
HOUSE BILL No. 1699

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-13-9-3.4; IC 6-1.1-10-38; IC 6-1.1-40-1; IC 6-3-2-13; IC 8-10.

Synopsis: Indiana port commission. Expands the authority of the Indiana port commission to finance and operate projects other than port projects on Lake Michigan, the Ohio River, or the Wabash River.

Effective: July 1, 2003.

Murphy

January 21, 2003, read first time and referred to Committee on Interstate and International Cooperation.

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First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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HOUSE BILL No. 1699



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

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

- 1 SECTION 1. IC 5-13-9-3.4 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2003]: **Sec. 3.4. Each officer designated in section 1 of this**
- 4 **chapter may invest or reinvest any funds that are held by the**
- 5 **officer and available for investment in obligations issued, assumed,**
- 6 **or guaranteed by the Indiana port commission.**
- 7 SECTION 2. IC 6-1.1-10-38 IS AMENDED TO READ AS
- 8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38. This chapter does
- 9 not contain all of the property tax exemption provisions. The property
- 10 taxation exemption provisions include but are not limited to the
- 11 following sections:
- 12 IC 4-20.5-14-3 IC 20-14-7-3
- 13 IC 4-20.5-19 IC 20-14-9-15
- 14 IC 5-1-4-26 IC 20-14-10-14
- 15 IC 6-1.1-10-5 IC 21-5-11-14
- 16 ~~IC 8-10-1-27~~ **IC 8-10-0.5-17** IC 21-5-12-10
- 17 IC 8-23-7-31 IC 23-7-7-3



1	IC 8-15-2-12	IC 23-14-70-23
2	IC 8-21-9-31	IC 36-1-10-18
3	IC 10-7-1-20	IC 36-7-14-37
4	IC 10-7-2-32	IC 36-7-15.1-25
5	IC 10-7-5-12	IC 36-7-18-25
6	IC 10-7-6-21	IC 36-9-4-52
7	IC 10-7-12-9	IC 36-9-11-10
8	IC 14-33-20-27	IC 36-9-11.1-11
9	IC 15-1.5-6-4	IC 36-9-13-36
10	IC 16-22-6-34	IC 36-9-13-37
11	IC 20-12-6-11	IC 36-9-30-31
12	IC 20-12-7-5	IC 36-10-8-18
13	IC 20-12-8-5	IC 36-10-9-18

14 SECTION 3. IC 6-1.1-40-1 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this
 16 chapter, "commission" refers to the Indiana port commission
 17 established by ~~IC 8-10-1~~ **IC 8-10-0.5-1**.

18 SECTION 4. IC 6-3-2-13, AS AMENDED BY P.L.90-2002,
 19 SECTION 288, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) As used in this section,
 21 "export income" means the gross receipts from the sale, transfer, or
 22 exchange of tangible personal property destined for international
 23 markets that is:

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

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

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

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

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

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

33 (d) The Indiana port commission established by ~~IC 8-10-1~~
 34 **IC 8-10-0.5-1** shall notify the department when a maritime opportunity
 35 district is established under IC 6-1.1-40. The notice must include:

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

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

39 (e) The port commission shall also notify the department of any
 40 subsequent changes in the list of taxpayers located in the district.

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

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- 1 (1) the taxpayer's adjusted gross income; or
 2 (2) the product of the export sales ratio multiplied by the
 3 percentage set forth in subsection (g).

4 (g) The percentage to be used in determining the amount a taxpayer
 5 is entitled to deduct under this section depends upon the number of
 6 years that the taxpayer could have taken a deduction under this section.

7 The percentage to be used in subsection (f) is as follows:

8 YEAR OF DEDUCTION	PERCENTAGE
9 1st through 4th	100%
10 5th	80%
11 6th	60%
12 7th	40%
13 8th	20%
14 9th and thereafter	0%

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

19 SECTION 5. IC 8-10-0.3 IS ADDED TO THE INDIANA CODE
 20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2003]:

22 **Chapter 0.3. General Provisions; Definitions**

23 **Sec. 1. The exercise by the commission of a power granted by**
 24 **law for an authorized purpose shall be treated as constituting the**
 25 **performance of an essential governmental function of the state.**
 26 **However, the commission is not immune from liability resulting**
 27 **from the exercise of any of these powers.**

28 **Sec. 2. This article, being necessary for the welfare of the state**
 29 **and its inhabitants, shall be liberally construed to effect the**
 30 **authorized purposes of the commission.**

31 **Sec. 3. The definitions in this chapter apply throughout this**
 32 **article.**

33 **Sec. 4. "Authorized purpose" means the following:**

34 **(1) The:**

35 **(A) planning and design;**

36 **(B) construction;**

37 **(C) operation; or**

38 **(D) maintenance;**

39 **of a project.**

40 **(2) An action that is necessary or desirable, as determined by**
 41 **the commission, to carry out a purpose described in**
 42 **subdivision (1).**

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1 **Sec. 5. "Bonds"** means bonds, notes, or other forms or evidences
 2 of obligation issued in temporary or definitive form, including
 3 notes issued in anticipation of the issuance of bonds and renewal
 4 notes.

5 **Sec. 6. "Commission"** refers to the Indiana port commission
 6 established by IC 8-10-0.5-1.

7 **Sec. 7. "Commission facility"** means real property or personal
 8 property, or any combination of real and personal property, that:

9 (1) is:

10 (A) owned, leased, or otherwise controlled; or

11 (B) financed;

12 by the commission; and

13 (2) is related to, useful for, or in furtherance of one (1) or
 14 more authorized purposes.

15 **Sec. 8. "Commissioner"** refers to a member of the commission
 16 appointed under IC 8-10-0.5-3.

17 **Sec. 9. "Construction"** includes alteration, construction,
 18 creation, development, enlargement, improvement, installation,
 19 reconstruction, remodeling, and renovation.

20 **Sec. 10. "Cost"**, as applied to a commission facility, means any
 21 combination of the following:

22 (1) The cost of acquisition or construction of the facility and
 23 the cost of acquisition of all land, rights-of-way, property
 24 rights, easements, franchise rights, and interests required for
 25 that acquisition or construction.

26 (2) The cost of demolishing or removing any buildings or
 27 structures on land acquired under subdivision (1), including
 28 the cost of acquiring any lands to which those buildings or
 29 structures may be moved.

30 (3) The cost of acquiring or constructing and equipping a
 31 principal office of the commission.

32 (4) The cost of diverting highways, interchange of highways,
 33 and access roads to private property, including the cost of
 34 land or easements for the access roads.

35 (5) The cost of public utility and common carrier relocation
 36 or duplication.

37 (6) The cost of all machinery, furnishings, and equipment.

38 (7) Financing charges.

39 (8) Interest before and during construction and for not more
 40 than eighteen (18) months after the completion of
 41 construction.

