

APR 4 2005

WAYS & MEANS CALENDAR

HOUSE FILE 835

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 733)

(SUCCESSOR TO HF 425)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

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

HF 835

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 h. The cost of diverting a rail line, rail spur track, or
15 rail spur track switch, including the cost of land or
16 easements, and relocation of a facility of a utility company
17 or common carrier.

18 i. The cost of relocating an airport's runways, terminals,
19 and related facilities including the cost of land or
20 easements, and relocation of a facility of a utility company
21 or common carrier.

22 7. "Facility" or "port authority facility" means real or
23 personal property owned, leased, or otherwise controlled or
24 financed by a port authority and related to or in furtherance
25 of one or more authorized purposes.

26 8. "Governmental agency" means a department, division, or
27 other unit of state government of this state or any other
28 state, city, county, township, or other governmental
29 subdivision, or any other public corporation or agency created
30 under the laws of this state, any other state, the United
31 States, or any department or agency thereof, or any agency,
32 commission, or authority established pursuant to an interstate
33 compact or agreement or combination thereof.

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

35 10. "Pledge order" means a promise to pay out of the net

1 revenues of a port authority, which is delivered to a
2 contractor or other person in payment of all or part of the
3 cost of a facility.

4 11. "Political subdivision" means a city, county, city-
5 county consolidation, or multicounty consolidation, or
6 combination thereof.

7 12. "Political subdivisions comprising the port authority"
8 means the political subdivisions which created or participated
9 in the creation of the port authority under section 28J.2, or
10 which joined an existing port authority under section 28J.4.

11 13. "Port authority" means an entity created pursuant to
12 section 28J.2.

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

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

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

32 Sec. 2. NEW SECTION. 28J.2 CREATION AND POWERS OF PORT
33 AUTHORITY.

34 1. Two or more political subdivisions may create a port
35 authority under this chapter by resolution. If a proposal to

1 create a port authority receives a favorable majority of the
2 members of the elected legislative body of the political
3 subdivision, the port authority is created at the time
4 provided in the resolution. The jurisdiction of a port
5 authority includes the territory described in section 28J.8.

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

9 3. At the time a port authority is created pursuant to
10 this section, the political subdivisions comprising the port
11 authority may restrict the powers granted the port authority
12 pursuant to this chapter by specifically adopting such
13 restrictions in the resolution creating the port authority.

14 4. The political subdivisions comprising the port
15 authority whose powers have been restricted pursuant to
16 subsection 3 may at any time adopt a resolution to grant
17 additional powers to the port authority, so long as the
18 additional powers do not exceed the powers permitted under
19 this chapter.

20 Sec. 3. NEW SECTION. 28J.3 APPROPRIATION AND EXPENDITURE
21 OF PUBLIC FUNDS -- DISSOLUTION.

22 1. The political subdivisions comprising a port authority
23 may appropriate and expend public funds to finance or
24 subsidize the operation and authorized purposes of the port
25 authority. A port authority shall control tax revenues
26 allocated to the facilities the port authority administers and
27 all revenues derived from the operation of the port authority,
28 the sale of its property, interest on investments, or from any
29 other source related to the port authority.

30 2. All revenues received by the port authority shall be
31 held in a separate fund in a manner agreed to by the political
32 subdivisions comprising the port authority. Revenues may be
33 paid out only at the direction of the board of directors of
34 the port authority.

35 3. A port authority shall comply with section 331.341,

1 subsections 1, 2, 4, and 5, and section 331.342, when
2 contracting for public improvements.

3 4. Subject to making due provisions for payment and
4 performance of any outstanding obligations, the political
5 subdivisions comprising the port authority may dissolve the
6 port authority, and transfer the property of the port
7 authority to the political subdivisions comprising the port
8 authority in a manner agreed upon between the political
9 subdivisions comprising the port authority prior to the
10 dissolution of the port authority.

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

13 1. A political subdivision which is contiguous to either a
14 political subdivision which participated in the creation of
15 the port authority or a political subdivision which proposes
16 to join the port authority at the same time which is
17 contiguous to a political subdivision which participated in
18 the creation of the port authority may join the port authority
19 by resolution.

20 2. If more than one such political subdivision proposes to
21 join the port authority at the same time, the resolution of
22 each such political subdivision shall designate the political
23 subdivisions which are to be so joined.

24 3. Any territory or city not included in a port authority
25 which is annexed to a city included within the jurisdiction of
26 a port authority shall, on such annexation and without further
27 proceedings, be annexed to and be included in the jurisdiction
28 of the port authority.

29 4. Before a political subdivision is joined to a port
30 authority, other than by annexation to a city, the political
31 subdivisions comprising the port authority shall agree upon
32 the terms and conditions pursuant to which such political
33 subdivision is to be joined.

34 5. For the purpose of this chapter, such political
35 subdivision shall be considered to have participated in the

1 creation of the port authority, except that the initial term
2 of any director of the port authority appointed by a joining
3 political subdivision shall be four years.

4 6. After each resolution proposing a political subdivision
5 to join a port authority has become effective and the terms
6 and conditions of joining the port authority have been agreed
7 to, the board of directors of the port authority shall by
8 resolution either accept or reject the proposal. Such
9 proposal to join a port authority shall be effective upon
10 adoption of the resolution by the board of directors of the
11 port authority and thereupon the jurisdiction of the port
12 authority includes the joining political subdivision.

13 Sec. 5. NEW SECTION. 28J.5 MEMBERSHIP OF BOARD OF
14 DIRECTORS.

15 1. A port authority created pursuant to section 28J.2
16 shall be governed by a board of directors. Members of a board
17 of directors of a port authority shall be divided among the
18 political subdivisions comprising the port authority in such
19 proportions as the political subdivisions may agree and shall
20 be appointed by the respective political subdivision's elected
21 legislative body.

22 2. The number of directors comprising the board shall be
23 determined by agreement between the political subdivisions
24 comprising the port authority, and which number may be changed
25 by resolution of the political subdivisions comprising the
26 port authority.

27 3. A majority of the directors shall have been qualified
28 electors of, or owned a business or been employed in, one or
29 more political subdivisions within the area of the
30 jurisdiction of the port authority for a period of at least
31 three years preceding appointment.

32 4. The directors of a port authority first appointed shall
33 serve staggered terms. Thereafter each successor director
34 shall serve for a term of four years, except that any person
35 appointed to fill a vacancy shall be appointed to only the

1 unexpired term. A director is eligible for reappointment.

2 5. The board may provide procedures for the removal of a
3 director who fails to attend three consecutive regular
4 meetings of the board. If a director is so removed, a
5 successor shall be appointed for the remaining term of the
6 removed director in the same manner provided for the original
7 appointment. The appointing body may at any time remove a
8 director appointed by it for misfeasance, nonfeasance, or
9 malfeasance in office.

10 6. The board may adopt bylaws and shall elect one director
11 as chairperson and one director as vice chairperson, designate
12 terms of office, and appoint a secretary who need not be a
13 director.

14 7. A majority of the board of directors shall constitute a
15 quorum for the purpose of holding a meeting of the board. The
16 affirmative vote of a majority of a quorum shall be necessary
17 for any action taken by the port authority unless the board
18 determines that a greater number of affirmative votes is
19 necessary for particular actions to be taken by the port
20 authority. A vacancy in the membership of the board shall not
21 impair the rights of a quorum to exercise all the rights and
22 perform all the duties of the port authority.

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

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

28 A director of a port authority shall not be personally
29 liable for any monetary damages that arise from actions taken
30 in the performance of the director's official duties, except
31 for acts or omissions that are not in good faith or that
32 involve intentional misconduct, a knowing violation of law, or
33 any transaction from which the director derived an improper
34 personal benefit.

35 Sec. 7. NEW SECTION. 28J.7 EMPLOYEES, ADVISORY BOARD,

1 SPECIAL PEACE OFFICERS.

2 1. A port authority shall employ and fix the
3 qualifications, duties, and compensation of any employees and
4 enter into contracts for any services that may be required to
5 conduct the business of the port authority, and may appoint an
6 advisory board, which shall serve without compensation.

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

9 3. a. A port authority may provide for the administration
10 and enforcement of the laws of the state by employing special
11 peace officers who shall have all the powers conferred by law
12 on peace officers of this state with regard to the
13 apprehension of violators upon all property under its control
14 within and without the port authority. The peace officers may
15 seek the assistance of other appropriate law enforcement
16 officers to enforce its rules and maintain order.

17 b. Special peace officers employed by a port authority
18 shall pass a regular mental and physical civil service
19 examination for police officers appointed under the civil
20 service law of chapter 400 and shall participate in the
21 retirement system established by chapter 411.

22 c. Special peace officers employed by a port authority
23 shall serve as a peace officer force with respect to the
24 property, grounds, buildings, equipment, and facilities under
25 the control of the port authority, to prevent hijacking of
26 aircraft or watercraft, protect the property of the authority
27 and the property of others located thereon, suppress nuisances
28 and disturbances and breaches of the peace, and enforce laws
29 and the rules of the port authority for the preservation of
30 good order. Special peace officers are vested with the same
31 powers of arrest as peace officers under section 804.7.

