, and for the maintenance and preservation of good order within the property under its control, and such by-laws, rules and regulations shall be published in a newspaper of general circulation in Marion County, Indiana, and in such other manner as the ~~commission~~ **ports of Indiana** shall prescribe; however, such rules and regulations shall provide that public officers shall be afforded ready access, while in performance of their official duty, to all property under the jurisdiction or control of the ~~commission~~ **ports of Indiana** without the payment of tolls.

(b) Such rules and regulations adopted under this section shall be adopted under IC 4-22-2.

(c) A person who violates a rule or regulation of the ~~commission~~

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ports of Indiana commits a Class C infraction.

SECTION 20. IC 8-10-1-10, AS AMENDED BY P.L.232-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The ~~commission~~ **ports of Indiana** is hereby authorized and empowered to acquire by purchase whenever ~~it~~ **the ports of Indiana** shall deem such purchase expedient, any land, property, rights, rights of way, franchises, easements, and other interests in lands, including lands under water and riparian rights, as ~~it~~ **the ports of Indiana** may deem necessary or convenient for the construction and operation of any port or project, upon such terms and at such price as may be considered by ~~it~~ **the ports of Indiana** to be reasonable and can be agreed upon between the ~~commission~~ **ports of Indiana** and the owner thereof, and to take title thereto in the name of the state.

(b) The ~~commission~~ **ports of Indiana** is hereby further authorized and empowered to sell, transfer, and convey any such land or any interest therein so acquired, or any portion thereof, when the same shall no longer be needed for such purposes. The ~~commission~~ **ports of Indiana** is further authorized and empowered to transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any port or project, or as otherwise required under the provisions of this article. However, no such sale shall be made without first obtaining the approval of the governor, and a sale may not be made at less than the appraised value established by three (3) independent appraisers appointed by the governor. The ~~commission~~ **ports of Indiana** shall be authorized to restrict the use of any land so sold by ~~it~~ **the ports of Indiana** and provide for a reversion to the ~~commission~~ **ports of Indiana** in the event the land shall not be used for the purpose represented by the purchaser, and such restrictions and reversions shall be set out in appropriate covenants in the deeds of conveyance, which deeds shall be subject to the approval of the governor.

(c) The ~~commission~~ **ports of Indiana** shall also be authorized to lease, or grant options to lease, to others for development any portion of the land owned by the ~~commission,~~ **ports of Indiana,** on such terms as the ~~commission~~ **ports of Indiana** shall determine to be advantageous. All such leases or options to lease which leases cover a period of more than four (4) years shall be subject to the approval of the governor. Leases of lands under the jurisdiction or control of the ~~commission~~ **ports of Indiana** shall be made only for such uses and purposes as are calculated to contribute to the growth and development of ports, terminal facilities, and projects under the jurisdiction or

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control of the ~~commission.~~ **ports of Indiana.** In the event the ~~commission~~ **ports of Indiana** shall lease to others a building or structure financed by the issuance of revenue bonds under IC 8-10-4, the transaction must be structured as a self-liquidating or nonrecourse project (as defined in IC 8-10-4-1).

(d) No tenant, lessee, licensee, owner of real estate located within a port or project, or other person or entity has any right, claim, title, or interest in any real estate, personal property, or common property owned by the ~~commission,~~ **ports of Indiana,** a port, a project, or the state, unless a written agreement entered into by the ~~commission~~ **ports of Indiana** expressly provides:

(1) the exact nature and extent of the right, claim, title, or interest;

(2) all the conditions under which the right, claim, title, or interest is granted; and

(3) a legal or complete description of the specific property.

SECTION 21. IC 8-10-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. The ~~commission~~ **ports of Indiana** is hereby authorized and empowered to acquire by appropriation, under the provisions of the eminent domain law of the state, any land, including lands under water and riparian rights, property, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any port or project. The ~~commission~~ **ports of Indiana** shall also be empowered to exercise such powers of eminent domain as may be conferred upon the ~~commission~~ **ports of Indiana** by an act of Congress of the United States now in force, or which may hereafter be enacted. Title to the property condemned shall be taken in the name of the state of Indiana. Nothing herein shall authorize the ~~commission~~ **ports of Indiana** to take or disturb property or facilities constituting all or part of any presently existing or operating public port and nothing herein shall authorize the ~~commission~~ **ports of Indiana** to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the ~~commission~~ **ports of Indiana** excepting however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares.

