

IC 8-10-5

Chapter 5. Creation of Port Authorities by Local Governments

IC 8-10-5-1

Definitions

Sec. 1. As used in this chapter:

(1) "Port authority" means a port authority created pursuant to authority of this chapter.

(2) The terms "port" or "harbor" may be used interchangeably and when used in this chapter shall mean any area used for servicing, storing, protecting, mooring, loading or unloading, or repairing any watercraft, on or adjacent to any body of water which may be wholly or partially within or wholly or partially adjacent to the state of Indiana. The terms include a breakwater area.

(3) The term "watercraft" shall mean any vessel, barge, boat, ship, tug, sailingcraft, skiff, raft, inboard or outboard propelled boat, or any contrivance known on March 13, 1959, or invented after March 13, 1959, used or designed for navigation of or use upon water, including a vessel permanently anchored in a port.

(4) "Publication" means publication once a week for two (2) consecutive weeks in a newspaper of general circulation in the city, county, or counties wherein such publication is required to be made.

(5) The term "governing body" shall mean the legislative authority of the governmental unit or units establishing or having established a port authority under the provisions of this chapter.

(Formerly: Acts 1959, c.343, s.1; Acts 1961, c.247, s.1.) As amended by P.L.66-1984, SEC.21; P.L.103-1993, SEC.1.

IC 8-10-5-2

Ordinance or resolution authorizing creation; actions by or against; contracts

Sec. 2. (a) Any municipal corporation, county, or any combination of a municipal corporation, municipal corporations, county, or counties may create a port authority and there may be created a port authority in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). Such authority may operate in addition to any municipal authority that may be created under this chapter. A municipal corporation shall act by ordinance, and a county shall act by resolution of the county commissioners in authorizing the creation of a port authority. A port authority created hereunder shall be a body corporate and politic which may sue and be sued, plead and be impleaded, and shall have the powers and jurisdiction enumerated in this chapter. The exercise by such port authority of the powers conferred upon it shall be deemed to be essential governmental functions of the state of Indiana, but no port authority shall be immune from liability by reason thereof.

(b) In the exercise of the powers and authorities herein granted said port authority shall have power to make and enter into any and all contracts that may be necessary to effectuate the purposes of this chapter. Except as otherwise expressly provided by this chapter, a contract made by a port authority is not subject to ratification by any other board, body, or officer.

(Formerly: Acts 1959, c.343, s.2; Acts 1961, c.247, s.2; Acts 1975, P.L.86, SEC.1.) As amended by P.L.12-1992, SEC.61; P.L.49-2010, SEC.1.

IC 8-10-5-3

Counties creating port authority; reimbursement of municipal corporations

Sec. 3. Any county, which seeks to create a port authority shall, prior to such creation of a port authority, and prior to the exercising of the hereinafter described rights, compensate in full the municipal corporations included in the territory of such county, in an amount of money equal to the waterfront investment of such municipal corporations in the territory or adjoining lands including but not limited to appropriations, expenditures, charges for materials used or labor performed by public officials or employees of said municipal corporation in the placing, construction, development, or improvement of land fills; waterfront shoreways or highways; bulkheads; connecting ways; tracts, breakwaters; soil erosion projects; harbor improvements; public beaches; boat harbor facilities; drainage systems; docks; bridges; wharves; piers; places; ways; buildings and appurtenances; sewers; public utility facilities for power, light, heat or water; dredging or channel improvement projects; communications systems; and lakefront improvements. Such municipal corporations may decline to demand compensation for any of the foregoing components of their waterfront investment and thereby retain their possession, custody, control, and property interest in the component for which no compensation is demanded.

Such compensation paid to the municipal corporation may not be derived or take origin directly or indirectly from levies, taxes, assessments, fees, or charges of any kind or nature which were imposed or will be imposed upon the citizens, electors or taxpayers of the municipal corporation which receives such compensation.

(Formerly: Acts 1959, c.343, s.3.)

IC 8-10-5-4

Surveys and examinations; dissolution of authority

Sec. 4. Any municipal corporation or county creating or participating in the creation of a port authority may expend funds not otherwise appropriated to defray the expense of surveys and examinations incidental to the purposes of the port authority so created.

Subject to making due provisions for payment and performance of its obligations, a port authority may be dissolved by the subdivision or subdivisions creating it, and in such event the

properties of the port authority shall be transferred to the subdivision creating it, or if created by more than one subdivision, to the subdivision creating it in such manner as may be agreed upon between such subdivisions.