32 4. If an employee of a political subdivision comprising
33 the port authority is transferred to a comparable position
34 with the port authority, the employee is entitled to suffer no
35 loss in pay, pension, fringe benefits, or other benefits and

1 shall be entitled to a comparable rank and grade as the
2 employee's prior position. Sick leave, longevity, and
3 vacation time accrued to such employees shall be credited to
4 them as employees of the port authority. All rights and
5 accruals of such employees as members of the Iowa public
6 employees' retirement system pursuant to chapter 97B and the
7 retirement system for police officers pursuant to chapter 411
8 shall remain in force and shall be automatically transferred
9 to the port authority.

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

11 1. The area of jurisdiction of a port authority shall
12 include all of the territory of the political subdivisions
13 comprising the port authority and, if the port authority owns
14 or leases a railroad line or airport, the territory on which
15 the railroad's line, terminals, and related facilities or the
16 airport's runways, terminals, and related facilities are
17 located, regardless of whether the territory is located in the
18 political subdivisions comprising the port authority.

19 2. A political subdivision that has created a port
20 authority or joined an existing port authority shall not be
21 included in any other port authority.

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

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

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

26 2. Adopt an official seal.

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

29 4. Acquire, construct, furnish, equip, maintain, repair,
30 sell, exchange, lease, lease with an option to purchase,
31 convey interests in real or personal property, and operate any
32 property of the port authority in connection with
33 transportation, recreational, governmental operations, or
34 cultural activities in furtherance of an authorized purpose.

35 5. Straighten, deepen, and improve any channel, river,

1 stream, or other watercourse or way which may be necessary or
2 proper in the development of the facilities of the port
3 authority.

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

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

8 8. Issue port authority revenue bonds beyond the limit of
9 bonded indebtedness provided by law, payable solely from
10 revenues as provided in section 28J.21, for the purpose of
11 providing funds to pay the costs of any facility or facilities
12 of the port authority or parts thereof.

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

20 10. Enjoy and possess the same legislative and executive
21 rights, privileges, and powers granted cities under chapter
22 364 and counties under chapter 331, except the power to levy
23 taxes.

24 11. Maintain such funds as it considers necessary and
25 adhere to the public funds investment standards of chapter
26 12B, as applicable.

27 12. Direct port authority agents or employees, after at
28 least five days' written notice, to enter upon lands within
29 the port authority's jurisdiction to make surveys and
30 examinations preliminary to location and construction of works
31 for the port authority, without liability of the port
32 authority or its agents or employees except for actual
33 damages.

34 13. Promote, advertise, and publicize the port authority
35 and its facilities, and provide information to shippers and

1 other commercial interests.

2 14. Adopt bylaws, not in conflict with state or federal
3 law, necessary or incidental to the performance of the duties
4 of and the execution of the powers of the port authority under
5 this chapter.

6 15. Do any of the following in regard to interests in real
7 or personal property, including machinery, equipment, plants,
8 factories, offices, and other structures and facilities
9 related to or in furtherance of any authorized purpose as the
10 board in its sole discretion may determine:

11 a. Loan money to any person or governmental agency for the
12 acquisition, construction, furnishing, or equipping of the
13 property.

14 b. Acquire, construct, maintain, repair, furnish, or equip
15 the property.

16 c. Sell to, exchange with, lease, convey other interests
17 in, or lease with an option to purchase the same or any lesser
18 interest in the property to the same or any other person or
19 governmental agency.

20 d. Guarantee the obligations of any person or governmental
21 agency.

22 e. Accept and hold as consideration for the conveyance of
23 property or any interest therein such property or interests
24 therein as the board may determine, notwithstanding any
25 restrictions that apply to the investment of funds by a port
26 authority.

27 16. Sell, lease, or convey other interests in real and
28 personal property, and grant easements or rights-of-way over
29 property of the port authority. The board shall specify the
30 consideration and terms for the sale, lease, or conveyance of
31 other interests in real and personal property. A
32 determination made by the board under this subsection shall be
33 conclusive. The sale, lease, or conveyance may be made
34 without advertising and the receipt of bids.

35 17. Exercise the right of eminent domain to appropriate

1 land, rights, rights-of-way, franchises, easements, or other
2 property, necessary or proper for any authorized purpose,
3 pursuant to the procedure provided in chapter 6A as if the
4 port authority were a city or county, if funds equal to the
5 appraised value of the property to be acquired as a result of
6 such proceedings are available for that purpose. However,
7 this chapter does not authorize a port authority to take or
8 disturb property or a facility belonging to a governmental
9 agency, utility company, or common carrier, which property or
10 facility is necessary and convenient in the operation of the
11 governmental agency, utility company, or common carrier,
12 unless provision is made for the restoration, relocation, or
13 duplication of such property or facility, or upon the election
14 of the governmental agency, utility company, or common
15 carrier, for the payment of compensation, if any, at the sole
16 cost of the port authority, provided that both of the
17 following apply:

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

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

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

35 b. Except as provided in paragraph "c", when the cost of a

1 contract for the construction of a building, structure, or
2 other improvement undertaken by a port authority involves an
3 expenditure exceeding twenty-five thousand dollars, and the
4 port authority is the contracting entity, the port authority
5 shall make a written contract after notice calling for bids
6 for the award of the contract has been given by publication
7 twice, with at least seven days between publications, in a
8 newspaper of general circulation in the area of the port
9 authority. Each such contract shall be let to the lowest
10 responsive and responsible bidder. Every contract shall be
11 accompanied by or shall refer to plans and specifications for
12 the work to be done, prepared for and approved by the port
13 authority, and signed by an authorized officer of the port
14 authority and by the contractor.

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

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

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

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

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

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

3 d. (1) If a contract is to be negotiated and awarded
4 without competitive bidding for the reason set forth in
5 paragraph "c", subparagraph (2), the port authority shall
6 publish a notice calling for technical proposals at least
7 twice, with at least seven days between publications, in a
8 newspaper of general circulation in the area of the port
9 authority. After receipt of the technical proposals, the port
10 authority may negotiate with and award a contract for the
11 improvement to the person making the proposal considered to be
12 the most advantageous to the port authority.

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

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

1 under a lease or other agreement that, by its terms,
2 contemplates the use of amounts payable under the agreement
3 either to pay the costs of the improvement that is the subject
4 of the contract or to secure obligations of the port authority
5 issued to finance costs of such improvement, are excluded from
6 general revenues.

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

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

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

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

35 23. Charge, alter, and collect rental fees and other

1 charges for the use or services of a port authority facility
2 as provided in section 28J.16.

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

5 Sec. 10. NEW SECTION. 28J.10 PARTICIPATION OF PRIVATE
6 ENTERPRISE.

7 The port authority shall foster and encourage the
8 participation of private enterprise in the development of the
9 port authority facilities to the fullest extent practicable in
10 the interest of limiting the necessity of construction and
11 operation of the facilities by the port authority.

12 Sec. 11. NEW SECTION. 28J.11 PROVISIONS DO NOT AFFECT
13 OTHER LAWS OR POWERS.

14 This chapter shall not do any of the following:

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

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

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

24 4. Impair or interfere with the exercise of a permit for
25 the removal of sand or gravel, or other similar permits issued
26 by a governmental agency.

27 5. Impair or contravene applicable federal regulations.

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

30 A port authority may convey or lease, lease with an option
31 to purchase, or exchange with any governmental agency or other
32 port authority without competitive bidding and on mutually
33 agreeable terms, any personal or real property, or any
34 interest therein.

35 Sec. 13. NEW SECTION. 28J.13 ANNUAL BUDGET -- USE OF

1 RENTS AND CHARGES.

2 The board shall annually prepare a budget for the port
3 authority. Revenues received by the port authority shall be
4 used for the general expenses of the port authority and to pay
5 interest, amortization, and retirement charges on money
6 borrowed. Except as provided in section 28J.26, if there
7 remains, at the end of any fiscal year, a surplus of such
8 funds after providing for the above uses, the board shall pay
9 such surplus into the general funds of the political
10 subdivisions comprising the port authority as agreed to by the
11 subdivisions.

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

14 Before receiving any revenues, the secretary of a port
15 authority shall furnish a bond in such amount as shall be
16 determined by the port authority with sureties satisfactory to
17 the port authority, and all funds coming into the hands of the
18 secretary shall be deposited by the secretary to the account
19 of the port authority in one or more such depositories as
20 shall be qualified to receive deposits of county funds, which
21 deposits shall be secured in the same manner as county funds
22 are required to be secured. A disbursement shall not be made
23 from such funds except in accordance with policies and
24 procedures adopted by the port authority.

25 Sec. 15. NEW SECTION. 28J.15 LIMITATION ON CERTAIN
26 POWERS OF POLITICAL SUBDIVISIONS.

27 A political subdivision creating or participating in the
28 creation of a port authority in accordance with section 28J.2
29 shall not, during the time the port authority is in existence,
30 exercise the rights and powers provided in chapters 28A, 28K,
31 and 384 relating to the political subdivision's authority over
32 a port, wharf, dock, harbor or other facility substantially
33 similar to that political subdivision's authority under a port
34 authority granted under this chapter.