42 (9) Engineering.

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- 1 (10) Expenses of research and development with respect to
 2 commission facilities.
 3 (11) Legal expenses.
 4 (12) Plans, specifications, surveys, studies, and estimates of
 5 cost and revenues.
 6 (13) Other expenses necessary or incident to determining the
 7 feasibility or practicability of acquiring or constructing the
 8 facility.
 9 (14) Administrative expenses.
 10 (15) Any other expenses necessary or incident to:
 11 (A) acquiring or constructing the facility;
 12 (B) financing the acquisition or construction of the facility;
 13 or
 14 (C) financing the placing of the facility into operation;
 15 including the amount authorized in the resolution of the
 16 commission providing for the issuance of bonds to be paid into
 17 any special funds from the proceeds of the bonds.
 18 Any obligation, cost, or expense incurred by any governmental
 19 agency or person for surveys, borings, the preparation of plans and
 20 specifications, and other engineering services, or any other cost
 21 described in this section that is incurred in connection with the
 22 acquisition or construction of a facility may be regarded as part of
 23 the cost of the facility and may be reimbursed out of the proceeds
 24 of bonds issued by the commission.
 25 Sec. 11. As used in this chapter, "person" refers to any of the
 26 following:
 27 (1) An individual.
 28 (2) A legal entity other than an individual, including a firm, a
 29 partnership, a corporation, or a governmental entity.
 30 (3) Any combination of individuals and legal entities.
 31 Sec. 12. "Political subdivision" has the meaning set forth in
 32 IC 36-1-2-13.
 33 Sec. 13. (a) "Port", except as provided in subsection (b), includes
 34 any place or places on Lake Michigan, the Ohio River, the Wabash
 35 River, or another body of water, natural or artificial, in which
 36 waterborne vessels capable of carrying articles of commerce over
 37 navigable bodies of water may be loaded, unloaded or
 38 accommodated.
 39 (b) For the purposes of IC 8-10-5, the term has the meaning set
 40 forth in IC 8-10-5-1.
 41 Sec. 14. (a) "Port project", except as provided in subsections (b)
 42 and (c), includes any facilities, adjuncts, and appurtenances

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1 necessary to operate a modern port, including the dredging of
 2 approaches thereto, and including, among other things, but not
 3 limited to, breakwaters, inner harbors, outer harbors, channels,
 4 canals, turning basins, docks, wharves, piers, quays, slips, loading,
 5 unloading, handling and storage equipment, warehouses,
 6 refrigerating plants and equipment, elevators for the handling and
 7 storage of grain, coal, and other bulk commodities, terminal
 8 buildings or facilities, railroad equipment and trackage, roadways,
 9 airplane landing fields, parking lots, garages, automotive
 10 equipment, tugs, ferries, maintenance and construction vessels,
 11 communication systems, sewers, drains, works for the treatment of
 12 sewage, garbage, and wastes, and the furnishing of utility service
 13 necessary to serve the property under the jurisdiction or control of
 14 the commission, and other buildings and facilities that the
 15 commission considers necessary for the operation of the port.

16 (b) For purposes of IC 8-10-2, the term means any property or
 17 services described in subsection (a) and any facilities, adjuncts, and
 18 appurtenances described in IC 8-10-2-2.

19 (c) For purposes of IC 8-10-3, the term means any property or
 20 services described in subsection (a) and any facilities, adjuncts, and
 21 appurtenances described in IC 8-10-3-1.

22 **Sec. 15. "Project" refers to any of the following:**

23 (1) A port project.

24 (2) Any commission facility related to nonmaritime port and
 25 traffic exchange points throughout Indiana for the transfer of
 26 goods and passengers between any modes of transportation.

27 (3) Any other commission facility or project, whether located
 28 at a port or elsewhere in Indiana, that:

29 (A) is authorized by law; or

30 (B) the commission finds will enhance, foster, aid, provide,
 31 or promote:

32 (i) economic development;

33 (ii) private-public partnerships;

34 (iii) industrial, commercial, business, transportation,
 35 recreational, cultural, or governmental purposes; or

36 (iv) other uses, activities, and purposes approved by the
 37 commission.

38 SECTION 6. IC 8-10-0.5 IS ADDED TO THE INDIANA CODE
 39 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2003]:

41 **Chapter 0.5. Indiana Port Commission; Organization; Tax**
 42 **Exempt Status**

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- 1 **Sec. 1. There is established a commission to be known as the**
2 **Indiana port commission.**
- 3 **Sec. 2. The commission is a body both corporate and politic in**
4 **the state of Indiana.**
- 5 **Sec. 3. The commission consists of seven (7) members, appointed**
6 **by the governor, not more than four (4) of whom may be members**
7 **of the same political party.**
- 8 **Sec. 4. The members of the commission shall be residents of**
9 **Indiana and shall have been qualified electors in Indiana for a**
10 **period of at least five (5) years next preceding their appointment.**
- 11 **Sec. 5. Each member of the commission shall be appointed for**
12 **a term of four (4) years, except that any person appointed to fill a**
13 **vacancy shall be appointed to serve only for the unexpired term.**
- 14 **Sec. 6. A member of the commission shall be eligible for**
15 **reappointment.**
- 16 **Sec. 7. The governor may at any time remove any member of**
17 **the commission for misfeasance, nonfeasance, or malfeasance in**
18 **office.**
- 19 **Sec. 8. The members of the commission shall, within ten (10)**
20 **days after their appointment, meet and qualify by subscribing an**
21 **oath to discharge honestly and faithfully the duties of their office**
22 **as members of the commission.**
- 23 **Sec. 9. The commission shall elect one (1) of the members as**
24 **chairman and another as vice chairman.**
- 25 **Sec. 10. The commission shall appoint a secretary-treasurer who**
26 **need not be a member of the commission.**
- 27 **Sec. 11. Four (4) members of the commission constitute a**
28 **quorum.**
- 29 **Sec. 12. The affirmative vote of four (4) members is necessary**
30 **for any official action taken by the commission.**
- 31 **Sec. 13. No vacancy in the membership of the commission**
32 **impairs the rights of a quorum to exercise all the rights and**
33 **perform all the duties of the commission.**
- 34 **Sec. 14. (a) Before the issuance of any bonds:**
35 **(1) each appointed member of the commission shall give a**
36 **surety bond to the state in the penal sum of twenty-five**
37 **thousand dollars (\$25,000); and**
38 **(2) the secretary-treasurer shall give a surety bond to the state**
39 **in the penal sum of fifty thousand dollars (\$50,000).**
40 **(b) Each surety bond must be:**
41 **(1) conditioned upon the faithful performance of the duties of**
42 **the office;**

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1 (2) executed by a surety company authorized to transact
2 business in Indiana as surety; and

3 (3) approved by the governor and filed in the office of the
4 secretary of state.