(Formerly: Acts 1959, c.343, s.4.)

IC 8-10-5-5

Directors

Sec. 5. (a) A port authority created in accordance with the provisions of this chapter shall be governed by a board of directors. Except as provided in subsection (c), members of a board of directors of a port authority created by the exclusive action of a municipal corporation shall consist of the number of members it deems necessary and be appointed by the mayor with the advice and consent of the common council. Members of a board of directors of a port authority created by the exclusive action of a county shall consist of such members as it deems necessary and be appointed by the county commissioners of such county. Members of a board of directors of a port authority created by a combination of political subdivisions shall be divided among such political subdivisions in such proportions as such political subdivisions may agree and appointed in the same manner as this section provides for their appointment when such political subdivision creates its own port authority. When a port authority is created by a combination of political subdivisions, the number of directors composing the board shall be determined by agreement between such political subdivisions.

(b) In the case of a port authority created under section 2 of this chapter in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the board of directors shall consist of seven (7) members, three (3) of whom shall be appointed by the board of county commissioners, one (1) each by the mayors of the three (3) cities in the county having the largest populations, and the mayor of the city having the largest population shall appoint any remaining member or members. The board shall be appointed as follows:

- (1) The mayors of the three (3) cities in the county having the largest populations shall each make one (1) appointment.
- (2) The board of county commissioners shall make its three (3) appointments following the naming of the city appointees and appoint persons of such political faith as to make the board of directors a bipartisan body.
- (3) If a city is entitled to a second appointment, the mayor shall make the appointment subject to retaining the board's bipartisan status.
- (4) In no event may more than three (3) board members residing in the same city serve on said board at the same time.
- (5) In no event may more than four (4) members of one (1) political party serve on the board at the same time.

(c) This subsection applies to a port authority created under section 2 of this chapter by the exclusive action of a municipal

corporation in a city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000). The board of directors of the port authority consists of five (5) members appointed as follows:

- (1) Three (3) members appointed by the mayor of the city.
- (2) Two (2) members appointed by the legislative body of the city.

(d) The appointing authority may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in office.

(e) At the time of appointment, a director must be a resident of one (1) of the following:

- (1) The political subdivision from which the director is appointed.
- (2) The county within which the port authority is established.

At all times, a majority of the directors must be residents of the political subdivisions from which the members are appointed.

(f) The directors of any port authority first appointed shall serve staggered terms. Thereafter each successor shall serve for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term and any director shall be eligible for reappointment.

(g) The directors shall elect one (1) of their membership as chairman, and another as vice chairman, and shall designate their terms of office, and shall appoint a secretary who need not be a director. A majority of the board of directors shall constitute a quorum the affirmative vote of which shall be necessary for any action taken by the port authority. No vacancy in the membership of the board shall impair the rights of a quorum to exercise all the rights and perform all the duties of the port authority.

(h) Each member of the board of directors of a port authority shall be entitled to receive from the port authority such sum of money as the board of directors may determine as compensation for the member's service as director and reimbursement for the member's reasonable expenses in the performance of the member's duties.

(Formerly: Acts 1959, c.343, s.5; Acts 1975, P.L.86, SEC.2.) As amended by P.L.12-1992, SEC.62; P.L.68-1996, SEC.3; P.L.88-1997, SEC.1.

IC 8-10-5-5.5

Expansion of jurisdiction; ordinances

Sec. 5.5. Any port authority that is created under this chapter may expand its jurisdiction to include any other unit (as defined in IC 36-1-2-23) that desires to join the expanded authority. The legislative body (as defined in IC 36-1-2-9) of each unit that is in the authority shall by ordinance determine the number of directors on the board of the expanded authority and any other terms of the expansion that it considers appropriate. The legislative body of each unit that desires to join the authority shall by ordinance agree to join the authority and to accept the terms of the ordinance that provides for

the expansion.
As added by P.L.85-1988, SEC.1.

IC 8-10-5-6

Officers and employees

Sec. 6. A port authority shall employ and fix the qualifications, duties and compensation of such employees and professional help as it may require to conduct the business of the port and may appoint an advisory board which shall serve without compensation. Any employee may be suspended or dismissed, and the services of professional help may be terminated at any time by the port authority.