35 Sec. 16. NEW SECTION. 28J.16 RENTALS OR CHARGES FOR USE

1 OR SERVICES OF FACILITIES -- AGREEMENTS WITH GOVERNMENTAL
2 AGENCIES.

3 1. a. A port authority may charge, alter, and collect
4 rental fees or other charges for the use or services of any
5 port authority facility and contract for the use or services
6 of a facility, and fix the terms, conditions, rental fees, or
7 other charges for the use or services.

8 b. If the services are furnished in the jurisdiction of
9 the port authority by a utility company or a common carrier,
10 the port authority's charges for the services shall not be
11 less than the charges established for the same services
12 furnished by a utility company or common carrier in the port
13 authority jurisdiction.

14 c. The rental fees or other charges shall not be subject
15 to supervision or regulation by any other authority,
16 commission, board, bureau, or governmental agency of the state
17 and the contract may provide for acquisition of all or any
18 part of the port authority facility for such consideration
19 payable over the period of the contract or otherwise as the
20 port authority determines to be appropriate, but subject to
21 the provisions of any resolution authorizing the issuance of
22 port authority revenue bonds or any trust agreement securing
23 the bonds.

24 d. A governmental agency that has power to construct,
25 operate, and maintain a port authority facility may enter into
26 a contract or lease with a port authority for the use or
27 services of a port authority facility as may be agreed to by
28 the port authority and the governmental agency.

29 2. a. A governmental agency may cooperate with the port
30 authority in the acquisition or construction of a port
31 authority facility and shall enter into such agreements with
32 the port authority as may be appropriate, which shall provide
33 for contributions by the parties in a proportion as may be
34 agreed upon and other terms as may be mutually satisfactory to
35 the parties including the authorization of the construction of

1 the facility by one of the parties acting as agent for all of
2 the parties and the ownership and control of the facility by
3 the port authority to the extent necessary or appropriate.

4 b. A governmental agency may provide funds for the payment
5 of any contribution required under such agreements by the levy
6 of taxes or assessments if otherwise authorized by the laws
7 governing the governmental agency in the construction of the
8 type of port authority facility provided for in the
9 agreements, and may pay the proceeds from the collection of
10 the taxes or assessments; or the governmental agency may issue
11 bonds or notes, if authorized by law, in anticipation of the
12 collection of the taxes or assessments, and may pay the
13 proceeds of the bonds or notes to the port authority pursuant
14 to such agreements.

15 c. A governmental agency may provide the funds for the
16 payment of a contribution by the appropriation of moneys or,
17 if otherwise authorized by law, by the issuance of bonds or
18 notes and may pay the appropriated moneys or the proceeds of
19 the bonds or notes to the port authority pursuant to such
20 agreements.

21 3. When the contribution of any governmental agency is to
22 be made over a period of time from the proceeds of the
23 collection of special assessments, the interest accrued and to
24 accrue before the first installment of the assessments is
25 collected, which is payable by the governmental agency on the
26 contribution under the terms and provisions of the agreements,
27 shall be treated as part of the cost of the improvement for
28 which the assessments are levied, and that portion of the
29 assessments that is collected in installments shall bear
30 interest at the same rate as the governmental agency is
31 obligated to pay on the contribution under the terms and
32 provisions of the agreements and for the same period of time
33 as the contribution is to be made under the agreements. If
34 the assessment or any installment thereof is not paid when
35 due, it shall bear interest until the payment thereof at the

1 same rate as the contribution and the county auditor shall
2 annually place on the tax list and duplicate the interest
3 applicable to the assessment and the penalty thereon as
4 otherwise authorized by law.

5 4. A governmental agency, pursuant to a favorable vote in
6 an election regarding issuing bonds to provide funds to
7 acquire, construct, or equip, or provide real estate and
8 interests in real estate for a port authority facility,
9 whether or not the governmental agency at the time of the
10 election had the authority to pay the proceeds from the bonds
11 or notes issued in anticipation of the bonds to the port
12 authority as provided in this section, may issue such bonds or
13 notes in anticipation of the issuance of the bonds and pay the
14 proceeds of the bonds or notes to the port authority in
15 accordance with an agreement with the port authority;
16 provided, that the legislative authority of the governmental
17 agency finds and determines that the port authority facility
18 to be acquired or constructed in cooperation with the
19 governmental agency will serve the same public purpose and
20 meet substantially the same public need as the facility
21 otherwise proposed to be acquired or constructed by the
22 governmental agency with the proceeds of the bonds and notes.

23 Sec. 17. NEW SECTION. 28J.17 CONTRACTS, ARRANGEMENTS,
24 AND AGREEMENTS.

25 1. a. A port authority may enter into a contract or other
26 arrangement with a person, railroad, utility company,
27 corporation, governmental agency including sewerage, drainage,
28 conservation, conservancy, or other improvement districts in
29 this or other states, or the governments or agencies of
30 foreign countries as may be necessary or convenient for the
31 exercise of the powers granted by this chapter. The port
32 authority may purchase, lease, or acquire land or other
33 property in any county of this state and in adjoining states
34 for the accomplishment of authorized purposes of the port
35 authority, or for the improvement of the harbor and port

1 facilities over which the port authority may have jurisdiction
2 including development of port facilities in adjoining states.
3 The authority granted in this section to enter into contracts
4 or other arrangements with the federal government includes the
5 power to enter into any contracts, arrangements, or agreements
6 that may be necessary to hold and save harmless the United
7 States from damages due to the construction and maintenance by
8 the United States of work the United States undertakes.

9 b. A political subdivision that has participated in the
10 creation of a port authority, or is within, or adjacent to a
11 political subdivision that is within the jurisdiction of a
12 port authority, may enter into an agreement with the port
13 authority to accomplish any of the authorized purposes of the
14 port authority. The agreement may set forth the extent to
15 which the port authority shall act as the agent of the
16 political subdivision.

17 2. A port authority may enter into an agreement with a
18 contracting governmental agency, whereby the port authority or
19 the contracting governmental agency undertakes, and is
20 authorized by the port authority or a contracting governmental
21 agency, to exercise any power, perform any function, or render
22 any service, on behalf of the port authority or a contracting
23 governmental agency, which the port authority or the
24 contracting governmental agency is authorized to exercise,
25 perform, or render.

26 3. A port authority or any contracting governmental agency
27 shall not acquire by virtue of any agreement entered into
28 under this section the power to levy or exempt from taxes or
29 the power to exercise eminent domain within, and on behalf of,
30 any other governmental agency unless approved by a majority of
31 the electors of that contracting governmental agency.

32 Sec. 18. NEW SECTION. 28J.18 REVENUE BONDS ARE LAWFUL
33 INVESTMENTS.

34 Port authority revenue bonds issued pursuant to this
35 chapter are lawful investments of banks, credit unions, trust

1 companies, savings and loan associations, deposit guaranty
2 associations, insurance companies, trustees, fiduciaries,
3 trustees or other officers having charge of the bond
4 retirement funds or sinking funds of port authorities and
5 governmental agencies, and taxing districts of this state, the
6 pension and annuity retirement system, the Iowa public
7 employees' retirement system, the police and fire retirement
8 systems under chapters 410 and 411, a revolving fund of a
9 governmental agency of this state, and are acceptable as
10 security for the deposit of public funds under chapter 12C.

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

12 A port authority shall be exempt from and shall not be
13 required to pay taxes on real property belonging to a port
14 authority that is used exclusively for an authorized purpose
15 as provided in section 427.1, subsection 34.

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

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

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

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

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

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

33 d. Contract for the acquisition or construction of the
34 facility or any part thereof and for the leasing, subleasing,
35 sale, or other disposition of the facility in a manner

1 determined by the port authority in its sole discretion,
2 without necessity for competitive bidding or performance
3 bonds.

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

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

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

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

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

32 b. At the meeting the board shall receive oral or written
33 objections from any resident or property owner within the
34 jurisdiction of the port authority. After all objections have
35 been received and considered, the board, at the meeting or a

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

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

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

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

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

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

32 7. The port authority may contract to pay an amount not to
33 exceed ninety-five percent of the engineer's estimated value
34 of the acceptable work completed during the month to the
35 contractor at the end of each month for work, material, or

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

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

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

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

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

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

32 1. In the discretion of the port authority, a port
33 authority revenue bond issued under this chapter may be
34 secured by a trust agreement between the port authority and a
35 corporate trustee that may be any trust company or bank having

1 the powers of a trust company within this or any other state.

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

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

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

34 1. The sole remedy for a breach or default of a term of a
35 port authority revenue bond or pledge order is a proceeding in

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

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

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

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

1 subdivision of the state, but are payable solely from revenues
2 and funds pledged for their payment.

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

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

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

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

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

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

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

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

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

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

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

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

34 1. All final actions of the port authority shall be
35 recorded and the records of the port authority shall be open

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

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

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

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

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

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

33 NEW SUBSECTION. 34. PORT AUTHORITY PROPERTY. The
34 property of a port authority created pursuant to section
35 28J.2, when devoted to public use and not held for pecuniary

1 profit.