SECTION 22. IC 8-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana

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port fund. Expenditures from said fund shall be made only for the following:

(1) Acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port or project site, and incidental expenses incurred in connection with such acquisition.

(2) Studies in connection with the port or project.

(3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation.

(4) Transfers to the fund established by IC 14-13-2-19 to carry out the purposes of IC 14-13-2.

(5) Administrative expenses of the ~~commission.~~ **ports of Indiana.**

The fund shall be held in the name of the **ports of** Indiana, ~~port commission,~~ shall be administered by the ~~commission,~~ **ports of Indiana,** and all expenditures therefrom shall be made by the ~~commission,~~ **ports of Indiana,** subject, however, to the approval by governor and the ~~state~~ budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. ~~All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others. However, not to exceed one hundred thousand dollars ($100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port or project site, and incidental expenses incurred in connection with such acquisition.~~

(b) Upon the sale of revenue bonds for any port or project, the funds expended from the Indiana port fund in connection with the development of such port or project and any obligation or expense incurred by the ~~commission~~ **ports of Indiana** for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such port or project shall be reimbursed to the state general fund from the proceeds of such bonds.

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SECTION 23. IC 8-10-1-13, AS AMENDED BY P.L.2-2007, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) Subject to the approval of the governor, the ~~commission~~ **ports of Indiana** is hereby authorized to provide by resolution **of the commission,** at one (1) time or from time to time, for the issuance of revenue bonds of the state for the purpose of paying all or any part of the cost of a port or project under this chapter or IC 8-10-4. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding thirty-five (35) years from the date thereof, as may be determined by the ~~commission,~~ **ports of Indiana,** and may be made redeemable before maturity, at the option of the ~~commission,~~ **ports of Indiana,** at such price or prices and under such terms and conditions as may be fixed by the ~~commission~~ **ports of Indiana** in the authorizing resolution.

(b) The ~~commission~~ **ports of Indiana** shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the ~~commission,~~ **ports of Indiana** by ~~its~~ **the** chairman or vice chairman **of the commission or chief executive of the ports of Indiana,** or by the facsimile signature of ~~such~~ **the** chairman or vice chairman **of the commission or chief executive of the ports of Indiana** and the official seal of the ~~commission,~~ **ports of Indiana** or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery.

(d) All bonds issued under this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the ~~commission~~ **ports of Indiana** may determine, and

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provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 21-32-3, except as provided in IC 8-10-4.

(g) No action to contest the validity of any bonds issued by the ~~commission~~ **ports of Indiana** under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

(h) The ~~commission~~ **ports of Indiana** shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds under this chapter or IC 8-10-4.

SECTION 24. IC 8-10-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the port or project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the ~~commission~~ **ports of Indiana** may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in this chapter securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from that same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the port or project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds. Prior to the preparation of definitive bonds, the ~~commission~~ **ports of Indiana** may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The ~~commission~~ **ports of Indiana** may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds and any other instruments or the security for the bonds and other instruments that are authorized by this article may be issued under the provisions of this article without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state, and without any other proceedings or the happening of any other conditions

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or things than those proceedings, conditions, or things which are specifically required by this chapter.

SECTION 25. IC 8-10-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. The ~~commission~~ **ports of Indiana** is hereby authorized to provide by resolution for the issuance of refunding bonds of the state payable solely from revenues for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of section 13 of this chapter or IC 8-10-4-2, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the ~~commission,~~ **ports of Indiana,** for the additional purpose of constructing improvements, extensions, or enlargements of the port or project in connection with which the bonds to be refunded shall have been issued. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the ~~commission~~ **ports of Indiana** in respect of the same, shall be governed by the provisions of this article insofar as the same may be applicable.

SECTION 26. IC 8-10-1-16, AS AMENDED BY P.L.232-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. In the discretion of the ~~commission~~ **ports of Indiana** any bonds issued under the provisions of this act may be secured by a trust agreement by and between the ~~commission~~ **ports of Indiana** and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state, except as provided in IC 8-10-4. Any resolution adopted by the commission providing for the issuance of revenue bonds and any trust agreement pursuant to which such bonds are issued may pledge or assign all or any portion of the revenues received or to be received by the ~~commission~~ **ports of Indiana** except such part as may be necessary to pay the cost of the ~~commission's~~ **ports of Indiana's** administrative expenses, operation, maintenance and repair and to provide reserves therefor and depreciation reserves required by any bond resolution adopted or trust agreement executed by the ~~commission,~~ **ports of Indiana,** but the ~~commission~~ **ports of Indiana** shall not convey or mortgage any port or project or any part thereof, except for self liquidating or nonrecourse projects under IC 8-10-4. In authorizing the issuance of bonds for any particular port or project, the ~~commission~~ **ports of Indiana** may limit the amount of such bonds that may be issued as a first lien and charge against the revenues pledged to the payment of such bonds or the ~~commission~~ **ports of Indiana** may authorize the issuance from time to time thereafter of additional bonds