(Formerly: Acts 1959, c.343, s.6.)

IC 8-10-5-6.5

Retirement plans for port authority railroad employees

Sec. 6.5. (a) A port authority operating a railroad under this chapter may establish a retirement plan for the benefit of the port authority's railroad employees and past railroad employees who are not members of the public employees' retirement fund.

(b) If a port authority establishes a retirement plan under subsection (a), the port authority may do the following:

(1) Provide for the method, manner, and amount of contributions by the:

(A) port authority out of the port authority's railroad revenues or reserves; and

(B) railroad employees of the port authority, if required by the retirement plan.

(2) Create an account for the retirement plan and allocate to the account contributions sufficient to establish the retirement plan on a sound actuarial basis, including contributions for past services of employees.

(c) A retirement plan established under subsection (a) may not require contributions from an employee that exceed six percent (6%) of the employee's wages or salary.

As added by P.L.16-1998, SEC.1.

IC 8-10-5-7

Jurisdictional area

Sec. 7. The area of jurisdiction of a port authority shall include:

(1) all of the territory of the political subdivision or subdivisions creating it; and

(2) a facility that is owned or operated by the port authority, whether or not the facility is within the boundaries of the political subdivision or subdivisions that created the port authority;

however, the same area may not be included in the jurisdiction of more than one (1) port authority.

(Formerly: Acts 1959, c.343, s.7.) As amended by P.L.103-1993, SEC.2.

IC 8-10-5-8

Powers and duties

Sec. 8. (a) A port authority is an instrumentality of the state and shall have full power and authority independent of any political subdivision to do the following:

- (1) Purchase, construct, sell, lease, and operate docks, wharves, warehouses, piers, and other port, terminal, or transportation facilities within its jurisdiction consistent with the purposes of the port authority and make charges for the use thereof.
- (2) Straighten, deepen, and improve any canal, channel, river, stream, or other water course or way which may be necessary or proper in the development of the facilities of such port.
- (3) Establish dock lines, piers, and other facilities necessary to the conduct of pleasure boating within the territory under the jurisdiction of the port authority.
- (4) Regulate and enforce the regulation of all uses and activities related to the port in the area under the jurisdiction of the port authority and determine the use of land adjacent to waters under the jurisdiction of the port authority within a reasonable distance from the shore lines of such waters. However, this subdivision does not:
 - (A) affect the requirement that special standards for the safe operation of watercraft on public waters must be adopted by rule by the department of natural resources under IC 14-15-7-3; or
 - (B) authorize the assessment by the port authority of a charge or fee for the passage of a watercraft through the navigable waters of the state.
- (5) Acquire, own, hold, sell, lease, or operate real or personal property for the authorized purposes of the port authority.
- (6) Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones within the limits of the port authority and establish, operate, and maintain such foreign trade zones.
- (7) Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property necessary or proper for the construction or the efficient operation of any facility of the port authority, award damages to landowners for real estate and property rights appropriated and taken or injuriously affected, and in case the board of directors of the port authority cannot agree with the owners, lessees, or occupants of any real estate selected by them for the purposes herein set forth, proceed to procure the condemnation of the same as hereinafter provided, and in addition thereto, when not in conflict or inconsistent with the express provisions of this chapter, proceed under the general laws of the state of Indiana governing the condemnation of lands and the rights-of-way for other public purposes which may be in force at the time, and the provisions of such laws are hereby extended

to ports and harbors and to the properties of port authorities as provided for herein so far as the same are not in conflict or inconsistent with the terms of this chapter. In any such proceeding prosecuted by the board of directors of a port authority to condemn or appropriate any land or the use thereof or any right therein for purposes permitted by this chapter, the board and all owners and holders of property or rights therein sought to be taken shall be governed by and have the same rights as to procedure, notices, hearings, assessments of benefits and awards, and payments thereof as are now or may hereafter be prescribed by law for the appropriation and condemnation of real estate, and such property owners shall have like powers and rights as to remonstrance and of appeals to the circuit or superior courts in the county in which such property sought to be appropriated is located. However, the payment of all damages awarded for all lands and property or interests or rights therein appropriated under the provisions of this chapter shall be paid entirely out of funds under the control of such port authority, except for the following:

(A) Upon written application of any property owner affected, any municipal corporation, or, as to areas outside the boundaries of a municipal corporation, any county, participating in the creation of a port authority, after ten (10) days written notice to the port authority and public hearing had thereon, may revoke the right of eminent domain to be exercised by the port authority as to any parcel or parcels of land inside its borders within sixty (60) days after the port authority has by resolution announced the lands, rights, rights-of-way, franchises, easements, or other property to be taken.