2

EXPLANATION

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

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

29 The bill provides that the board of directors shall prepare
30 an annual budget. A secretary of a port authority must post a
31 bond prior to receiving or disbursing revenues of the port
32 authority. Political subdivisions who comprise a port
33 authority may not exercise rights or powers over a port,
34 wharf, dock, harbor, or other facility similar to the
35 authority granted to the port authority under other provisions

1 of the Code. A port authority may charge rent and other fees
2 for the use and services of a port authority facility and may
3 make agreements with other governmental agencies to acquire or
4 construct a port authority facility including the provision of
5 funds. A port authority may enter into contracts necessary to
6 exercise its powers. The bill provides that a port authority
7 is exempt from payment of property taxes when its property is
8 not held for pecuniary profit. A port authority may finance a
9 facility of the port authority by making a loan or mortgage
10 for the acquisition or construction of a facility or entering
11 into a loan agreement or mortgage.

12 The bill provides that a port authority may issue revenue
13 bonds and pledge orders which are payable from the port
14 authority's net revenues. To issue a bond the board of the
15 port authority must pass a resolution at a regular or special
16 meeting of the board after notice of the meeting has been
17 published. Residents and property owners within the
18 jurisdiction of the port authority may object to the issuing
19 of a bond. Port authority revenue bonds and pledge orders may
20 be sold at public or private sale and must be signed by a
21 designated officer of the board. A port authority may also
22 issue revenue bonds to refund revenue bonds, pledge orders, or
23 other obligations payable from the net revenues of the port
24 authority. The final maturity of a revenue bond shall not
25 exceed 40 years. Port authority revenue bonds and pledge
26 orders are subject to the interest rate limitations of Code
27 chapter 74A. Port authority revenue bonds may be secured by a
28 trust agreement which may pledge or assign revenues of the
29 port authority for payment of the revenue bonds. The remedy
30 for breach or default on a port authority revenue bond is an
31 action to compel performance of the duties required by Code
32 chapter 28J and the terms of the resolution authorizing the
33 bond's issuance which must be brought within 15 days after the
34 bonds are issued.

35 The bill provides that all revenues and other assets of a

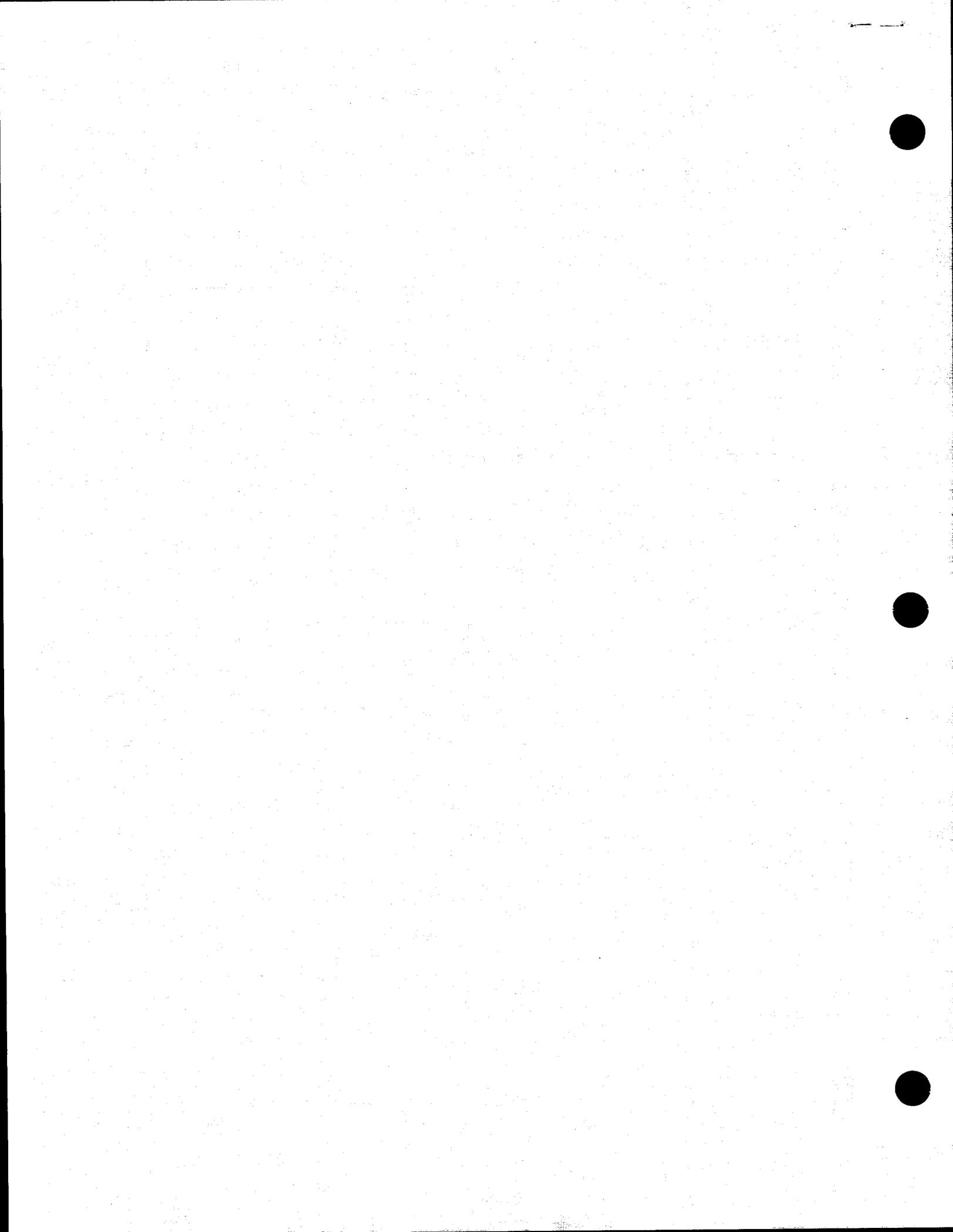
1 port authority shall be held in trust and used only as
2 provided in Code chapter 28J and shall be kept in depositories
3 authorized to keep public funds. A port authority may
4 transfer surplus funds to another fund of the port authority
5 or to the political subdivisions comprising the port authority
6 as agreed by the political subdivisions.

7 If a port authority changes the location of a public road,
8 railroad, or utility facility when constructing a port
9 authority facility, the port authority shall reconstruct the
10 road, railroad, or facility at another location approved by
11 the appropriate governmental authority.

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

20 The bill makes other corresponding and technical changes.

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**EIGHTY-FIRST GENERAL ASSEMBLY
2005 REGULAR SESSION
DAILY
HOUSE CLIP SHEET**

APRIL 13, 2005

HOUSE FILE 835

H-1356

- 1 Amend House File 835 as follows:
2 1. Page 8, line 1, by striking the word
3 "SPECIAL".
4 2. Page 8, line 10, by striking the word
5 "special".
6 3. Page 8, line 17, by striking the words
7 "Special peace" and inserting the following: "Peace".
8 4. Page 8, by striking lines 18 and 19, and
9 inserting the following: "shall meet all requirements
10 as police officers appointed under the civil".
11 5. Page 8, line 22, by striking the words
12 "Special peace" and inserting the following: "Peace".
13 6. Page 8, line 30, by striking the words
14 "Special peace" and inserting the following: "Peace".
15 7. Page 10, line 22, by striking the word
16 "except" and inserting the following: "including the
17 exercise of police power but excluding".
18 8. By striking page 11, line 35 through page 12,
19 line 7, and inserting the following:
20 "17. Enter into an agreement with a political
21 subdivision comprising the port authority for the
22 political subdivision to exercise its right of eminent
23 domain pursuant to chapters 6A and 6B on behalf of the
24 port authority. However, a condemnation exercised on
25 behalf of a port authority pursuant to this subsection
26 shall not take or".
27 9. Page 21, by striking lines 26 through 31.

By WISE of Lee

H-1356 FILED APRIL 12, 2005

HOUSE FILE 835
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 733)

(SUCCESSOR TO HF 425)

(As Amended and Passed by the House April 13, 2005)

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

A BILL FOR

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

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

9

10

House Amendments _____

11

Deleted Language *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 h. The cost of diverting a rail line, rail spur track, or
15 rail spur track switch, including the cost of land or
16 easements, and relocation of a facility of a utility company
17 or common carrier.

18 i. The cost of relocating an airport's runways, terminals,
19 and related facilities including the cost of land or
20 easements, and relocation of a facility of a utility company
21 or common carrier.

22 7. "Facility" or "port authority facility" means real or
23 personal property owned, leased, or otherwise controlled or
24 financed by a port authority and related to or in furtherance
25 of one or more authorized purposes.

26 8. "Governmental agency" means a department, division, or
27 other unit of state government of this state or any other
28 state, city, county, township, or other governmental
29 subdivision, or any other public corporation or agency created
30 under the laws of this state, any other state, the United
31 States, or any department or agency thereof, or any agency,
32 commission, or authority established pursuant to an interstate
33 compact or agreement or combination thereof.

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

35 10. "Pledge order" means a promise to pay out of the net

1 revenues of a port authority, which is delivered to a
2 contractor or other person in payment of all or part of the
3 cost of a facility.

4 11. "Political subdivision" means a city, county, city-
5 county consolidation, or multicounty consolidation, or
6 combination thereof.

7 12. "Political subdivisions comprising the port authority"
8 means the political subdivisions which created or participated
9 in the creation of the port authority under section 28J.2, or
10 which joined an existing port authority under section 28J.4.

11 13. "Port authority" means an entity created pursuant to
12 section 28J.2.