5 Sec. 15. Each appointed member of the commission shall receive
6 an annual salary of seven thousand five hundred dollars (\$7,500),
7 payable in monthly installments.

8 Sec. 16. Each member shall be reimbursed for the member's
9 actual expenses necessarily incurred in the performance of the
10 member's duties.

11 Sec. 17. The commission shall not be required to pay any taxes
12 or assessments upon:

13 (1) any project of the commission;

14 (2) any property acquired or used by the commission for an
15 authorized purpose; or

16 (3) any income from a project or property of the commission
17 accruing to the commission from an exercise of a power
18 related to an authorized purpose.

19 Sec. 18. Subject to IC 8-10-1-27, the exemptions described in
20 section 17 of this chapter do not apply to the ad valorem property
21 taxation of property occupied and used during a taxable year by a
22 person or an entity who is a lessee of the property as of the tax lien
23 date for that taxable year under a written lease with a remaining
24 term longer than one (1) year.

25 SECTION 7. IC 8-10-0.6 IS ADDED TO THE INDIANA CODE
26 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2003]:

28 **Chapter 0.6. General Powers**

29 Sec. 1. The commission is granted all powers necessary,
30 convenient, or appropriate to carry out and effectuate its public
31 and corporate purposes, powers, and duties. The power granted to
32 the commission by this section includes, but is not limited to, the
33 powers described in this chapter.

34 Sec. 2. To the extent that this chapter grants powers to the
35 commission that the commission did not have before July 1, 2003,
36 the commission may not exercise a power granted under this
37 chapter in a manner that impairs rights accruing under a:

38 (1) bond issued; or

39 (2) contract entered into;

40 before July 1, 2003.

41 Sec. 3. If another law requires that a power:

42 (1) relating to a port or port project; and

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1 (2) granted both by this chapter and the other law;
2 be exercised in a particular manner, the power shall be exercised
3 in conformity with the requirements of the other law.

4 Sec. 4. The commission may adopt bylaws, rules under
5 IC 4-22-2, and policies for the regulation of its affairs and the
6 conduct of its business.

7 Sec. 5. The commission may adopt an official seal, which may
8 not be the seal of the state of Indiana.

9 Sec. 6. The commission may sue and be sued and plead and be
10 implied in its own name. However, actions at law against the
11 commission shall be brought in the circuit court of the county in
12 which the principal office of the commission is located or in the
13 circuit court of the county in which the cause of action arose, if the
14 county is located within the state. All summonses and legal notices
15 of every kind shall be served on the commission by leaving a copy
16 thereof at the principal office of the commission with the person in
17 charge thereof or with the secretary of the commission. However,
18 the action is not considered commenced until a copy of the
19 summons and complaint, cross-complaint, petition, bill, or pleading
20 is served upon the attorney general of Indiana.

21 Sec. 7. The commission may maintain one (1) or more offices at
22 a place or places within Indiana as it may designate.

23 Sec. 8. The commission may:

- 24 (1) employ or contract for an executive director or a manager,
25 consulting engineers, superintendents, other engineers,
26 construction and accounting experts, attorneys (with the
27 approval of the attorney general), and other employees and
28 agents as may be necessary in its judgment; and
29 (2) fix their compensation.

30 The compensation of an employee of the commission may not
31 exceed the compensation of the highest paid officer or employee of
32 the state.

33 Sec. 9. (a) The commission may acquire, hold, use, and dispose
34 of its income, revenues, funds, and money.

35 (b) The commission may invest funds not needed for immediate
36 disbursement.

37 Sec. 10. The commission may acquire, rent, lease, hold, use, and
38 dispose of property, including easements and rights-of-way, for its
39 authorized purposes. Any determinations made by the commission
40 under this section shall be conclusive. A disposition of property
41 may be made without advertising and the receipt of bids.

42 Sec. 11. (a) The commission may acquire by appropriation,

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1 under the provisions of the eminent domain law of the state, any
 2 real property, including lands under water and riparian rights,
 3 property, rights, rights-of-way, franchises, easements, or other
 4 property necessary or proper for the construction or the efficient
 5 operation of any project or port.

6 (b) The commission may exercise the powers of eminent domain
 7 that are conferred upon the commission by an act of Congress of
 8 the United States.

9 (c) Title to the condemned property shall be taken in the name
 10 of the state of Indiana.

11 (d) This section does not authorize the commission to take or
 12 disturb property or facilities constituting all or part of a public
 13 port operating on June 30, 2003.

14 (e) This section does not authorize the commission to take or
 15 disturb property or facilities belonging to a public utility or to a
 16 common carrier engaged in interstate commerce, which property
 17 or facilities are required for the proper and convenient operation
 18 of the public utility or common carrier, unless provision is made
 19 for the restoration, relocation, or duplication of the property or
 20 facilities elsewhere at the sole cost of the commission, except in
 21 cases in which the equipment or facilities are located within the
 22 limits of existing highways or public thoroughfares.

23 **Sec. 12.** The commission may plan for, construct, maintain,
 24 repair, police, and operate a project.

25 **Sec. 13.** The commission may establish rules and policies for the
 26 use of a project and other property subject to the jurisdiction and
 27 control of the commission.

28 **Sec. 14.** The commission may fix, revise, and collect fees, rentals,
 29 tolls, and other charges for the use of a project and other property
 30 subject to the jurisdiction and control of the commission. A charge
 31 may not be less than the charges established for the same services
 32 furnished by a public utility or common carrier in the jurisdiction
 33 of the commission.

34 **Sec. 15.** The commission may make and execute contracts and
 35 all other instruments necessary or convenient for the performance
 36 of its authorized purposes.

37 **Sec. 16.** The commission may procure insurance against any loss
 38 in connection with its property and other assets, including loans
 39 and loan notes in amounts and from insurers as it may consider
 40 advisable.

41 **Sec. 17.** The commission may procure insurance to guarantee,
 42 insure, coinsure, and reinsure against political and commercial risk

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of loss, and any other insurance the commission considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the commission.

Sec. 18. The commission may promote, advertise, and publicize commission facilities and its authorized purposes.

Sec. 19. The commission may provide information to persons with an interest in transportation and other commission activities.

Sec. 20. The commission may appear before ratemaking or legislative authorities to represent and promote the interests of the commission and its authorized purposes.

Sec. 21. The commission may do any of the following, in regard to any interests in any real or personal property, or any combination of real and personal property, including, without limitation, machinery, equipment, plants, factories, offices, and other structures and facilities related to, useful for, or in furtherance of any authorized purpose, for the consideration and in the manner as the commissioners may determine:

- (1) Loan money to any person for the acquisition, construction, furnishing, and equipping of the property.
- (2) Guarantee the obligations of any person or governmental entity.
- (3) Accept and hold as consideration for the conveyance of property or any interest in the property or interests therein as the commissioners may determine, notwithstanding any restrictions that may otherwise apply to the investment of funds.