(B) Nothing herein contained shall authorize a port authority to take or disturb property or facilities belonging to any public corporation, public utility, or common carrier, which property or facilities are necessary and convenient in the operation of such public corporation, public utility, or common carrier, unless provision is made for the restoration, relocating, or duplication of such property or facilities, or upon the election of such public corporation, public utility, or common carrier, for the payment of compensation, if any at the sole cost of the port authority, subject to the following:

(i) If any restoration or duplication proposed to be made hereunder shall involve a relocation of such property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and such relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation.

(ii) Provisions for restoration or duplication shall be described in detail in the resolution for appropriation passed by the port authority.

(8) Accept, receive, and receipt for federal moneys, and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of a port or harbor or other navigation facilities, and sites therefor and comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon such ports and other navigation facilities.

(9) Maintain such funds as it deems necessary.

(10) Direct its agents or employees, when properly identified in writing, and after at least five (5) days written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done.

(11) Sell or lease real and personal property not needed for the operation of the port authority and grant easements or rights-of-way over property of the port authority.

(12) Promote, advertise, and publicize the port and its facilities, provide traffic information and rate information to shippers and shipping interests, and appear before rate making authorities to represent and promote the interests of the port.

(13) Borrow money and secure the borrowing by a pledge of the following:

(A) Accounts receivable.

(B) A security interest in capital equipment for which the proceeds of the loan are used.

(C) Other security, including the excess of unobligated revenues over operating expenses.

(b) The term of a loan authorized by subsection (a)(13) may not exceed:

(1) thirty-five (35) years, in the case of a loan made before July 1, 2011; or

(2) twenty-five (25) years, in the case of a loan made after June 30, 2011.

(Formerly: Acts 1959, c.343, s.8; Acts 1965, c.390, s.1.) As amended by Acts 1979, P.L.89, SEC.1; Acts 1981, P.L.11, SEC.52; P.L.103-1993, SEC.3; P.L.1-1995, SEC.56; P.L.49-2010, SEC.2; P.L.229-2011, SEC.100.

IC 8-10-5-8.1

Railroad right-of-way; powers

Sec. 8.1. In addition to the other powers granted under this chapter, the port authority may contract for, accept, or otherwise acquire and maintain railroad property and rights-of-way. The port authority may accept and expend funding from any source, and may issue revenue bonds, for the construction, operation, and maintenance of the property and rights-of-way and the lease or purchase of all necessary equipment and appurtenances to

successfully operate a railroad over the rights-of-way. The powers granted, and procedures provided for, by this chapter shall extend to any authority created pursuant to this chapter even though the railroad facilities will not serve a port or harbor.

As added by Acts 1977, P.L.109, SEC.1. Amended by Acts 1979, P.L.89, SEC.2; Acts 1981, P.L.74, SEC.3; P.L.85-1988, SEC.2.

IC 8-10-5-8.5

Powers of port authorities in certain counties

Sec. 8.5. Port authorities created in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), shall have all the powers of port authorities provided under section 8 of this chapter except the power to exercise eminent domain as provided in section 8(7) of this chapter in any city having a population of:

(1) more than seventy-five thousand (75,000) but less than ninety thousand (90,000); or

(2) more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

(Formerly: Acts 1975, P.L.86, SEC.3.) As amended by P.L.12-1992, SEC.63; P.L.170-2002, SEC.63; P.L.1-2003, SEC.49; P.L.49-2010, SEC.3.

IC 8-10-5-8.7

Bonding

Sec. 8.7. (a) The board of directors may, by resolution, recommend to the governing body of the municipality or municipalities creating the port authority that they authorize general obligations, mortgage, or revenue bonds for any one (1) or more of the following purposes:

(1) To acquire or improve port or harbor sites.

(2) To acquire, construct, extend, alter, or improve structures, ways, facilities, or equipment necessary for the proper operation of the port authority or the port or harbor within its jurisdiction.

(3) To refund outstanding bonds and matured interest coupons and issue and sell refunding bonds for that purpose.