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

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

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

32 Sec. 2. NEW SECTION. 28J.2 CREATION AND POWERS OF PORT
33 AUTHORITY.

34 1. Two or more political subdivisions may create a port
35 authority under this chapter by resolution. If a proposal to

1 create a port authority receives a favorable majority of the
2 members of the elected legislative body of the political
3 subdivision, the port authority is created at the time
4 provided in the resolution. The jurisdiction of a port
5 authority includes the territory described in section 28J.8.

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

9 3. At the time a port authority is created pursuant to
10 this section, the political subdivisions comprising the port
11 authority may restrict the powers granted the port authority
12 pursuant to this chapter by specifically adopting such
13 restrictions in the resolution creating the port authority.

14 4. The political subdivisions comprising the port
15 authority whose powers have been restricted pursuant to
16 subsection 3 may at any time adopt a resolution to grant
17 additional powers to the port authority, so long as the
18 additional powers do not exceed the powers permitted under
19 this chapter.

20 Sec. 3. NEW SECTION. 28J.3 APPROPRIATION AND EXPENDITURE
21 OF PUBLIC FUNDS -- DISSOLUTION.

22 1. The political subdivisions comprising a port authority
23 may appropriate and expend public funds to finance or
24 subsidize the operation and authorized purposes of the port
25 authority. A port authority shall control tax revenues
26 allocated to the facilities the port authority administers and
27 all revenues derived from the operation of the port authority,
28 the sale of its property, interest on investments, or from any
29 other source related to the port authority.

30 2. All revenues received by the port authority shall be
31 held in a separate fund in a manner agreed to by the political
32 subdivisions comprising the port authority. Revenues may be
33 paid out only at the direction of the board of directors of
34 the port authority.

35 3. A port authority shall comply with section 331.341,

1 subsections 1, 2, 4, and 5, and section 331.342, when
2 contracting for public improvements.

3 4. Subject to making due provisions for payment and
4 performance of any outstanding obligations, the political
5 subdivisions comprising the port authority may dissolve the
6 port authority, and transfer the property of the port
7 authority to the political subdivisions comprising the port
8 authority in a manner agreed upon between the political
9 subdivisions comprising the port authority prior to the
10 dissolution of the port authority.

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

13 1. A political subdivision which is contiguous to either a
14 political subdivision which participated in the creation of
15 the port authority or a political subdivision which proposes
16 to join the port authority at the same time which is
17 contiguous to a political subdivision which participated in
18 the creation of the port authority may join the port authority
19 by resolution.

20 2. If more than one such political subdivision proposes to
21 join the port authority at the same time, the resolution of
22 each such political subdivision shall designate the political
23 subdivisions which are to be so joined.

24 3. Any territory or city not included in a port authority
25 which is annexed to a city included within the jurisdiction of
26 a port authority shall, on such annexation and without further
27 proceedings, be annexed to and be included in the jurisdiction
28 of the port authority.

29 4. Before a political subdivision is joined to a port
30 authority, other than by annexation to a city, the political
31 subdivisions comprising the port authority shall agree upon
32 the terms and conditions pursuant to which such political
33 subdivision is to be joined.

34 5. For the purpose of this chapter, such political
35 subdivision shall be considered to have participated in the

1 creation of the port authority, except that the initial term
2 of any director of the port authority appointed by a joining
3 political subdivision shall be four years.

4 6. After each resolution proposing a political subdivision
5 to join a port authority has become effective and the terms
6 and conditions of joining the port authority have been agreed
7 to, the board of directors of the port authority shall by
8 resolution either accept or reject the proposal. Such
9 proposal to join a port authority shall be effective upon
10 adoption of the resolution by the board of directors of the
11 port authority and thereupon the jurisdiction of the port
12 authority includes the joining political subdivision.

13 Sec. 5. NEW SECTION. 28J.5 MEMBERSHIP OF BOARD OF
14 DIRECTORS.

15 1. A port authority created pursuant to section 28J.2
16 shall be governed by a board of directors. Members of a board
17 of directors of a port authority shall be divided among the
18 political subdivisions comprising the port authority in such
19 proportions as the political subdivisions may agree and shall
20 be appointed by the respective political subdivision's elected
21 legislative body.

22 2. The number of directors comprising the board shall be
23 determined by agreement between the political subdivisions
24 comprising the port authority, and which number may be changed
25 by resolution of the political subdivisions comprising the
26 port authority.

27 3. A majority of the directors shall have been qualified
28 electors of, or owned a business or been employed in, one or
29 more political subdivisions within the area of the
30 jurisdiction of the port authority for a period of at least
31 three years preceding appointment.

32 4. The directors of a port authority first appointed shall
33 serve staggered terms. Thereafter each successor director
34 shall serve for a term of four years, except that any person
35 appointed to fill a vacancy shall be appointed to only the

1 unexpired term. A director is eligible for reappointment.

2 5. The board may provide procedures for the removal of a
3 director who fails to attend three consecutive regular
4 meetings of the board. If a director is so removed, a
5 successor shall be appointed for the remaining term of the
6 removed director in the same manner provided for the original
7 appointment. The appointing body may at any time remove a
8 director appointed by it for misfeasance, nonfeasance, or
9 malfeasance in office.

10 6. The board may adopt bylaws and shall elect one director
11 as chairperson and one director as vice chairperson, designate
12 terms of office, and appoint a secretary who need not be a
13 director.

14 7. A majority of the board of directors shall constitute a
15 quorum for the purpose of holding a meeting of the board. The
16 affirmative vote of a majority of a quorum shall be necessary
17 for any action taken by the port authority unless the board
18 determines that a greater number of affirmative votes is
19 necessary for particular actions to be taken by the port
20 authority. A vacancy in the membership of the board shall not
21 impair the rights of a quorum to exercise all the rights and
22 perform all the duties of the port authority.

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

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

28 A director of a port authority shall not be personally
29 liable for any monetary damages that arise from actions taken
30 in the performance of the director's official duties, except
31 for acts or omissions that are not in good faith or that
32 involve intentional misconduct, a knowing violation of law, or
33 any transaction from which the director derived an improper
34 personal benefit.

35 Sec. 7. NEW SECTION. 28J.7 EMPLOYEES, ADVISORY BOARD,

*1 PEACE OFFICERS.

2 1. A port authority shall employ and fix the
3 qualifications, duties, and compensation of any employees and
4 enter into contracts for any services that may be required to
5 conduct the business of the port authority, and may appoint an
6 advisory board, which shall serve without compensation.

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

9 3. a. A port authority may provide for the administration
*10 and enforcement of the laws of the state by employing peace
11 officers who shall have all the powers conferred by law on
12 peace officers of this state with regard to the apprehension
13 of violators upon all property under its control within and
14 without the port authority. The peace officers may seek the
15 assistance of other appropriate law enforcement officers to
16 enforce its rules and maintain order.

17 b. Peace officers employed by a port authority shall meet
18 all requirements as police officers appointed under the civil
19 service law of chapter 400 and shall participate in the
20 retirement system established by chapter 411.

21 c. Peace officers employed by a port authority shall serve
22 as a peace officer force with respect to the property,
23 grounds, buildings, equipment, and facilities under the
24 control of the port authority, to prevent hijacking of
25 aircraft or watercraft, protect the property of the authority
26 and the property of others located thereon, suppress nuisances
27 and disturbances and breaches of the peace, and enforce laws
28 and the rules of the port authority for the preservation of
29 good order. Peace officers are vested with the same powers of
30 arrest as peace officers under section 804.7.

31 4. If an employee of a political subdivision comprising
32 the port authority is transferred to a comparable position
33 with the port authority, the employee is entitled to suffer no
34 loss in pay, pension, fringe benefits, or other benefits and
35 shall be entitled to a comparable rank and grade as the

1 employee's prior position. Sick leave, longevity, and
2 vacation time accrued to such employees shall be credited to
3 them as employees of the port authority. All rights and
4 accruals of such employees as members of the Iowa public
5 employees' retirement system pursuant to chapter 97B and the
6 retirement system for police officers pursuant to chapter 411
7 shall remain in force and shall be automatically transferred
8 to the port authority.

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

10 1. The area of jurisdiction of a port authority shall
11 include all of the territory of the political subdivisions
12 comprising the port authority and, if the port authority owns
13 or leases a railroad line or airport, the territory on which
14 the railroad's line, terminals, and related facilities or the
15 airport's runways, terminals, and related facilities are
16 located, regardless of whether the territory is located in the
17 political subdivisions comprising the port authority.

18 2. A political subdivision that has created a port
19 authority or joined an existing port authority shall not be
20 included in any other port authority.

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

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

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

25 2. Adopt an official seal.

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

28 4. Acquire, construct, furnish, equip, maintain, repair,
29 sell, exchange, lease, lease with an option to purchase,
30 convey interests in real or personal property, and operate any
31 property of the port authority in connection with
32 transportation, recreational, governmental operations, or
33 cultural activities in furtherance of an authorized purpose.

34 5. Straighten, deepen, and improve any channel, river,
35 stream, or other watercourse or way which may be necessary or

1 proper in the development of the facilities of the port
2 authority.

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

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

7 8. Issue port authority revenue bonds beyond the limit of
8 bonded indebtedness provided by law, payable solely from
9 revenues as provided in section 28J.21, for the purpose of
10 providing funds to pay the costs of any facility or facilities
11 of the port authority or parts thereof.