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secured by the same lien to provide funds for the completion of the port or project on account of which the original bonds were issued, or to provide funds to pay the cost of additional projects undertaken in connection with the development of the port or project, or for both such purposes. Such additional bonds shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the commission and in the trust agreement or any agreement supplemental thereto and may be secured equally and ratably without preference, priority, or distinction with the original issue of bonds or may be made junior thereto. Any pledge or assignment made by the ~~commission~~ **ports of Indiana** pursuant hereto shall be valid and binding from the time that the pledge or assignment is made and the revenues so pledged and thereafter received by the ~~commission~~ **ports of Indiana** shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the ~~commission~~ **ports of Indiana** irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the ~~commission.~~ **ports of Indiana.** Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the ~~commission~~ **ports of Indiana** in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the port or project in connection with which such bonds shall have been authorized, the rates of fees, tolls, rentals, or other charges, to be collected for the use of the project, and the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such project. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or other funds of the ~~commission,~~ **ports of Indiana,** to furnish such indemnifying bonds or to pledge such securities as may be required by the ~~commission.~~ **ports of Indiana.** Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private

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corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the ~~commission~~ **ports of Indiana** may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the port or project.

SECTION 27. IC 8-10-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. The ~~commission~~ **ports of Indiana** shall be authorized to fix, review, charge, and collect fees, tolls, rentals, and other charges for the use of the ports, projects, terminal facilities, and lands under the jurisdiction or control of the ~~commission~~ **ports of Indiana** or services rendered by the ~~commission,~~ **ports of Indiana,** and the aggregate thereof shall provide revenues at least sufficient to pay the cost of operation, maintenance, and repair of the port or project and terminal facilities, including the administration expenses of the ~~commission,~~ **ports of Indiana,** and in case revenue bonds are issued, sufficient to pay the interest on and principal of the bonds in accordance with their terms, and also sufficient to establish and maintain reserves created for all such purposes and for depreciation purposes. The fixing and collection of such fees, tolls, rentals and other charges and the expenditure of the revenues derived therefrom shall not be subject to the supervision or regulation by any other officer, commission, board, bureau, or agency of the state. After such bonds have been fully paid and discharged and all obligations under any trust agreement securing the same have been performed or satisfied, any remaining surplus net revenues and all surplus net revenues thereafter derived from the operation of the port or project shall be paid into the state general fund.

SECTION 28. IC 8-10-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. All money received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds, from revenues, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this chapter, but prior to the time when needed for use may be invested to the extent and in the manner provided by IC 5-13-10.5, insofar as applicable. Such funds shall be kept in depositories designated as depositories for funds of the state as selected by the ~~commission,~~ **ports of Indiana,** in the manner provided by the governing statutes in so far as applicable. The resolution **of the commission** authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such money shall be entrusted, shall act as trustee of such money and shall hold and apply

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the same for the purposes hereof, subject to the provisions of this chapter and of the authorizing resolution or trust agreement.

SECTION 29. IC 8-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given in this chapter may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the statutes of the state or granted under this chapter or under such trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the ~~commission~~ **ports of Indiana** or by any officer thereof, including the fixing, charging, and collecting of fees, tolls, rentals, or other charges for the use of the port or project.

SECTION 30. IC 8-10-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. Each port or project, as defined in section 2 of this chapter, when constructed and placed in operation shall be maintained and kept in good condition and repair by the ~~commission.~~ **ports of Indiana.** Each such project shall also be policed and operated by such force of police, tolltakers, and other operating employees as the ~~commission~~ **ports of Indiana** may in its discretion employ. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.