(b) Before making a recommendation authorized by subsection (a), the board shall give notice of a public hearing at which time the board shall disclose the purpose for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data. At least ten (10) days before the date set for hearing, the board shall publish in two (2) newspapers of general circulation in the city, county, counties, or other municipalities involved, a notice of the date, time, place, and purpose of the hearing. If there is only one (1) newspaper, one (1) notice is sufficient.

(c) The governing body shall review the proposal of the board of directors of the port authority and if it approves shall provide for the advertisement and sale of the issue in compliance with IC 5-1-11. For purposes of this chapter, IC 5-1-11 applies as fully to mortgage bonds as to general obligation or revenue bonds.

(d) Bonds issued under the authority of this chapter are not subject to limitations on interest rates.

(e) The governing body shall fix the date, time, and place of payment of principal and interest, but no issue may have a maturity date later than:

(1) forty (40) years after date of issue, in the case of bonds issued before July 1, 2011; or

(2) twenty-five (25) years after date of issue, in the case of bonds issued after June 30, 2011.

(f) Bonds issued under this chapter, together with the interest thereon, are tax exempt.

(g) The governing body shall apply the proceeds from the sale of bonds exclusively to the purposes for which the bonds were issued and only to the extent necessary therefor. Any remaining balance shall be placed in a sinking fund for the payment of the bonds and the interest on the bonds.

(h) This chapter does not affect obligations existing before July 1, 2010, on outstanding bonds. If a board of directors or a port authority is discontinued, as provided in section 4 of this chapter, the primary obligations on its bonds remain unaffected. In addition, the city or county or municipalities involved in the issuance of bonds shall assume liability for the payment of the bonds according to their terms and in relation to their interest or proportion in the bonds.

As added by P.L.49-2010, SEC.4. Amended by P.L.229-2011, SEC.101.

IC 8-10-5-8.9

Royalty contracts

Sec. 8.9. With the approval of the governing body creating it, a port authority may sell, lease, or enter into a royalty contract for the natural or mineral resources of land that it owns. Money received from these sources shall be deposited in the nonreverting capital fund of the port authority.

As added by P.L.49-2010, SEC.5.

IC 8-10-5-9

Maps, plans, and profiles for future development; hearings; objections

Sec. 9. The board of directors of a port authority shall prepare or cause to be prepared a plan for the future development, construction, and improvement of the port and its facilities, including such maps, profiles, and other data and descriptions as may be necessary to set forth the location and character of the work to be undertaken by the port authority. Upon the completion of such plan, the board of directors shall cause notice by publication as provided in section 1 of this chapter, to be given in each county in which there is a political subdivision participating in the creation of the port authority, and shall likewise cause notice to be served upon the owners of the uplands contiguous to any submerged lands affected by such plan in the manner provided by law for service of notice in

the levy of special assessments by municipal corporations, and shall permit the inspection thereof at their office by all persons interested. Said notice shall fix the time and place for the hearing of all objections to said plan which time shall be not less than ten (10) nor more than thirty (30) days from the date of last publication of said notice. Any interested person may file written objections to such plan, provided such objections are filed with the secretary of the board of directors at his office not less than five (5) days prior to the date fixed for said hearing. After said hearing, the board of directors may adopt such plan with any modifications or amendments thereto as the official plan of the port authority.

(Formerly: Acts 1959, c.343, s.9; Acts 1961, c.247, s.3.) As amended by P.L.66-1984, SEC.22.

IC 8-10-5-10

Modification, amendment, or extension of development plan

Sec. 10. The board of directors shall, from time to time after the adoption of said official plan, have the power to modify, amend, or extend the same, provided that upon the making of any such modification, amendment, or extension thereof, the board of directors shall cause notice to be given and shall conduct a hearing, all as provided in section 9 of this chapter, and shall not adopt any modification, amendment, or extension until the notice has been given and the hearing held as herein provided in this chapter.

(Formerly: Acts 1959, c.343, s.10.) As amended by P.L.66-1984, SEC.23.

IC 8-10-5-11

Modification, amendment, or extension of development plan; conclusiveness

Sec. 11. The plan and any modification, amendment or extension thereof, when adopted by the board of directors after notice and hearing shall be final and conclusive and its validity shall be conclusively presumed.

(Formerly: Acts 1959, c.343, s.11.)