12 9. Apply to the proper authorities of the United States
13 for the right to establish, operate, and maintain foreign
14 trade zones and establish, operate, and maintain foreign trade
15 zones and to acquire, exchange, sell, lease to or from, lease
16 with an option to purchase, or operate facilities, land, or
17 property in accordance with the federal Foreign Trade Zones
18 Act, 19 U.S.C. § 81a-81u.

19 10. Enjoy and possess the same legislative and executive
20 rights, privileges, and powers granted cities under chapter
21 364 and counties under chapter 331, including the exercise of
22 police power but excluding the power to levy taxes.

23 11. Maintain such funds as it considers necessary and
24 adhere to the public funds investment standards of chapter
25 12B, as applicable.

26 12. Direct port authority agents or employees, after at
27 least five days' written notice, to enter upon lands within
28 the port authority's jurisdiction to make surveys and
29 examinations preliminary to location and construction of works
30 for the port authority, without liability of the port
31 authority or its agents or employees except for actual
32 damages.

33 13. Promote, advertise, and publicize the port authority
34 and its facilities, and provide information to shippers and
35 other commercial interests.

1 14. Adopt bylaws, not in conflict with state or federal
2 law, necessary or incidental to the performance of the duties
3 of and the execution of the powers of the port authority under
4 this chapter.

5 15. Do any of the following in regard to interests in real
6 or personal property, including machinery, equipment, plants,
7 factories, offices, and other structures and facilities
8 related to or in furtherance of any authorized purpose as the
9 board in its sole discretion may determine:

10 a. Loan money to any person or governmental agency for the
11 acquisition, construction, furnishing, or equipping of the
12 property.

13 b. Acquire, construct, maintain, repair, furnish, or equip
14 the property.

15 c. Sell to, exchange with, lease, convey other interests
16 in, or lease with an option to purchase the same or any lesser
17 interest in the property to the same or any other person or
18 governmental agency.

19 d. Guarantee the obligations of any person or governmental
20 agency.

21 e. Accept and hold as consideration for the conveyance of
22 property or any interest therein such property or interests
23 therein as the board may determine, notwithstanding any
24 restrictions that apply to the investment of funds by a port
25 authority.

26 16. Sell, lease, or convey other interests in real and
27 personal property, and grant easements or rights-of-way over
28 property of the port authority. The board shall specify the
29 consideration and terms for the sale, lease, or conveyance of
30 other interests in real and personal property. A
31 determination made by the board under this subsection shall be
32 conclusive. The sale, lease, or conveyance may be made
33 without advertising and the receipt of bids.

34 17. Enter into an agreement with a political subdivision
35 comprising the port authority for the political subdivision to

1 exercise its right of eminent domain pursuant to chapters 6A
2 and 6B on behalf of the port authority. However, a
3 condemnation exercised on behalf of a port authority pursuant
4 to this subsection shall not take or disturb property or a
5 facility belonging to a governmental agency, utility company,
6 or common carrier, which property or facility is necessary and
7 convenient in the operation of the governmental agency,
8 utility company, or common carrier, unless provision is made
9 for the restoration, relocation, or duplication of such
10 property or facility, or upon the election of the governmental
11 agency, utility company, or common carrier, for the payment of
12 compensation, if any, at the sole cost of the port authority,
13 provided that both of the following apply:

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

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

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

31 b. Except as provided in paragraph "c", when the cost of a
32 contract for the construction of a building, structure, or
33 other improvement undertaken by a port authority involves an
34 expenditure exceeding twenty-five thousand dollars, and the
35 port authority is the contracting entity, the port authority

1 shall make a written contract after notice calling for bids
2 for the award of the contract has been given by publication
3 twice, with at least seven days between publications, in a
4 newspaper of general circulation in the area of the port
5 authority. Each such contract shall be let to the lowest
6 responsive and responsible bidder. Every contract shall be
7 accompanied by or shall refer to plans and specifications for
8 the work to be done, prepared for and approved by the port
9 authority, and signed by an authorized officer of the port
10 authority and by the contractor.

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

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

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

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

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

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

34 d. (1) If a contract is to be negotiated and awarded
35 without competitive bidding for the reason set forth in

1 paragraph "c", subparagraph (2), the port authority shall
2 publish a notice calling for technical proposals at least
3 twice, with at least seven days between publications, in a
4 newspaper of general circulation in the area of the port
5 authority. After receipt of the technical proposals, the port
6 authority may negotiate with and award a contract for the
7 improvement to the person making the proposal considered to be
8 the most advantageous to the port authority.

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

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

1 issued to finance costs of such improvement, are excluded from
2 general revenues.

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

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

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

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

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

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

1 Sec. 10. NEW SECTION. 28J.10 PARTICIPATION OF PRIVATE
2 ENTERPRISE.

3 The port authority shall foster and encourage the
4 participation of private enterprise in the development of the
5 port authority facilities to the fullest extent practicable in
6 the interest of limiting the necessity of construction and
7 operation of the facilities by the port authority.

8 Sec. 11. NEW SECTION. 28J.11 PROVISIONS DO NOT AFFECT
9 OTHER LAWS OR POWERS.

10 This chapter shall not do any of the following:

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

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

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

20 4. Impair or interfere with the exercise of a permit for
21 the removal of sand or gravel, or other similar permits issued
22 by a governmental agency.

23 5. Impair or contravene applicable federal regulations.

24 Sec. 12. NEW SECTION. 28J.12 CONVEYANCE, LEASE, OR
25 EXCHANGE OF PUBLIC PROPERTY.

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

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

33 The board shall annually prepare a budget for the port
34 authority. Revenues received by the port authority shall be
35 used for the general expenses of the port authority and to pay

1 interest, amortization, and retirement charges on money
2 borrowed. Except as provided in section 28J.26, if there
3 remains, at the end of any fiscal year, a surplus of such
4 funds after providing for the above uses, the board shall pay
5 such surplus into the general funds of the political
6 subdivisions comprising the port authority as agreed to by the
7 subdivisions.

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

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

21 Sec. 15. NEW SECTION. 28J.15 LIMITATION ON CERTAIN
22 POWERS OF POLITICAL SUBDIVISIONS.

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

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

34 1. a. A port authority may charge, alter, and collect
35 rental fees or other charges for the use or services of any

1 port authority facility and contract for the use or services
2 of a facility, and fix the terms, conditions, rental fees, or
3 other charges for the use or services.

4 b. If the services are furnished in the jurisdiction of
5 the port authority by a utility company or a common carrier,
6 the port authority's charges for the services shall not be
7 less than the charges established for the same services
8 furnished by a utility company or common carrier in the port
9 authority jurisdiction.

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

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

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

35 b. A governmental agency may provide funds for the payment

1 of any contribution required under such agreements by the levy
2 of taxes or assessments if otherwise authorized by the laws
3 governing the governmental agency in the construction of the
4 type of port authority facility provided for in the
5 agreements, and may pay the proceeds from the collection of
6 the taxes or assessments; or the governmental agency may issue
7 bonds or notes, if authorized by law, in anticipation of the
8 collection of the taxes or assessments, and may pay the
9 proceeds of the bonds or notes to the port authority pursuant
10 to such agreements.

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

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

1 4. A governmental agency, pursuant to a favorable vote in
2 an election regarding issuing bonds to provide funds to
3 acquire, construct, or equip, or provide real estate and
4 interests in real estate for a port authority facility,
5 whether or not the governmental agency at the time of the
6 election had the authority to pay the proceeds from the bonds
7 or notes issued in anticipation of the bonds to the port
8 authority as provided in this section, may issue such bonds or
9 notes in anticipation of the issuance of the bonds and pay the
10 proceeds of the bonds or notes to the port authority in
11 accordance with an agreement with the port authority;
12 provided, that the legislative authority of the governmental
13 agency finds and determines that the port authority facility
14 to be acquired or constructed in cooperation with the
15 governmental agency will serve the same public purpose and
16 meet substantially the same public need as the facility
17 otherwise proposed to be acquired or constructed by the
18 governmental agency with the proceeds of the bonds and notes.

19 Sec. 17. NEW SECTION. 28J.17 CONTRACTS, ARRANGEMENTS,
20 AND AGREEMENTS.

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

1 power to enter into any contracts, arrangements, or agreements
2 that may be necessary to hold and save harmless the United
3 States from damages due to the construction and maintenance by
4 the United States of work the United States undertakes.

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

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

* 22 Sec. 18. NEW SECTION. 28J.18 REVENUE BONDS ARE LAWFUL
23 INVESTMENTS.

24 Port authority revenue bonds issued pursuant to this
25 chapter are lawful investments of banks, credit unions, trust
26 companies, savings and loan associations, deposit guaranty
27 associations, insurance companies, trustees, fiduciaries,
28 trustees or other officers having charge of the bond
29 retirement funds or sinking funds of port authorities and
30 governmental agencies, and taxing districts of this state, the
31 pension and annuity retirement system, the Iowa public
32 employees' retirement system, the police and fire retirement
33 systems under chapters 410 and 411, a revolving fund of a
34 governmental agency of this state, and are acceptable as
35 security for the deposit of public funds under chapter 12C.