Sec. 22. (a) This section does not apply to either of the following:

- (1) Any contract secured by or to be paid from money raised by taxation or the proceeds of obligations secured by a pledge of money raised by taxation.
- (2) Any contract secured exclusively by or to be paid exclusively from the general revenues of the commission. For the purposes of this section, any revenues derived by the commission under a lease or other agreement that, by its terms, contemplates the use of amounts payable under the agreement either to pay the costs of the improvement that is the subject of the contract or to secure obligations of the commission issued to finance costs of the improvement, are excluded from general revenues and need not be deposited into the general fund.

(b) Notwithstanding any other law, including any requirement for:

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- 1 (1) notice;
- 2 (2) competitive bidding or selection; or
- 3 (3) the provision of security;
- 4 **any purchase, exchange, sale, lease, lease with an option to**
- 5 **purchase, conveyance of other interests in, or other contract with**
- 6 **a person or governmental entity that pertains to the acquisition,**
- 7 **construction, maintenance, repair, furnishing, equipping, or**
- 8 **operation of any real or personal property, or any combination**
- 9 **thereof, related to, useful for, or in furtherance of or in connection**
- 10 **with an authorized purpose is to be made in the manner and**
- 11 **subject to the terms and conditions determined by the**
- 12 **commissioners' discretion.**

13 SECTION 8. IC 8-10-0.7 IS ADDED TO THE INDIANA CODE
 14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2003]:

16 **Chapter 0.7. Indiana Port Commission; General Duties**

17 **Sec. 1. (a) The commission shall:**

- 18 (1) adopt:
 - 19 (A) rules under IC 4-22-2; or
 - 20 (B) a policy;
- 21 establishing a code of ethics for its employees; or
- 22 (2) decide it wishes to be under the jurisdiction and rules
- 23 adopted by the state ethics commission.

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

26 **Sec. 2. (a) The commission shall cause an audit of its books and**
 27 **accounts to be made at least once each year by certified public**
 28 **accountants, and the cost of the audit may be treated as a part of**
 29 **the cost of construction or of operations of the projects of the**
 30 **commission according to an apportionment formula established by**
 31 **the commission.**

32 **(b) The accounts, books, and records of the commission shall be**
 33 **audited annually by the state board of accounts, and the cost of the**
 34 **audit may be treated as a part of the cost of construction or of**
 35 **operations of the projects of the commission according to an**
 36 **apportionment formula established by the commission.**

37 **Sec. 3. All final actions of the commission shall be journalized,**
 38 **and the journal shall be open to the inspection of the public at all**
 39 **reasonable times.**

40 **Sec. 4. Unless the commission publicly declares an emergency,**
 41 **it may not during any six (6) month period make separate**
 42 **contracts with another party for similar construction projects or**

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1 the purchase of similar equipment, materials, or supplies under
 2 IC 8-10-1-7(5) without advertising for and accepting public bids,
 3 if the total cost of the separate contracts is more than twenty-five
 4 thousand dollars (\$25,000).

5 **Sec. 5. (a)** Unless the commission publicly declares an
 6 emergency, when the cost of any contract for construction, or for
 7 the purchase of equipment, materials, or supplies, involves an
 8 expenditure of more than twenty-five thousand dollars (\$25,000),
 9 the commission shall make a written contract with the lowest and
 10 best bidder after advertisement for not less than two (2)
 11 consecutive weeks in a newspaper of general circulation in Marion
 12 County, Indiana, and in other publications as the commission
 13 determines.

14 **(b)** The notice shall state the general character of the work and
 15 the general character of the materials to be furnished, the place
 16 where plans and specifications therefor may be examined, and the
 17 time and place of receiving bids.

18 **(c)** Each bid shall contain the full name of each person or
 19 company interested in it and shall be accompanied by a sufficient
 20 bond or certified check on a solvent bank that if the bid is accepted
 21 a contract will be entered into and the performance of its proposal
 22 secured.

23 **(d)** The commission may reject any and all bids.

24 **(e)** A bond with good and sufficient surety, as shall be approved
 25 by the commission, shall be required of all contractors in an
 26 amount equal to at least fifty percent (50%) of the contract price
 27 conditioned upon the faithful performance of the contract.

28 **Sec. 6.** The commission shall foster and encourage
 29 public-private partnerships and the participation of private
 30 enterprise in the development of commission facilities and in
 31 engaging in authorized purposes to the fullest extent it considers
 32 practicable in the interest of limiting the necessity of construction
 33 and operation of those facilities by the commission.

34 SECTION 9. IC 8-10-0.8 IS ADDED TO THE INDIANA CODE
 35 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2003]:

37 **Chapter 0.8. General Bonding Powers; Tax Exemption**

38 **Sec. 1.** This chapter applies to the financing of a project of the
 39 commission.

40 **Sec. 2.** To the extent that this chapter grants powers to the
 41 commission that the commission did not have before July 1, 2003,
 42 the commission may not exercise a power granted under this

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1 chapter in a manner that impairs rights accruing under a bond
2 issued or contract entered into before July 1, 2003.

3 Sec. 3. If another law requires that a power:

4 (1) relating to a port or port project; and

5 (2) granted both by this chapter and the other law;

6 be exercised in a particular manner, the power shall be exercised
7 in conformity with the requirements of the other law.

8 Sec. 4. The commission may enter into loans in anticipation of
9 receiving any revenues due to the commission or proceeds from a
10 bond issued by the commission.

11 Sec. 5. The commission may issue bonds or notes for the
12 acquisition, construction, furnishing, or equipping of real or
13 personal property, or any combination of real and personal
14 property, related to, useful for, or in furtherance of any authorized
15 purpose. The net indebtedness incurred by the commission may not
16 exceed the total value of all property, land, buildings, equipment,
17 or other facilities owned by the commission.

18 Sec. 6. The commission, by resolution of its commissioners, may
19 issue revenue bonds beyond the limit of bonded indebtedness
20 provided by law for the acquisition, construction, furnishing, or
21 equipping of real or personal property, or any combination of real
22 and personal property, related to, useful for, or in furtherance of
23 any authorized purpose, including all costs in connection with or
24 incidental to an authorized purpose.

25 Sec. 7. Revenue bonds issued under this chapter are subject to
26 the conditions specified in sections 8 through 12 of this chapter.