IC 8-10-5-12

Private enterprise; participation in construction and operation of facilities

Sec. 12. The port authority shall foster and encourage the participation of private enterprise in the development of the port facilities to the fullest extent it deems practicable in the interest of limiting the necessity of construction and operation of such facilities by the port authority. In this respect the port authority may upon its own motion or upon the written request of any other party advertise and solicit for the construction, operation and/or maintenance of any facility included in the development plan in accordance to plans, specifications and regulations therefor prepared by the board of directors.

It is further provided that in the event the board of directors deems

it advisable and practicable, said board may cause certain facilities included in the development plan to be installed by private enterprise and leased back to the port authority on an instalment contract or option to purchase. The exercise of any power granted to the port authority under the provisions of this section shall be consummated and regulated in accordance with detailed provisions set out and enacted into proper legislation by the governing body or governing bodies creating such port authority.

(Formerly: Acts 1959, c.343, s.12; Acts 1961, c.247, s.4.)

IC 8-10-5-13

Revenue bonds; issuance and sale

Sec. 13. (a) Whenever a port authority, which was created or which shall be hereafter created by a city, town or county acting as a singular government unit or which after its creation has come under the jurisdiction of a city, town, or county as a singular government unit, has been authorized by the governing body of the city, town, or county to issue and sell revenue bonds for the purpose of obtaining funds with which to construct, purchase, lease, operate, maintain, or improve facilities included in the development plan or amendment thereof, the revenue bonds shall be:

- (1) issued in the name of the city, town, or county;
- (2) executed by the executive of the city, town, or county and the chairman of the board of directors of the port authority; and
- (3) attested to by the clerk or clerk-treasurer of the city or town or auditor if a county.

(b) In authorizing revenue bonds and providing for the issuance and sale thereof, the governing body of the city, town, or county shall, by ordinance, consistent with pertinent statutes, provide all necessary details concerning the form and tenor of the revenue bonds, the amount thereof, the maturity dates, the provision for payment of principal and interest, the negotiability, and all other details, requirements, regulations, or specifications necessary to make the revenue bonds acceptable and legal instruments.

(c) The governing body shall, in its ordinance, make provision for the expenditure of the funds derived from the sale of the revenue bonds in accordance with the purposes for which the issuance and sale was authorized. The governing body shall specifically provide for the allocation of income and revenue of the port authority into the fund or funds as may be necessary to properly secure the accumulation of money in a separate account or accounts for use in the payment of principal and interest of the revenue bonds as they become due and payable.

(Formerly: Acts 1959, c.343, s.12a; Acts 1961, c.247, s.5.) As amended by Acts 1981, P.L.74, SEC.4; P.L.8-1989, SEC.52.

IC 8-10-5-14

Miscellaneous provisions

Sec. 14. Nothing contained in this chapter shall:

- (a) impair the provisions of law or ordinance directing the

payment of revenues derived from public property into sinking funds or dedicating such revenues to specific purposes;
(b) impair the powers of any county, township, or municipal corporation to develop or improve port and terminal facilities;
or
(c) impair or interfere with the exercise of any permit for the removal of sand or gravel, or other similar permits issued by this state or the United States.

(Formerly: Acts 1959, c.343, s.13.) As amended by P.L.66-1984, SEC.24.

IC 8-10-5-15

Bids and bidding; construction contracts and lease or sale of land or property

Sec. 15. Contracts for the creation, construction, alteration, or repair of any building, structure, or other improvement undertaken by a port authority created in accordance with this chapter shall be let in accordance with IC 36-1-12. No lease or sale of any lands or property shall be made by the port authority unless notice calling for bids for the same shall have been given by publication as provided by this chapter. No such lease or sale shall be made, except to the highest and best bidder. In the case of any lease or sale of land by the port authority, specifications for the bids for such lease or sale shall be in such form and detail as shall be determined by the port authority.

(Formerly: Acts 1959, c.343, s.14; Acts 1965, c.390, s.2.) As amended by Acts 1979, P.L.89, SEC.3; Acts 1981, P.L.57, SEC.20.

IC 8-10-5-16

Budget; rates and charges

Sec. 16. The board of directors of a port authority shall annually prepare a budget for the port authority.

Rents and charges received by the port authority shall be used for the general expenses of the port authority and to pay interest, amortization, and retirement charges on money borrowed. If there remains, at the end of any calendar year, any surplus of such funds after providing for the above uses, the board of directors may pay such surplus into the general funds of the political subdivisions creating and comprising the port authority in proportions to the taxable value of all property within the port authority which shall be listed on the general tax lists for the respective subdivisions.