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

2 A port authority shall be exempt from and shall not be
3 required to pay taxes on real property belonging to a port
4 authority that is used exclusively for an authorized purpose
5 as provided in section 427.1, subsection 34.

6 Sec. 20. NEW SECTION. 28J.20 LOANS FOR ACQUISITION OR
7 CONSTRUCTION OF FACILITY -- SALE OF FACILITY -- POWER TO
8 ENCUMBER PROPERTY.

9 1. With respect to the financing of a facility for an
10 authorized purpose, under an agreement whereby the person to
11 whom the facility is to be leased, subleased, or sold, or to
12 whom a loan is to be made for the facility, is to make
13 payments sufficient to pay all of the principal of, premium,
14 and interest on the port authority revenue bonds issued for
15 the facility, the port authority, in addition to other powers
16 under this chapter, may do any of the following:

17 a. Make loans for the acquisition or construction of the
18 facility to such person upon such terms as the port authority
19 may determine or authorize including secured or unsecured
20 loans, and enter into loan agreements and other agreements,
21 accept notes and other forms of obligation to evidence such
22 indebtedness and mortgages, liens, pledges, assignments, or
23 other security interests to secure such indebtedness, which
24 may be prior or subordinate to or on a parity with other
25 indebtedness, obligations, mortgages, pledges, assignments,
26 other security interests, or liens or encumbrances, and take
27 actions considered appropriate to protect such security and
28 safeguard against losses, including, without limitation,
29 foreclosure and the bidding upon and purchase of property upon
30 foreclosure or other sale.

31 b. Sell the facility under terms as the port authority may
32 determine, including sale by conditional sale or installment
33 sale, under which title may pass prior to or after completion
34 of the facility or payment or provisions for payment of all
35 principal of, premium, and interest on the revenue bonds, or

1 at any other time provided in the agreement pertaining to the
2 sale, and including sale under an option to purchase at a
3 price which may be a nominal amount or less than true value at
4 the time of purchase.

5 c. Grant a mortgage, lien, or other encumbrance on, or
6 pledge or assignment of, or other security interest with
7 respect to, all or any part of the facility, revenues, reserve
8 funds, or other funds established in connection with the bonds
9 or with respect to a lease, sublease, sale, conditional sale
10 or installment sale agreement, loan agreement, or other
11 agreement pertaining to the lease, sublease, sale, or other
12 disposition of a facility or pertaining to a loan made for a
13 facility, or a guaranty or insurance agreement made with
14 respect thereto, or an interest of the port authority therein,
15 or any other interest granted, assigned, or released to secure
16 payments of the principal of, premium, or interest on the
17 bonds or to secure any other payments to be made by the port
18 authority, which mortgage, lien, encumbrance, pledge,
19 assignment, or other security interest may be prior or
20 subordinate to or on a parity with any other mortgage,
21 assignment, or other security interest, or lien or
22 encumbrance.

23 d. Contract for the acquisition or construction of the
24 facility or any part thereof and for the leasing, subleasing,
25 sale, or other disposition of the facility in a manner
26 determined by the port authority in its sole discretion,
27 without necessity for competitive bidding or performance
28 bonds.

29 e. Make appropriate provision for adequate maintenance of
30 the facility.

31 2. With respect to a facility referred to in this section,
32 the authority granted by this section is cumulative and
33 supplementary to all other authority granted in this chapter.
34 The authority granted by this section does not alter or impair
35 a similar authority granted elsewhere in this chapter for or

1 with respect to other facilities.

2 Sec. 21. NEW SECTION. 28J.21 ISSUANCE OF REVENUE AND
3 REFUNDING BONDS.

4 1. A port authority may issue revenue bonds and pledge
5 orders payable solely from the net revenues of the port
6 authority including the revenues generated from a facility
7 pursuant to section 28J.20. The revenue bonds may be issued
8 in such principal amounts as, in the opinion of the port
9 authority, are necessary for the purpose of paying the cost of
10 one or more port authority facilities or parts thereof.

11 2. a. The resolution to issue the bonds must be adopted
12 at a regular or special meeting of the board called for that
13 purpose by a majority of the total number of members of the
14 board. The board shall fix a date, time, and place of meeting
15 at which it proposes to take action, and give notice by
16 publication in the manner directed in section 331.305. The
17 notice must include a statement of the date, time, and place
18 of the meeting, the maximum amount of the proposed revenue
19 bonds, the purpose for which the revenue bonds will be issued,
20 and the net revenues to be used to pay the principal and
21 interest on the revenue bonds.

22 b. At the meeting the board shall receive oral or written
23 objections from any resident or property owner within the
24 jurisdiction of the port authority. After all objections have
25 been received and considered, the board, at the meeting or a
26 date to which it is adjourned, may take additional action for
27 the issuance of the bonds or abandon the proposal to issue
28 bonds. Any resident or property owner within the jurisdiction
29 of the port authority may appeal a decision of the board to
30 take additional action in district court within fifteen days
31 after the additional action is taken, but the additional
32 action of the board is final and conclusive unless the court
33 finds that the board exceeded its authority.

34 3. The board may sell revenue bonds or pledge orders at
35 public or private sale and may deliver revenue bonds and

1 pledge orders to the contractors, sellers, and other persons
2 furnishing materials and services constituting a part of the
3 cost of the port authority facility in payment therefor. The
4 pledge of any net revenues of a port authority is valid and
5 effective as to all persons including but not limited to other
6 governmental bodies when it becomes valid and effective
7 between the port authority and the holders of the revenue
8 bonds or pledge orders.

9 4. A revenue bond is valid and binding for all purposes if
10 it bears the signatures or a facsimile of the signature of the
11 officer designated by the port authority. Port authority
12 revenue bonds may bear dates, bear interest at rates not
13 exceeding those permitted by chapter 74A, bear interest at a
14 variable rate or rates changing from time to time in
15 accordance with a base or formula, mature in one or more
16 installments, be in registered form, carry registration and
17 conversion privileges, be payable as to principal and interest
18 at times and places, be subject to terms of redemption prior
19 to maturity with or without premium, and be in one or more
20 denominations, all as provided by the resolution of the board
21 authorizing their issuance. The resolution may also prescribe
22 additional provisions, terms, conditions, and covenants which
23 the port authority deems advisable, consistent with this
24 chapter, including provisions for creating and maintaining
25 reserve funds, the issuance of additional revenue bonds
26 ranking on a parity with such revenue bonds and additional
27 revenue bonds junior and subordinate to such revenue bonds,
28 and that such revenue bonds shall rank on a parity with or be
29 junior and subordinate to any revenue bonds which may be then
30 outstanding. Port authority revenue bonds are a contract
31 between the port authority and holders and the resolution is a
32 part of the contract.

33 5. The port authority may issue revenue bonds to refund
34 revenue bonds, pledge orders, and other obligations which are
35 by their terms payable from the net revenues of the same port

1 authority, at lower, the same, or higher rates of interest. A
2 port authority may sell refunding revenue bonds at public or
3 private sale and apply the proceeds to the payment of the
4 obligations being refunded, and may exchange refunding revenue
5 bonds in payment and discharge of the obligations being
6 refunded. The principal amount of refunding revenue bonds may
7 exceed the principal amount of the obligations being refunded
8 to the extent necessary to pay any premium due on the call of
9 the obligations being refunded and to fund interest accrued
10 and to accrue on the obligations being refunded.

11 6. The final maturity of any original issue of port
12 authority revenue bonds shall not exceed forty years from the
13 date of issue, and the final maturity of port authority
14 revenue bonds that refund outstanding port authority revenue
15 bonds shall not be later than the later of forty years from
16 the date of issue of the original issue of bonds or the date
17 by which it is expected, at the time of issuance of the
18 refunding bonds, that the useful life of all of the property
19 refinanced with the proceeds of the bonds, other than
20 interests in land, will have expired. Such bonds or notes
21 shall be executed in a manner as the resolution may provide.

22 7. The port authority may contract to pay an amount not to
23 exceed ninety-five percent of the engineer's estimated value
24 of the acceptable work completed during the month to the
25 contractor at the end of each month for work, material, or
26 services. Payment may be made in warrants drawn on any fund
27 from which payment for the work may be made. If such funds
28 are depleted, anticipatory warrants may be issued bearing a
29 rate of interest not exceeding that permitted by chapter 74A
30 even if income from the sale of bonds which have been
31 authorized and are applicable to the public improvement takes
32 place after the fiscal year in which the warrants are issued.
33 If the port authority arranges for the private sale of
34 anticipatory warrants, the warrants may be sold and the
35 proceeds used to pay the contractor. The warrants may also be

1 used to pay other persons furnishing services constituting a
2 part of the cost of the public improvement.

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

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

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

15 11. The members of the board of the port authority and any
16 person executing the bonds or pledge orders shall not be
17 personally liable on the bonds or pledge orders or be subject
18 to any personal liability or accountability by reason of the
19 issuance thereof.

20 Sec. 22. NEW SECTION. 28J.22 BONDS MAY BE SECURED BY
21 TRUST AGREEMENT.

22 1. In the discretion of the port authority, a port
23 authority revenue bond issued under this chapter may be
24 secured by a trust agreement between the port authority and a
25 corporate trustee that may be any trust company or bank having
26 the powers of a trust company within this or any other state.