27 Sec. 8. The revenue bonds shall be secured only by a pledge of
28 and a lien on the revenues of the commission derived from those
29 loan payments, rentals, fees, charges, or other revenues that are
30 designated in the resolution, including, but not limited to, any
31 property to be acquired, constructed, furnished, or equipped with
32 the proceeds of the bond issue, after provision only for the
33 reasonable cost of operating, maintaining, and repairing the
34 property of the commission so designated. The bonds may further
35 be secured by the covenant of the commission to maintain rates or
36 charges that will produce revenues sufficient to meet the costs of
37 operating, maintaining, and repairing property and to meet the
38 interest and principal requirements of the bonds and to establish
39 and maintain reserves for the foregoing purposes or to ensure the
40 same. The commissioners, by resolution, may provide for the
41 periodic issuance of additional revenue bonds, to be secured
42 equally and ratably, without preference, priority, or distinction,

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1 with outstanding revenue bonds, subject to the terms and
 2 limitations of any trust agreement described in this section, and of
 3 any resolution authorizing bonds then outstanding. The
 4 commissioners, by resolution, may designate additional property
 5 of the commission, the revenues of which shall be pledged and be
 6 subject to a lien for the payment of the debt charges on revenue
 7 bonds theretofore authorized by resolution of the commission's
 8 commissioners, to the same extent as the revenues described in this
 9 section.

10 **Sec. 9.** In the discretion of the commissioners, the revenue bonds
 11 of the commission may be secured by a trust agreement between
 12 the commission's commissioners on behalf of the commission and
 13 a corporate trustee, which may be any trust company or bank
 14 having powers of a trust company, within or outside Indiana. The
 15 trust agreement may provide for the pledge or assignment of the
 16 revenues to be received but may not pledge the general credit of
 17 the commission. A trust agreement securing revenue bonds issued
 18 to acquire, construct, furnish, or equip real property, plants,
 19 factories, offices, and other structures and facilities for authorized
 20 purposes consistent with this chapter may mortgage the real or
 21 personal property, or a combination thereof, to be acquired,
 22 constructed, furnished, or equipped from the proceeds of those
 23 revenue bonds as further security for the bonds. The trust
 24 agreement or the resolution providing for the issuance of revenue
 25 bonds may set forth the rights and remedies of the bondholders
 26 and trustee and may contain other provisions for protecting and
 27 enforcing the bondholders' rights and remedies that are
 28 determined in the discretion of the commission's commissioners to
 29 be reasonable and proper. The agreement or resolution may
 30 provide for the use, deposit, reinvestment, custody, investment, and
 31 disbursement of all money derived from the sale of the bonds to
 32 accomplish authorized purposes of the commission.

33 **Sec. 10.** All bonds issued under authority of this chapter,
 34 regardless of form or terms and regardless of any other law to the
 35 contrary, have all qualities and incidents of negotiable instruments,
 36 subject to provisions for registration, and may be issued in coupon,
 37 fully registered, or other form, or any combination thereof, as the
 38 commission's commissioners determine. Provision may be made
 39 for the registration of any coupon bonds as to principal alone or as
 40 to both principal and interest, and for the conversion into coupon
 41 bonds of any fully registered bonds or bonds registered as to both
 42 principal and interest.



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1 **Sec. 11. The revenue bonds must bear interest at the rate or**
 2 **rates, must bear the date or dates, and must mature within forty**
 3 **(40) years following the date of issuance and in the amount, at the**
 4 **time or times, and in the number of installments as may be**
 5 **provided in or under the resolution authorizing their issuance. Any**
 6 **original issue of revenue bonds must mature not later than forty**
 7 **(40) years from its date of issue. The resolution also must provide**
 8 **for the execution of the bonds, which may be by facsimile**
 9 **signatures unless prohibited by the resolution, and the manner of**
 10 **sale of the bonds. The resolution must provide for, or provide for**
 11 **the determination of, any other terms and conditions relative to the**
 12 **issuance, sale, and retirement of the bonds that the commissioners**
 13 **in their discretion determine to be reasonable and proper.**

14 **Sec. 12. Whenever the commission considers it expedient, it may**
 15 **issue renewal notes and refund any bonds, whether the bonds to be**
 16 **refunded have or have not matured. The final maturity of any**
 17 **notes, including any renewal notes, shall be not later than five (5)**
 18 **years from the date of issue of the original issue of notes. The final**
 19 **maturity of any refunding bonds shall be not later than the later of**
 20 **forty (40) years from the date of issue of the original issue of bonds**
 21 **or the date by which it is expected, at the time of issuance of the**
 22 **refunding bonds, that the useful life of all of the property, other**
 23 **than interests in land, refinanced with proceeds of the bonds, will**
 24 **have expired. The refunding bonds shall be sold and the proceeds**
 25 **applied to the purchase, redemption, or payment of the bonds to be**
 26 **refunded and the costs of issuance of the refunding bonds.**

27 **Sec. 13. Bonds of the commission:**

28 **(1) are lawful investments of:**

29 **(A) banks and trust companies with approval of the**
 30 **superintendent of banks;**

31 **(B) savings and loan associations;**

32 **(C) the bond retirement funds or the sinking funds of**
 33 **municipal corporations, boards of education, port**
 34 **authorities, and counties;**

35 **(D) the administrator of workers' compensation;**

36 **(E) the board of trustees of the Indiana state teachers'**
 37 **retirement fund;**

38 **(F) the board of trustees of the public employees'**
 39 **retirement fund; and**

40 **(G) domestic life insurance companies and domestic**
 41 **insurance companies; and**

42 **(2) shall be acceptable as security for the deposit of public**

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- money as provided in IC 5-13-9-3.4.
- Sec. 14. The:
 - (1) bonds issued by the commission;
 - (2) interest thereon;
 - (3) proceeds received by a holder from the sale of the bonds to the extent of the holder's cost of acquisition or proceeds received upon redemption before maturity or proceeds received at maturity; and
 - (4) receipt of the interest and proceeds;

are exempt from taxation in 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.

SECTION 10. IC 8-10-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. In order to:

- (1) promote the agricultural, industrial, and commercial development of ~~the state;~~ **Indiana;** and
- (2) ~~to~~ provide for the general welfare by the construction and operation, in cooperation with the federal government, or otherwise, of a modern port on **any combination of:**
 - (A) Lake Michigan; ~~and/or~~
 - (B) the Ohio River; ~~and/or~~
 - (C) the Wabash River; **or**
 - (D) **another location approved by the governor;**

with terminal facilities, to accommodate water, rail, truck and air-borne transportation;

the Indiana Port Commission is hereby authorized and empowered to construct, maintain, and operate, in cooperation with the federal government, or otherwise, at such ~~location~~ **locations** on Lake Michigan, ~~and/or~~ the Ohio River, ~~and/or~~ the Wabash River, **or another location, all** as shall be approved by the governor, public ports with terminal facilities and traffic exchange points for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens from the St. Lawrence Seaway and **other navigable waterways. To accomplish these purposes the commission may** issue port revenue bonds of the state payable solely from revenues, to pay the cost of such projects.

SECTION 11. IC 8-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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

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1 Commission created by section 3 of this chapter, or, if said commission
2 shall be abolished; the board, body or commission succeeding to the
3 principal functions thereof; or to whom the powers given by this
4 chapter to the commission shall be given by law.