(Formerly: Acts 1959, c.343, s.15.)

IC 8-10-5-17

Cumulative channel maintenance fund; establishment; tax levies; docking and launch fees

Sec. 17. (a) The board of directors of any port authority may, by resolution, recommend to any municipal corporation or county that a cumulative channel maintenance fund be established under IC 6-1.1-41 to provide funds for the:

- (1) dredging of channels;
 - (2) cleaning of channels and shores of debris and any other pollutants;
 - (3) purchase, renovation, construction, or repair of bulkheads, pilings, docks, and wharves;
 - (4) purchase and development of land adjoining channels within the jurisdiction of the port authority and which land is necessary to the fulfillment of the plan adopted by the port authority for the future development, construction, and improvement of its facilities. The purchased and developed land shall be available to the residents of the taxing district without further charge; or
 - (5) regulation and enforcement of regulation of all uses and activities related to waters that are under the jurisdiction of the port authority.
- (b) To provide for the cumulative channel maintenance fund:
- (1) a county, city, or town fiscal body may levy a tax in compliance with IC 6-1.1-41 not to exceed three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) on all taxable property within the county, town, or city; and
 - (2) a city described in sections 22(a) and 23(a) of this chapter may impose the following:
 - (A) An annual docking fee under section 22 of this chapter.
 - (B) A marina launch fee under section 23 of this chapter.
- (c) The revenue from a tax, an annual docking fee, or a marina launch fee collected under subsection (b) shall be held in the cumulative channel maintenance fund established under subsection (a).

(Formerly: Acts 1959, c.343, s.16; Acts 1972, P.L.67, SEC.1.) As amended by Acts 1981, P.L.11, SEC.53; P.L.8-1989, SEC.53; P.L.17-1995, SEC.7; P.L.6-1997, SEC.133; P.L.34-2004, SEC.1.

IC 8-10-5-18

Bond of secretary; depositories; disbursement of funds

Sec. 18. Before receiving any moneys, the secretary of a port authority shall furnish bond in such amount as shall be determined by the port authority, with sureties satisfactory to it, and all funds coming into the hands of said secretary shall be deposited by him to the account of the port authority in one (1) or more depositories as shall be qualified to receive deposits of funds, in the same manner as is done by the city or county creating such port authority, which deposits shall be secured in the same manner as such city or county funds are required to be secured. No disbursements shall be made from such funds except in accordance with rules and regulations adopted by the port authority.

(Formerly: Acts 1959, c.343, s.17; Acts 1965, c.390, s.3.)

IC 8-10-5-19

Emergency measure

Sec. 19. This chapter is hereby declared to be an emergency measure, necessary for the immediate preservation of the public

peace, health, and safety. The reason for such necessity lies in the fact that the provisions of this chapter should become effective immediately in order to permit the prompt organization of port authorities to take advantage of the St. Lawrence Seaway project authorized by the Congress, thereby advancing the interests and the welfare of the state of Indiana and its citizens.

(Formerly: Acts 1959, c.343, s.18.) As amended by P.L.66-1984, SEC.25.

IC 8-10-5-20

Contracts; purchase, lease, or acquisition of land or other property

Sec. 20. The board of directors of a port authority may enter into such contracts or other arrangements with the United States government, or any department thereof, with persons, railroads, or other corporations, with public corporations, and with the state government of this or other states, with counties, municipalities, townships, or other governmental agencies created by or under the authority of the laws of the state of Indiana, including sewerage, drainage, conservation, conservancy, or other improvement districts in this or other states as may be necessary or convenient for the exercise of powers granted by the provisions of this chapter, including the making of surveys, investigations, or reports thereon, provided that such contracts or arrangements shall not be in violation of the Indiana Constitution. The board of directors may purchase, lease, or acquire land or other property in any county of the state of Indiana and in adjoining states for the accomplishment of an authorized purpose of the port authority, or for the improvement of the harbor and port facilities over which the port authority may have jurisdiction, and may let contracts or spend money for making such improvements or development of port facilities in adjoining states.

(Formerly: Acts 1959, c.343, s.19.) As amended by P.L.66-1984, SEC.26.

IC 8-10-5-21

Repealed

(Repealed by Acts 1975, P.L.86, SEC.4.)