27 2. The trust agreement may pledge or assign revenues of
28 the port authority to be received for payment of the revenue
29 bonds. The trust agreement or any resolution providing for
30 the issuance of revenue bonds may contain provisions for
31 protecting and enforcing the rights and remedies of the
32 bondholders as are reasonable and proper and not in violation
33 of law, including covenants setting forth the duties of the
34 port authority in relation to the acquisition of property, the
35 construction, improvement, maintenance, repair, operation, and

1 insurance of the port authority facility in connection with
2 which the bonds are authorized, the rentals or other charges
3 to be imposed for the use or services of any port authority
4 facility, the custody, safeguarding, and application of all
5 moneys, and provisions for the employment of consulting
6 engineers in connection with the construction or operation of
7 any port authority facility.

8 3. A bank or trust company incorporated under the laws of
9 this state, that may act as the depository of the proceeds of
10 bonds or of revenues, shall furnish any indemnifying bonds or
11 may pledge any securities that are required by the port
12 authority. The trust agreement may set forth the rights and
13 remedies of the bondholders and of the trustee, and may
14 restrict the individual right of action by bondholders as is
15 customary in trust agreements or trust indentures securing
16 similar bonds. The trust agreement may contain any other
17 provisions that the port authority determines reasonable and
18 proper for the security of the bondholders. All expenses
19 incurred in carrying out the provisions of the trust agreement
20 may be treated as a part of the cost of the operation of the
21 port authority facility.

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

24 1. The sole remedy for a breach or default of a term of a
25 port authority revenue bond or pledge order is a proceeding in
26 law or in equity by suit, action, or mandamus to enforce and
27 compel performance of the duties required by this chapter and
28 of the terms of the resolution authorizing the issuance of the
29 revenue bonds or pledge orders, or to obtain the appointment
30 of a receiver to take possession of and operate the port
31 authority, and to perform the duties required by this chapter
32 and the terms of the resolution authorizing the issuance of
33 the port authority revenue bonds or pledge orders.

34 2. An action shall not be brought which questions the
35 legality of port authority revenue bonds or pledge orders, the

1 power of a port authority to issue revenue bonds or pledge
2 orders, or the effectiveness of any proceedings relating to
3 the authorization and issuance of revenue bonds or pledge
4 orders, from and after fifteen days from the time the bonds or
5 pledge orders are ordered issued by the port authority.

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

8 Port authority revenue bonds and pledge orders issued under
9 this chapter do not constitute a debt, or a pledge of the
10 faith and credit, of the state or a political subdivision of
11 the state, and the holders or owners of the bonds or pledge
12 orders shall not have taxes levied by the state or by a taxing
13 authority of a governmental agency of the state for the
14 payment of the principal of or interest on the bonds or pledge
15 orders, but the bonds and pledge orders are payable solely
16 from the revenues and funds pledged for their payment as
17 authorized by this chapter, unless the notes are issued in
18 anticipation of the issuance of bonds or pledge orders or the
19 bonds and pledge orders are refunded by refunding bonds issued
20 under this chapter, which bonds, pledge orders, or refunding
21 bonds shall be payable solely from revenues and funds pledged
22 for their payment as authorized by those sections. All of the
23 bonds or pledge orders shall contain a statement to the effect
24 that the bonds or pledge orders, as to both principal and
25 interest, are not debts of the state or a political
26 subdivision of the state, but are payable solely from revenues
27 and funds pledged for their payment.

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

30 All revenues, funds, properties, and assets acquired by the
31 port authority under this chapter, whether as proceeds from
32 the sale of port authority revenue bonds, pledge orders, or as
33 revenues, shall be held in trust for the purposes of carrying
34 out the port authority's powers and duties, shall be used and
35 reused as provided in this chapter, and shall at no time be

1 part of other public funds. Such funds, except as otherwise
2 provided in a resolution authorizing port authority revenue
3 bonds or in a trust agreement securing the same, or except
4 when invested pursuant to section 28J.26, shall be kept in
5 depositories selected by the port authority in the manner
6 provided in chapter 12C, and the deposits shall be secured as
7 provided in that chapter. The resolution authorizing the
8 issuance of revenue bonds or pledge orders, or the trust
9 agreement securing such bonds or pledge orders shall provide
10 that any officer to whom, or any bank or trust company to
11 which, such moneys are paid shall act as trustee of such
12 moneys and hold and apply them for the purposes hereof,
13 subject to such conditions as this chapter and such resolution
14 or trust agreement provide.

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

16 1. If a port authority has surplus funds after making all
17 deposits into all funds required by the terms, covenants,
18 conditions, and provisions of outstanding revenue bonds,
19 pledge orders, and refunding bonds which are payable from the
20 revenues of the port authority and after complying with all of
21 the requirements, terms, covenants, conditions, and provisions
22 of the proceedings and resolutions pursuant to which revenue
23 bonds, pledge orders, and refunding bonds are issued, the
24 board may transfer the surplus funds to any other fund of the
25 port authority in accordance with this chapter and chapter
26 12C, provided that a transfer shall not be made if it
27 conflicts with any of the requirements, terms, covenants,
28 conditions, or provisions of a resolution authorizing the
29 issuance of revenue bonds, pledge orders, or other obligations
30 which are payable from the revenues of the port authority
31 which are then outstanding.

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

1 Sec. 27. NEW SECTION. 28J.27 CHANGE IN LOCATION OF
2 PUBLIC WAY, RAILROAD, OR UTILITY FACILITY -- VACATION OF
3 HIGHWAY.

4 1. When a port authority changes the location of any
5 portion of any public road, railroad, or utility facility in
6 connection with the construction of a port authority facility,
7 the port authority shall reconstruct at such location as the
8 governmental agency having jurisdiction over such road,
9 railroad, or utility facility finds most favorable. The
10 construction of such road, railroad, or utility facility shall
11 be of substantially the same type and in as good condition as
12 the original road, railroad, or utility facility. The cost of
13 such reconstruction, relocation, or removal and any damage
14 incurred in changing the location of any such road, railroad,
15 or utility facility shall be paid by the port authority as a
16 part of the cost of the port authority facility.

17 2. When the port authority finds it necessary that a
18 public highway or portion of a public highway be vacated by
19 reason of the acquisition or construction of a port authority
20 facility, the port authority may request the director of the
21 department of transportation to vacate such highway or portion
22 in accordance with chapter 306 if the highway or portion to be
23 vacated is on the state highway system, or, if the highway or
24 portion to be vacated is under the jurisdiction of a county,
25 the port authority shall petition the board of supervisors of
26 that county, in the manner provided in chapter 306, to vacate
27 such highway or portion. The port authority shall pay to the
28 county, as a part of the cost of such port authority facility,
29 any amounts required to be deposited with a court in
30 connection with proceedings for the determination of
31 compensation and damages and all amounts of compensation and
32 damages finally determined to be payable as a result of such
33 vacation.

34 3. The port authority may adopt bylaws for the
35 installation, construction, maintenance, repair, renewal,

1 relocation, and removal of railroad or utility facilities in,
2 on, over, or under any port authority facility. Whenever the
3 port authority determines that it is necessary that any such
4 facility installed or constructed in, on, over, or under
5 property of the port authority pursuant to such bylaws be
6 relocated, the utility company owning or operating such
7 facility shall relocate or remove them in accordance with the
8 order of the port authority. The cost and expenses of such
9 relocation or removal, including the cost of installing such
10 facility in a new location, the cost of any lands, or any
11 rights or interests in lands, and any other rights, acquired
12 to accomplish such relocation or removal, shall be paid by the
13 port authority as a part of the cost of the port authority
14 facility. In case of any such relocation or removal of such
15 facilities, the railroad or utility company owning or
16 operating them, its successors, or assigns may maintain and
17 operate such facilities, with the necessary appurtenances, in
18 the new location in, on, over, or under the property of the
19 port authority for as long a period and upon the same terms as
20 the railroad or utility company had the right to maintain and
21 operate such facilities in their former location.

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

24 1. All final actions of the port authority shall be
25 recorded and the records of the port authority shall be open
26 to public examination and copying pursuant to chapter 22. Not
27 later than the first day of April every year, a port authority
28 shall submit a report to the director of the department of
29 economic development detailing the projects and activities of
30 the port authority during the previous calendar year. The
31 report shall include, but not be limited to, all aspects of
32 those projects and activities, including the progress and
33 status of the projects and their costs, and any other
34 information the director determines should be included in the
35 report.

HOUSE FILE 835

S-3189

1 Amend House File 835 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 12.30, subsection 1, paragraph
5 a, Code 2005, is amended to read as follows:

6 a. "Authority" means a department, or public or
7 quasi-public instrumentality of the state including,
8 but not limited to, the authority created under
9 chapter 12E, 16, 16A, 175, 257C, 261A, or 327I, which
10 has the power to issue obligations, except that
11 "authority" does not include the state board of
12 regents or the Iowa finance authority to the extent it
13 acts pursuant to chapter 260C. "Authority" also
14 includes a port authority created under chapter 28J."

15 2. By renumbering as necessary.

COMMITTEE ON WAYS AND MEANS

JOE BOLKCOM, CO-CHAIRPERSON

MARK ZIEMAN, CO-CHAIRPERSON

S-3189 FILED APRIL 27, 2005