5 (b) The word "port" shall include any place or places on Lake
6 Michigan, the Ohio River, and the Wabash River, natural or artificial
7 in which water-borne vessels capable of carrying articles of commerce
8 over navigable bodies of water may be loaded, unloaded or
9 accommodated.

10 (c) The words "port project" shall include any facilities, adjuncts
11 and appurtenances necessary to operate a modern port, including the
12 dredging of approaches thereto; and including, among other things, but
13 not limited to breakwaters, inner harbors, outer harbors, channels;
14 canals, turning basins, docks, wharves, piers, quays, slips, loading,
15 unloading, handling and storage equipment, warehouses, refrigerating
16 plants and equipment, elevators for the handling and storage of grain,
17 coal and other bulk commodities, terminal buildings or facilities,
18 railroad equipment and trackage, roadways, airplane landing fields,
19 parking lots, garages, automotive equipment, tugs, ferries, maintenance
20 and construction vessels, communication systems, sewers, drains,
21 works for the treatment of sewage, garbage and wastes, and the
22 furnishing of utility service necessary to serve the property under the
23 jurisdiction or control of the commission, and other buildings and
24 facilities which the commission may deem necessary for the operation
25 of the port.

26 (d) The word "cost" as applied to a port or port project shall
27 embrace the cost of construction; the cost of acquisition of all land,
28 rights-of-way, property, rights, easements and interests, including lands
29 under water and riparian rights acquired by the commission for such
30 construction; the cost of demolishing or removing any buildings or
31 structures on land so acquired; including the cost of acquiring any
32 lands to which such buildings or structures may be moved; the cost of
33 relocating public roads; land or easements therefor; the cost of all
34 machinery and equipment; financing charges; interest prior to and
35 during construction and for not exceeding two (2) years after the
36 estimated date of completion of construction; cost of engineering and
37 legal expenses; plans, specifications, surveys, estimates of cost, traffic
38 and revenues; other expenses necessary or incident to determining the
39 feasibility or practicability of constructing any such project;
40 administrative expense; and such other expenses as may be necessary
41 or incident to the construction of the project; the financing of such
42 construction and the placing of the project in operation.

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1 (e) (1) The word "owner" shall include all individuals,
2 copartnerships, associations or corporations having any title or
3 interest in any property, rights, easements and other interests
4 authorized to be acquired by this chapter.

5 (f) (2) The word "revenues" shall mean all fees, tolls, rentals,
6 gifts, grants, moneys and all other funds coming into the
7 possession or under the control of the commission by virtue of the
8 terms and provisions of this chapter, but shall not include real
9 property or personal property other than money, nor the proceeds
10 from the sale of bonds issued under provisions of this chapter.

11 (g) The word "public roads" shall include all public highways;
12 roads; and streets in the state; whether maintained by the state; county;
13 city; township or other political subdivision:

14 SECTION 12. IC 8-10-1-3 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. There is hereby
16 created a commission to be known as the "Indiana port commission"
17 and by that name the commission may sue and be sued; and plead and
18 be impleaded. The commission hereby created is a body both corporate
19 and politic in the state of Indiana; and the exercise by the commission
20 of the powers conferred by this chapter in the construction; operation
21 and maintenance of a port project shall be deemed and held to be
22 essential governmental functions of the state; but the commission shall
23 not however be immune from liability by reason thereof. The
24 commission shall consist of seven (7) members; appointed by the
25 governor; no more than four (4) of whom shall be members of the same
26 political party. The members shall be residents of the state; and shall
27 have been qualified electors therein for a period of at least five (5)
28 years next preceding their appointment. The members of the
29 commission first appointed shall continue in office for terms expiring;
30 in the case of two (2) members; on July 1, 1962; and in the case of
31 three (3) members; on July 1, 1963; July 1, 1964; and July 1, 1965 and
32 the first two (2) members appointed after January 1, 1975; shall
33 continue in office for terms expiring July 1, 1977 for one (1) member
34 and July 1, 1979 for the other member; respectively; and until their
35 respective successors shall be duly appointed and qualified. The term
36 of any member of the commission first appointed shall be designated
37 by the governor. The successor of each such member shall be
38 appointed for a term of four (4) years; except that any person appointed
39 to fill a vacancy shall be appointed to serve only for the unexpired
40 term; and a member of the commission shall be eligible for
41 reappointment. The governor may at any time remove any member of
42 the commission for misfeasance, nonfeasance; or malfeasance in office.



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1 The members of the commission shall, within ten (10) days after their
 2 appointment, meet and qualify by subscribing an oath to discharge
 3 honestly and faithfully the duties of their office as members of such
 4 commission. The commission shall thereafter elect one (1) of the
 5 members as chairman and another as vice-chairman, and shall appoint
 6 a secretary-treasurer who need not be a member of the commission.
 7 Four (4) members of the commission shall constitute a quorum and the
 8 affirmative vote of four (4) members shall be necessary for any official
 9 action taken by the commission. No vacancy in the membership of the
 10 commission shall impair the rights of a quorum to exercise all the
 11 rights and perform all the duties of the commission. (a) Before the
 12 issuance of any port revenue bonds under the provisions of this chapter,
 13 each appointed member of the commission shall give a surety bond to
 14 the state in the penal sum of twenty-five thousand dollars (\$25,000)
 15 and the secretary-treasurer shall give a surety bond to the state in the
 16 penal sum of fifty thousand dollars (\$50,000) each such surety bond to
 17 be conditioned upon the faithful performance of the duties of the office,
 18 to be executed by a surety company authorized to transact business in
 19 the state as surety and to be approved by the governor and filed in the
 20 office of the secretary of state. Each appointed member of the
 21 commission shall receive an annual salary of seven thousand, five
 22 hundred dollars (\$7,500), payable in monthly instalments. However, no
 23 members of such commission as appointed hereunder shall receive any
 24 salary except a per diem as fixed and approved by the budget director
 25 until said commission is able to carry on the full operations as intended
 26 by this chapter, and the budget director, subject to the approval of the
 27 governor of the state of Indiana, shall determine when said salaries for
 28 said commission members shall commence. The governor shall,
 29 however, appoint said members as herein provided within a period of
 30 sixty (60) days following the effective date of this chapter. Each
 31 member shall be reimbursed for his actual expenses necessarily
 32 incurred in the performance of his duties.

33 (b) All expenses incurred in carrying out the provisions of this
 34 chapter shall be payable solely from funds provided under the authority
 35 of this chapter and no liability or obligation shall be incurred by the
 36 commission hereunder beyond the extent to which moneys shall have
 37 been provided under the authority of this chapter.