IC 8-10-5-22

Application of section; annual watercraft fee; watercraft fee decal

Sec. 22. (a) This section applies to a city that:

- (1) creates; or
- (2) participates in the creation of;

a port authority created under this chapter that includes a channel that is ordinarily navigable to Lake Michigan.

(b) The fiscal body of a city described in subsection (a) may impose an annual docking fee upon each watercraft that is docked for more than twenty-nine (29) days during a year in waters that are under the jurisdiction of a port authority under this chapter.

(c) An annual docking fee imposed under this section shall be:

- (1) not more than seventy-five cents (\$0.75) per foot for

watercraft of thirty (30) feet or less; and
(2) not more than one dollar and fifty cents (\$1.50) per foot for watercraft over thirty (30) feet.

(d) A marina, dock, or port:

- (1) located on waters that are under the jurisdiction of a port authority created by a city under this chapter; and
- (2) where a watercraft is docked;

shall collect the annual docking fee imposed on the watercraft under this section. Not later than the fifteenth day of each month, each marina, dock, or port shall remit to the city fiscal officer the amount of fees collected under this section during the immediately preceding month.

(e) Annual docking fees imposed under this section by a city described in subsection (a) shall be deposited in the cumulative channel maintenance fund established under section 17 of this chapter.

(f) Upon collecting an annual docking fee imposed on a watercraft under this section, a marina, dock, or port shall issue to the owner of the watercraft a decal that indicates the year for which the fee under this section has been paid.

(g) The decal issued under subsection (f) must be displayed on the watercraft during the year for which the decal is issued. A watercraft that displays a valid annual docking fee decal under this subsection is not subject to:

- (1) annual docking fees imposed at other marinas, docks, or ports under this section; and
- (2) marina launch fees imposed under section 23 of this chapter.

(h) The general assembly finds that in port authorities that include a channel that is ordinarily navigable to Lake Michigan there exist unique problems related to necessary dredging and cleaning of channels used by boats that operate on the Great Lakes. These unique problems may be alleviated by the authorization of a docking fee under this section.

As added by P.L.60-1992, SEC.2. Amended by P.L.170-2002, SEC.64; P.L.34-2004, SEC.2.

IC 8-10-5-23

Per launch watercraft fee; deposit of fees; watercraft fee decal

Sec. 23. (a) The fiscal body of a city that creates or participates in the creation under this chapter of a port authority that includes a channel that is ordinarily navigable to Lake Michigan may impose a marina launch fee for a watercraft that is launched from a marina, dock, or port located on waters that are under the jurisdiction of the port authority created by the city.

(b) The owner of a watercraft subject to a fee under this section shall pay one (1) of the following:

- (1) A launch fee of one dollar (\$1) per launch.
- (2) An annual marina launch fee of:
 - (A) seventy-five cents (\$0.75) per foot for a watercraft of thirty (30) feet or less in length; or

(B) one dollar and fifty cents (\$1.50) per foot for watercraft over thirty (30) feet in length.

(c) A marina, dock, or port:

(1) located on waters that are under the jurisdiction of a port authority created by a city under this chapter; and

(2) from which a watercraft is launched;

shall collect the marina launch fee imposed on the watercraft under this section. Not later than the fifteenth day of each month, each marina, dock, or port shall remit to the city fiscal officer the amount of fees collected under this section during the immediately preceding month.

(d) The marina launch fees imposed under this section by a city described in subsection (a) shall be deposited in the cumulative channel maintenance fund established under section 17 of this chapter.

(e) Upon collecting a fee under this section, a marina, dock, or port shall issue to the person who owns the watercraft:

(1) a paper permit that indicates the day for which the fee was paid, in the case of a one (1) time marina launch fee; or

(2) a decal that indicates the year for which the fee was paid, in the case of an annual marina launch fee.

(f) The decal or permit issued under subsection (e) must be displayed on the watercraft during the period for which the decal or permit is issued. A watercraft that displays a valid annual marina launch decal or permit under this subsection is not subject to an annual watercraft docking fee imposed under section 22 of this chapter.

(g) The general assembly finds that in port authorities that include a channel that is ordinarily navigable to Lake Michigan there exist unique problems related to necessary dredging and cleaning of channels used by boats that operate on the Great Lakes. These unique problems may be alleviated by the authorization of a launch fee under this section.

As added by P.L.34-2004, SEC.3.