SECTION 31. IC 8-10-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. All counties, cities, towns, townships, and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant, or convey to the ~~commission~~ **ports of Indiana** at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court, or other action or formality, other than the regular and formal action of the authorities concerned, any real or personal property owned by any such municipality or governmental subdivision which may be necessary or

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convenient to the effectuation of the authorized purposes of the ~~commission.~~ **ports of Indiana.**

SECTION 32. IC 8-10-1-22, AS AMENDED BY P.L.235-2005, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) The ~~commission~~ **ports of Indiana** shall cause an audit of its books and accounts to be made at least once each year by certified public accountants, and the cost thereof may be treated as a part of the cost of construction or of operations of the ~~commission's~~ ports and projects **of the ports of Indiana.** The accounts, books, and records of the **ports of** Indiana ~~port commission~~ shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the ~~commission's~~ ports and projects **of the ports of Indiana.**

(b) The ~~commission~~ **ports of Indiana** shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. Each report shall set forth a complete operating and financial statement for the ~~commission~~ **ports of Indiana** during the fiscal year it covers.

SECTION 33. IC 8-10-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. A member, agent, or employee of the ~~commission~~ **ports of Indiana** who knowingly is interested in any contract with the ~~commission,~~ **ports of Indiana,** or in the sale of any property, either real or personal, to the ~~commission,~~ **ports of Indiana,** commits a Class A misdemeanor. All such contracts are void. This section does not apply to contracts for purchases of property, real or personal, between the ~~commission~~ **ports of Indiana** and other departments, municipalities, or subdivisions of state government.

SECTION 34. IC 8-10-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. Revenue bonds issued by the ~~commission~~ **ports of Indiana** under the provisions of this article shall constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, and industrial loan and investment companies, and any other financial institutions organized under Indiana statutes. The bonds are also made securities

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that may be deposited with and received by all public officers and bodies of Indiana or any agency or political subdivision of Indiana and all municipalities and public commissions for any purpose for which the deposit of bonds or other obligations of Indiana is now or may be later authorized by law.

SECTION 35. IC 8-10-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. All final actions of the ~~commission~~ **ports of Indiana** shall be journalized and said journal shall be open to the inspection of the public at all reasonable times.

SECTION 36. IC 8-10-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) The exercise of the powers granted by this article will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions.

(b) As the operation and maintenance of a port or project by the ~~commission~~ **ports of Indiana** will constitute the performance of essential governmental functions, the ~~commission~~ **ports of Indiana** shall not be required to pay any taxes or assessments upon any port or project or any property acquired or used by the ~~commission~~ **ports of Indiana** under the provisions of this article or upon the income therefrom. The bonds issued by the ~~commission,~~ **ports of Indiana,** the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(c) Notwithstanding any other statute, a lessee's leasehold estate in land that is part of a port and that is owned by the state or the ~~commission~~ **ports of Indiana** is exempt from property taxation. However, an exemption under this subsection is not available for land not located at a port.

SECTION 37. IC 8-10-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 29. (a) Unless the ~~commission~~ **ports of Indiana** ~~publicly~~ declares an emergency, ~~it~~ **the ports of Indiana** may not during any six (6) month period make separate contracts with another party for similar construction projects or the purchase of similar equipment, materials, or supplies under IC 8-10-1-7(5) without advertising for and accepting public bids, if the aggregate cost of the separate contracts is more than twenty-five

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thousand dollars ($25,000).

(b) A commission member **or an employee of the ports of Indiana** who knowingly violates subsection (a) commits a Class D felony.

(c) A person who accepts a contract with the ~~commission~~ **ports of Indiana** knowing that subsection (a) was violated in connection with the contract commits a Class D felony and may not be a party to or benefit from any contract with a public body in the state for two (2) years from the date of the person's conviction.

SECTION 38. IC 8-10-1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 30. The state pledges and agrees with the holders of any bonds issued under this article that the state will not limit or alter the rights vested in the ~~commission~~ **ports of Indiana** to fulfill the terms of any agreements made with the holders or in any way impair the rights or remedies of the holders until the bonds, together with the interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The ~~commission~~ **ports of Indiana** is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.

SECTION 39. IC 8-10-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as otherwise provided by this chapter, the definitions set forth in IC 8-10-1-2 apply throughout this chapter.**

(b) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, the ~~commission,~~ **ports of Indiana,** in order to promote the agricultural, industrial, and commercial development of the state or to provide for the general welfare, and in order to connect any port under its jurisdiction with any other waterway or as part of a plan to ultimately connect such port with any other waterway, shall have the power and is hereby authorized, in cooperation with the federal government or otherwise, to construct a new canal or canals or to improve any canal, river, or other waterway, or both, including but not limited to dredging and all other work required in the design and construction of shipping channels, canals, and turning basins in a manner to accommodate water-borne transportation and the construction of wharves, docks, piers, warehouses, and other facilities for the unloading of barges and other boats. In exercising the powers hereby granted, the ~~commission~~ **ports of Indiana** shall have only such powers granted to it by this article in connection with a port project as may relate to the construction of a new canal or canals or the improvement of any canal, river, or other