38 SECTION 13. IC 8-10-1-7 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The commission is
 40 authorized and empowered:

41 (1) to adopt bylaws for the regulation of its affairs and the conduct
 42 of its business;



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- 1 (2) to adopt an official seal which shall not be the seal of the state
 2 of Indiana;
- 3 (3) to maintain a principal office and sub-offices at such place or
 4 places within the state as it may designate;
- 5 (4) to sue and be sued; and to plead and be impleaded in its own
 6 name. However, actions at law against the commission shall be
 7 brought in the circuit court of the county in which the principal
 8 office of the commission is located or in the circuit court of the
 9 county in which the cause of action arose; if the county is located
 10 within the state. All summonses and legal notices of every kind
 11 shall be served on the commission by leaving a copy thereof at the
 12 principal office of the commission with the person in charge
 13 thereof or with the secretary of the commission. However, no such
 14 action shall be deemed commenced until a copy of the summons
 15 and complaint, cross complaint, petition, bill, or pleading is
 16 served upon the attorney general of Indiana;
- 17 (5) (1) to acquire, lease, construct, maintain, repair, police, and
 18 operate a port or port project as provided in this chapter, and to
 19 establish rules and regulations for the use of such port or port
 20 project, and other property subject to the jurisdiction and control
 21 of the commission;
- 22 (6) (2) to issue port revenue bonds of the state, payable solely
 23 from revenues, as herein provided, for the purpose of paying all
 24 or any part of the cost of a port or port project;
- 25 (7) (3) to acquire, lease, and operate tug boats, locomotives, and
 26 any and every kind of motive power and conveyances or
 27 appliances necessary or proper to carry passengers, goods, wares,
 28 merchandise, or articles of commerce in, on, or around the port or
 29 port project;
- 30 (8) to fix and revise from time to time and to collect fees, rentals,
 31 tolls, and other charges for the use of any port or port project;
- 32 (9) to acquire, obtain option on, hold, and dispose of real and
 33 personal property in the exercise of its powers and the
 34 performance of its duties under this chapter;
- 35 (10) (4) to designate the location and establish, limit, and control
 36 points of ingress to and egress from the port property;
- 37 (11) (5) to lease to others for development or operation such
 38 portions of any port or port project, on such terms and conditions
 39 as the commission shall deem advisable; **and**
- 40 (12) to make and enter into all contracts, undertakings, and
 41 agreements necessary or incidental to the performance of its
 42 duties and the execution of its powers under this chapter. When

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1 the cost of any such contract for construction, or for the purchase
 2 of equipment, materials, or supplies, involves an expenditure of
 3 more than twenty-five thousand dollars (\$25,000); the
 4 commission shall make a written contract with the lowest and best
 5 bidder after advertisement for not less than two (2) consecutive
 6 weeks in a newspaper of general circulation in Marion County,
 7 Indiana; and in such other publications as the commission shall
 8 determine. The notice shall state the general character of the work
 9 and the general character of the materials to be furnished; the
 10 place where plans and specifications therefor may be examined;
 11 and the time and place of receiving bids. Each bid shall contain
 12 the full name of every person or company interested in it and shall
 13 be accompanied by a sufficient bond or certified check on a
 14 solvent bank that if the bid is accepted a contract will be entered
 15 into and the performance of its proposal secured. The commission
 16 may reject any and all bids. A bond with good and sufficient
 17 surety as shall be approved by the commission; shall be required
 18 of all contractors in an amount equal to at least fifty percent
 19 (50%) of the contract price conditioned upon the faithful
 20 performance of the contract;

21 (13) to employ an executive director or manager; consulting
 22 engineers; superintendents; and such other engineers; construction
 23 and accounting experts; attorneys; and other employees and
 24 agents as may be necessary in its judgment; and to fix their
 25 compensation; but no compensation of any employee of the
 26 commission shall exceed the compensation of the highest paid
 27 officer or employee of the state. However, the employment of an
 28 attorney shall be subject to such approval of the attorney general
 29 as may be required by law;

30 (14) (6) to receive and accept from any federal agency grants for
 31 or in aid of the construction of any port or port project, and to
 32 receive and accept aid or contributions from any source of either
 33 money, property, labor, or other things of value, to be held, used,
 34 and applied only for the purposes for which such grants and
 35 contributions may be made.

36 (15) to provide coverage for its employees under the provisions
 37 of IC 22-3-2 through IC 22-3-6, and IC 22-4;

38 (16) to do all acts and things necessary or proper to carry out the
 39 powers expressly granted in this chapter; and

40 (17) to hold; use; administer; and expend such sum or sums as
 41 may herein or hereafter be appropriated or transferred to the
 42 commission.

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1 SECTION 14. IC 8-10-1-9 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission
 3 shall have power to adopt such by-laws, rules and regulations as it may
 4 deem advisable for the control and regulation of any port or port project
 5 or traffic on any port or port project, for the protection of and
 6 preservation of property under its jurisdiction and control, and for the
 7 maintenance and preservation of good order within the property under
 8 its control, and such by-laws, rules and regulations shall be published
 9 in a newspaper of general circulation in Marion County, Indiana, and
 10 in such other manner as the commission shall prescribe; however, such
 11 rules and regulations shall provide that public officers shall be afforded
 12 ready access, while in performance of their official duty, to all property
 13 under the jurisdiction or control of the commission without the
 14 payment of tolls.

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

17 (c) ~~A person who violates a rule or regulation of the commission
 18 commits a Class E infraction.~~

19 SECTION 15. IC 8-10-1-17 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commission
 21 shall be authorized to fix, review, **revise**, charge and collect fees, tolls,
 22 rentals and other charges for the use of the port, port project, terminal
 23 facilities and lands under the jurisdiction or control of the commission
 24 or services rendered by the commission, and the aggregate thereof shall
 25 provide revenues at least sufficient to pay the cost of operation,
 26 maintenance and repair of the port and terminal facilities, including the
 27 administration expenses of the commission, and in case revenue bonds
 28 are issued, sufficient to pay the interest on and principal of the bonds
 29 in accordance with their terms, and also sufficient to establish and
 30 maintain reserves created for all such purposes and for depreciation
 31 purposes. The fixing and collection of such fees, tolls, rentals and other
 32 charges and the expenditure of the revenues derived therefrom shall not
 33 be subject to the supervision or regulation by any other officer,
 34 commission, board, bureau or agency of the state. After such bonds
 35 have been fully paid and discharged and all obligations under any trust
 36 agreement securing the same have been performed or satisfied, any
 37 remaining surplus net revenues and all surplus net revenues thereafter
 38 derived from the operation of such port shall be paid into the state
 39 general fund.

40 SECTION 16. IC 8-10-1-27 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The exercise of
 42 the powers granted by this chapter will be in all respects for the benefit

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1 of the people of the state, for the increase of their commerce and
2 prosperity, and for the improvement of their health and living
3 conditions.

