

**28J.9 Powers of port authority.**

A port authority may exercise all of the following powers:

1. Adopt bylaws for the regulation of the port authority's affairs and the conduct of the port authority's business.
2. Adopt an official seal.
3. Maintain a principal office and branch offices within the port authority's jurisdiction.
4. Acquire, construct, furnish, equip, maintain, repair, sell, exchange, lease, lease with an option to purchase, convey interests in real or personal property, and operate any property of the port authority in connection with transportation, recreational, governmental operations, or cultural activities in furtherance of an authorized purpose.
5. Straighten, deepen, and improve any channel, river, stream, or other watercourse or way which may be necessary or proper in the development of the facilities of the port authority.
6. Make available the use or services of any facility of the port authority to any person or governmental agency.
7. Issue bonds or pledge orders pursuant to the requirements and limitations in section 28J.21.
8. Issue port authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from revenues as provided in section 28J.21, for the purpose of providing funds to pay the costs of any facility or facilities of the port authority or parts thereof.
9. Apply to the proper authorities of the United States for the right to establish, operate, and maintain foreign trade zones and establish, operate, and maintain foreign trade zones and to acquire, exchange, sell, lease to or from, lease with an option to purchase, or operate facilities, land, or property in accordance with the federal Foreign Trade Zones Act, 19 U.S.C. § 81a – 81u.
10. Enjoy and possess the same legislative and executive rights, privileges, and powers granted cities under chapter 364 and counties under chapter 331, including the exercise of police power but excluding the power to levy taxes.
11. Maintain such funds as it considers necessary and adhere to the public funds investment standards of chapter 12B, as applicable.
12. Direct port authority agents or employees, after at least five days' written notice, to enter upon lands within the port authority's jurisdiction to make surveys and examinations preliminary to location and construction of works for the port authority, without liability of the port authority or its agents or employees except for actual damages.
13. Promote, advertise, and publicize the port authority and its facilities, and provide information to shippers and other commercial interests.
14. Adopt bylaws, not in conflict with state or federal law, necessary or incidental to the performance of the duties of and the execution of the powers of the port authority under this chapter.
15. Do any of the following in regard to interests in real or personal property, including machinery, equipment, plants, factories, offices, and other structures and facilities related to or in furtherance of any authorized purpose as the board in its sole discretion may determine:
  - a. Loan money to any person or governmental agency for the acquisition, construction, furnishing, or equipping of the property.
  - b. Acquire, construct, maintain, repair, furnish, or equip the property.
  - c. Sell to, exchange with, lease, convey other interests in, or lease with an option to purchase the same or any lesser interest in the property to the same or any other person or governmental agency.
  - d. Guarantee the obligations of any person or governmental agency.
  - e. Accept and hold as consideration for the conveyance of property or any interest therein such property or interests therein as the board may determine, notwithstanding any restrictions that apply to the investment of funds by a port authority.
16. Sell, lease, or convey other interests in real and personal property, and grant easements or rights-of-way over property of the port authority. The board shall specify the consideration and terms for the sale, lease, or conveyance of other interests in real

and personal property. A determination made by the board under this subsection shall be conclusive. The sale, lease, or conveyance may be made without advertising and the receipt of bids.

17. Enter into an agreement with a political subdivision comprising the port authority for the political subdivision to exercise its right of eminent domain pursuant to chapters 6A and 6B on behalf of the port authority. However, a condemnation exercised on behalf of a port authority pursuant to this subsection shall not take or disturb property or a facility belonging to a governmental agency, utility company, or common carrier, which property or facility is necessary and convenient in the operation of the governmental agency, utility company, or common carrier, unless provision is made for the restoration, relocation, or duplication of such property or facility, or upon the election of the governmental agency, utility company, or common carrier, for the payment of compensation, if any, at the sole cost of the port authority, provided that both of the following apply:

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

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

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

b. Except as provided in paragraph "c", when the cost of a contract for the construction of a building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding the competitive bid threshold in section 26.3, or as established in section 314.1B, and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. Each such contract shall be let to the lowest responsive and responsible bidder. Every contract shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, and signed by an authorized officer of the port authority and by the contractor.

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

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

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

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

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

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

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

improvement to the person making the proposal considered to be the most advantageous to the port authority.

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

e. A purchase, exchange, sale, lease, lease with an option to purchase, conveyance of other interests in, or other contract with a person or governmental agency that pertains to the acquisition, construction, maintenance, repair, furnishing, equipping, or operation of any real or personal property, related to or in furtherance of economic development and the provision of adequate housing, shall be made in such manner and subject to such terms and conditions as may be determined in the board’s discretion. This paragraph applies to all contracts that are subject to this section, notwithstanding any other provision of law that might otherwise apply, including a requirement of notice, competitive bidding or selection, or for the provision of security. However, this paragraph shall not apply to a contract secured exclusively by or to be paid exclusively from the general revenues of the port authority. For the purposes of this paragraph, any revenues derived by the port authority 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 port authority issued to finance costs of such improvement, are excluded from general revenues.

19. Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and any other consultants and independent contractors as are necessary in the port authority’s judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable from any available funds of the port authority or from funds appropriated for that purpose by the political subdivisions comprising the port authority.

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

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

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

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

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

2005 Acts, ch 150, §97; 2006 Acts, ch 1017, §17, 42, 43