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waterway, or both, and the term "port project", as used in this article, shall be deemed to include the construction of a new canal or canals or the improvement of any canal, river, or other waterway, or both, including but not limited to dredging and all other work required in the design and construction of wharves, docks, piers, warehouses, and other facilities for the unloading of barges and other boats. ~~provided,~~ However, ~~that~~ the ~~commission~~ **ports of Indiana** shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharfs, piers, boat docks, warehouses, and pipeline equipment resulting from such construction and other activities. Nothing in this section shall authorize the **ports of** Indiana ~~port commission~~ to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port.

SECTION 40. IC 8-10-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, the ~~commission,~~ **ports of Indiana,** whenever ~~it~~ **the ports of Indiana** finds that the economic welfare of the state would thereby be benefited, by additional employment opportunities, or by additional diversification of industry within the state, or by increased income or prosperity to the state and its residents, or for any other reason, shall have the power to acquire, construct, maintain, repair, police, and lease to others such facilities for manufacturing, storage, or processing of goods, or for the carrying on of commercial, business, or recreational activities as the ~~commission~~ **ports of Indiana** further finds will increase the traffic into or out of the project. Any such facilities and the site thereof shall not be exempt from property taxation, and the lessee in any lease thereof shall agree to pay all property taxes levied on such facilities and the site thereof.

(b) In exercising the powers granted in this section, the ~~commission~~ **ports of Indiana** shall have all the powers granted to it by this article, in connection with a project, and the term "project", as used in IC 8-10-1, shall be deemed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

(c) It is further declared that the acquisition, construction, maintenance, repair, policing of, and leasing to others of such facilities under the conditions set forth in this section is a public purpose.

(d) Nothing in this section shall authorize the **ports of** Indiana ~~port commission~~ to take, condemn, or disturb any property right or interest

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in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port. The **ports of** Indiana ~~port commission~~ shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharves, piers, boat docks, warehouses, and pipeline equipment resulting from the exercise by it of any powers granted to it by this section.

SECTION 41. IC 8-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. Subject to the approval of the governor, the ~~state~~ budget agency, and the ~~state~~ budget committee, the **ports of** Indiana ~~port commission~~ may, notwithstanding the provisions of IC 8-10-1-12 or the provisions of any other statute relating to or appropriating money to the Indiana port fund, expend moneys without further appropriation than the provisions of this chapter from the Indiana port fund for the operation and maintenance of a "port" or "port project" as those terms are defined in this article, and in connection with the issuance of bonds, may covenant to set aside and may set aside moneys from the Indiana port fund in a separate fund or account with a corporate trustee or otherwise to be applied on the cost of such operation and maintenance.

SECTION 42. IC 8-10-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as otherwise provided by this chapter, the definitions set forth in IC 8-10-1-2 apply throughout this chapter.**

(b) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, the ~~commission~~ **ports of Indiana** shall have the power whenever ~~it~~ **the ports of Indiana** finds it either desirable or necessary in order to increase the water borne traffic into or out of the port to acquire, lease, construct, maintain, repair, and police facilities, adjuncts, and appurtenances for use in the business of in transit processing, finishing, reduction, conversion, completion, packaging, bottling, transshipment, or handling of commodities. In exercising the powers granted in this section, the ~~commission~~ **ports of Indiana** shall have all the powers granted to ~~it~~ **the ports of Indiana** by this article in connection with a port project, and the term "port project", as used in this article, shall be deemed and construed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

SECTION 43. IC 8-10-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. ~~Such~~ **The ports of** Indiana, ~~port commission,~~ or a public or private agency or corporation

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of the state of Indiana designated by the **ports of** Indiana, ~~port commission,~~ is hereby authorized to make application to the board established by the act of Congress approved June 18, 1934 (48 Stat. 998-1003; 19 United States Code 81a-81u) (Public Law 397, 73rd Congress) entitled "an act to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States to expedite and encourage foreign commerce and other purposes," and all acts amendatory thereto, for a grant to ~~such~~ **the ports of** Indiana, ~~port commission,~~ or a public or private agency or corporation of the state of Indiana designated by the **ports of** Indiana, ~~port commission,~~ of the privilege of establishing, operating, and maintaining a foreign-trade zone at such places within the state of Indiana as ~~such commission~~ **the ports of Indiana** may determine, including lake ports, river ports, and elsewhere, pursuant to the provisions of such act, and if such application be granted to accept such grant and to establish, operate, and maintain such zone in accordance with law.