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

17 (c) (b) Notwithstanding any other statute, a lessee's leasehold estate
18 in land that is part of a port and that is owned by the state or the
19 commission is exempt from property taxation.

20 SECTION 17. IC 8-10-4.5 IS ADDED TO THE INDIANA CODE
21 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2003]:

23 **Chapter 4.5. Political Subdivisions; Conveyances; Contracts**

24 **Sec. 1. All counties, cities, towns, townships and other political**
25 **subdivisions and all public agencies and commissions of the state,**
26 **notwithstanding any contrary provision of law, are authorized and**
27 **empowered to lease, lend, grant, exchange, or convey property to**
28 **the commission at its request.**

29 **Sec. 2. A lease, loan, grant, or conveyance under section 1 of this**
30 **chapter may be upon the terms and conditions that the proper**
31 **authorities of the counties, cities, towns, townships, other political**
32 **subdivisions or public agencies and commissions of the state**
33 **consider reasonable and fair.**

34 **Sec. 3. A lease, loan, grant, or conveyance under section 1 of this**
35 **chapter may be accomplished without the necessity for an**
36 **advertisement, order of court, or other action or formality, other**
37 **than the regular and formal action of the authorities concerned,**
38 **any real property owned by any such municipality or**
39 **governmental subdivision that may be necessary or convenient to**
40 **carry out the authorized purposes of the commission.**

41 **Sec. 4. The commission may enter into an agreement with one**
42 **(1) or more contracting political subdivisions under which:**

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1 (1) the commission is authorized or obligated to:

2 (A) exercise any power;

3 (B) perform any function; or

4 (C) render any service;

5 on behalf of the contracting political subdivision that the
6 contracting political subdivision is authorized to exercise,
7 perform, or render; or

8 (2) any contracting political subdivision is authorized or
9 obligated to:

10 (A) exercise any power;

11 (B) perform any function; or

12 (C) render any service;

13 on behalf of the commission that the commission is authorized
14 to exercise, perform, or render.

15 **Sec. 5. Upon the execution of an agreement under section 4 of
16 this chapter, and within the limitations prescribed by the
17 agreement:**

18 (1) the commission:

19 (A) may exercise the same powers, perform the same
20 functions, and render the same services as the contracting
21 political subdivision is authorized to exercise, perform, or
22 render; and

23 (B) has all powers necessary or incidental to exercising
24 those powers, performing those functions, or rendering
25 those services in the same manner as the contracting
26 political subdivision may exercise, perform, or render
27 them directly; and

28 (2) the contracting political subdivision:

29 (A) may exercise the same powers, perform the same
30 functions, and render the same services as the commission
31 is authorized to exercise, perform, or render; and

32 (B) has all powers necessary or incidental to exercising
33 those powers, performing those functions, or rendering
34 those services in the same manner as the commission may
35 exercise, perform, or render them directly.

36 **Sec. 6. The exercise of powers, the performance of functions, or
37 the rendering of services under section 5 of this chapter by the
38 commission is governed by any procedures applicable to the
39 contracting political subdivision on behalf of which the powers are
40 exercised, the functions are performed, or the services are
41 rendered. The exercise of powers, the performance of functions, or
42 the rendering of services under section 5 of this chapter by any**



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1 contracting political subdivision is governed by any procedures
 2 applicable to the commission on behalf of which the powers are
 3 exercised, the functions are performed, or the services are
 4 rendered.

5 **Sec. 7. An agreement under section 4 of this chapter authorizing**
 6 **the commission to exercise powers, perform functions, or render**
 7 **services of a contracting political subdivision does not alter the**
 8 **authority of the contracting political subdivision to exercise those**
 9 **powers, perform those functions, or render those services. An**
 10 **agreement under section 4 of this chapter authorizing a contracting**
 11 **political subdivision to exercise powers, perform functions, or**
 12 **render services of the commission does not alter the authority of**
 13 **the commission to exercise those powers, perform those functions,**
 14 **or render those services.**

15 **Sec. 8. A contracting entity or political subdivision that does not**
 16 **possess the power to:**

- 17 (1) levy or exempt taxes; or
 18 (2) exercise eminent domain;

19 **before entering into an agreement under section 4 of this chapter**
 20 **does not acquire either of those powers by virtue of entering into**
 21 **an agreement under section 4 of this chapter.**

22 SECTION 18. IC 8-10-4.7 IS ADDED TO THE INDIANA CODE
 23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2003]:

25 **Chapter 4.7. Penalties**

26 **Sec. 1. A person who violates a rule of the commission commits**
 27 **a Class C infraction.**

28 **Sec. 2. (a) This section does not apply to contracts for purchases**
 29 **of property, real or personal, between the commission and other**
 30 **departments, municipalities, or subdivisions of state government.**

31 **(b) A member, an agent, or an employee of the commission who**
 32 **knowingly is interested in any contract with the commission, or in**
 33 **the sale of any property, either real or personal, to the commission,**
 34 **commits a Class A misdemeanor.**

35 **(c) All contracts described in subsection (b) are void.**

36 **Sec. 3. A commission member who knowingly violates**
 37 **IC 8-10-0.7-4 commits a Class D felony.**

38 **Sec. 4. A person who accepts a contract with the commission**
 39 **knowing that IC 8-10-0.7-4 was violated in connection with the**
 40 **contract commits a Class D felony and may not be a party to or**
 41 **benefit from any contract with a public body in Indiana for two (2)**
 42 **years from the date of the person's conviction.**



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1 SECTION 19. THE FOLLOWING ARE REPEALED [EFFECTIVE
2 JULY 1, 2003]: IC 8-10-1-7.1; IC 8-10-1-11; IC 8-10-1-22;
3 IC 8-10-1-23; IC 8-10-1-24; IC 8-10-1-26; IC 8-10-1-29.

4 SECTION 20. [EFFECTIVE JULY 1, 2003] (a) **Any member of
5 the Indiana port commission that:**

6 (1) **is serving as a member on June 30, 2003; and**

7 (2) **would have an unexpired term to serve on the commission
8 if IC 8-10-1-3 had not been amended by this act;**

9 **continues to be a member of the commission to the same extent as
10 if IC 8-10-1-3 had not been amended. However, the member is
11 subject to removal by the governor under IC 8-10-0.5-7, as added
12 by this act.**

13 (b) **The reorganization of the general powers of the Indiana port
14 commission in IC 8-10-0.6 and the general duties of the Indiana
15 port commission in IC 8-10-0.7 shall be literally construed to
16 continue the powers and duties that the commission had before
17 July 1, 2003.**

18 (c) **Any rule, obligation, or other action taken by the Indiana
19 port commission before July 1, 2003, shall be treated as a rule,
20 obligation, or other action of the Indiana port commission after
21 June 30, 2003, to the same extent as if this act had not been
22 enacted.**

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