SECTION 44. IC 8-10-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. ~~Such~~ **The ports of** Indiana ~~port commission~~ in any appropriation of property, under the provisions of the appropriate eminent domain law, may take either a fee simple title in any property, or easement, or right-of-way, or riparian right, or any other estate therein as in any particular instance as to any parcel of property may be deemed necessary by the ~~commission.~~ **ports of Indiana.**

SECTION 45. IC 8-10-4-1, AS AMENDED BY P.L.232-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) As used in this chapter, "self-liquidating or nonrecourse project" means:

(1) a project for which a lease or leases have been executed providing for payment in an amount the ~~commission~~ **ports of Indiana** determines to be sufficient to pay:

(A) the interest and principal of the bonds to be issued to finance the cost of the project; and

(B) all costs of maintenance, repair, and insurance of the project; or

(2) a project that is structured in such a manner that the ~~commission~~ **ports of Indiana** determines there is no recourse against the state or the **ports of** Indiana. ~~port commission.~~

(b) Other words and terms used in this chapter shall have the same meaning as in **IC 8-10-1-2 and the** other provisions of this article, unless otherwise specifically provided.

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SECTION 46. IC 8-10-4-2, AS AMENDED BY P.L.2-2007, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, and subject to subsection (b), the ~~commission,~~ **ports of Indiana,** in connection with any self-liquidating or nonrecourse project, shall have the following powers notwithstanding any other provision of this article to the contrary:

(1) The revenue bonds issued by the ~~commission~~ **ports of Indiana** to finance the cost of such self-liquidating or nonrecourse project may be issued without regard to any maximum interest rate limitation in this article or any other law.

(2) The revenue bonds issued by the ~~commission~~ **ports of Indiana** to finance the cost of such self-liquidating or nonrecourse project may be sold in such manner, either at public or private sale, as the ~~commission~~ **ports of Indiana** may determine, and the provisions of IC 21-32-3 shall not be applicable to such sale.

(3) IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9, IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a self-liquidating or nonrecourse project.

(b) The issuance of revenue bonds by the ~~commission~~ **ports of Indiana** under this chapter is subject to the approval of the governor.

SECTION 47. IC 8-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. Any lease of a project may provide that the lessee, as its reasonable portion of the ~~commission's~~ **ports of Indiana's** administrative expense incurred **by the ports of Indiana** during the term of the lease which the lessee is required to pay by IC 8-10-1-10, shall pay to the ~~commission~~ **ports of Indiana** for the use of the harbor, the public docking facilities and public wharves and piers, all harbor, dockage, and wharfage charges established by the ~~commission.~~ **ports of Indiana.**

SECTION 48. IC 8-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The cost of any project may include, instead of the cost of the acquisition of the land constituting the site of such project, the value of such land as determined by the ~~commission.~~ **ports of Indiana.** The proceeds of any revenue bonds representing the value of such land shall be deposited in the Indiana port fund.

SECTION 49. IC 8-10-4-5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The ~~commission~~ **ports of Indiana** may contract for the use of any license, process or device, whether patented or not, which the ~~commission~~ **ports of Indiana** finds is necessary for the operation of any project, and may permit the use thereof by any lessee on such terms and conditions as the ~~commission~~ **ports of Indiana** may determine. The cost of such license, process, or device may be included as part of the cost of the project.

SECTION 50. IC 8-15.7-8-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. For the purpose of financing a qualifying project, the operator and the authority or the department may do the following:

(1) Propose to use all or part of the revenues available to them.

(2) Enter into grant agreements.

(3) Access any designated transportation trust funds.

(4) Access any other funds available to the authority or the department and the operator.

(5) Accept grants from the authority, the ~~port commission,~~ **ports of Indiana,** any other state infrastructure bank, or any other agency or entity.

SECTION 51. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "Indiana port commission" means the Indiana port commission established by IC 8-10-1-3, as in effect before the effective date of this act.**

(b) As used in this SECTION, "ports of Indiana" means the ports of Indiana established by IC 8-10-1-3, as amended by this act.

(c) After June 30, 2008, a reference to the Indiana port commission in a statute, a rule, or other document is considered a reference to the ports of Indiana, as the successor entity.".

Page 16, delete lines 2 through 42.

Delete pages 17 through 31.

Renumber all SECTIONS consecutively.

(Reference is to HB 1341 as printed January 25, 2008.)

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