

Senate Study Bill 3070 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON SCHULTZ)

A BILL FOR

1 An Act regarding port authorities, including by allowing port
2 authorities to enter into certain loan agreements and lease
3 contracts.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 28J.1, subsections 1 and 3, Code 2022,
2 are amended to read as follows:

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

9 3. "*City*" means the same as defined in section 362.2, and
10 also includes a city enterprise as defined in section 384.24.

11 Sec. 2. Section 28J.1, subsection 6, paragraphs d, f, and g,
12 Code 2022, are amended to read as follows:

13 *d.* The cost of machinery, furnishings, equipment, financing
14 charges, interest prior to and during construction and for
15 no more than twelve months after completion of construction,
16 engineering, architectural services, technical services,
17 preliminary reports, property valuations, consequential
18 damages or costs, provisions for contingencies, supervision,
19 inspection, testing, and expenses of research and development
20 with respect to a facility.

21 *f.* The interest upon the revenue bonds, and pledge
22 orders, loan agreements, lease contracts, and certificates of
23 participation in or other participatory interests or evidences
24 of any obligation under a loan agreement or lease contract,
25 during the period or estimated period of construction and
26 for twelve months thereafter, or for twelve months after the
27 acquisition date, and upon reserve funds as the port authority
28 deems advisable in connection with a facility and the issuance
29 of port authority revenue bonds, and pledge orders, loan
30 agreements, lease contracts, and certificates of participation
31 in or other participatory interests or evidences of any
32 obligation under a loan agreement or lease contract.

33 *g.* The costs of issuance of port authority revenue bonds,
34 and pledge orders, loan agreements, lease contracts, and
35 certificates of participation in or other participatory

1 interests or evidences of any obligations under a loan
2 agreement or lease contract.

3 Sec. 3. Section 28J.1, subsections 7 and 8, Code 2022, are
4 amended to read as follows:

5 7. "*Facility*" or "*port authority facility*" means any
6 public works project, intermodal freight or transportation
7 facility, project for which tax-exempt financing is authorized
8 by the Internal Revenue Code, and real or personal property
9 or improvements owned, leased, constructed, or otherwise
10 controlled or financed by or for a port authority and that
11 is related to or in furtherance of one or more authorized
12 purposes.

13 8. "*Governmental agency*" means a department, division,
14 or other unit of state government of this state or any other
15 state, ~~city, county,~~ any political subdivision, township, or
16 other governmental subdivision, ~~or any city utility,~~ any other
17 public corporation, special purpose district, authority, or
18 agency created under the laws of this state, any other state,
19 the United States, or any department or agency thereof, or any
20 agency, commission, or authority established pursuant to an
21 interstate compact or agreement or combination thereof.

22 Sec. 4. Section 28J.1, Code 2022, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 8A. "*Net revenues*" means revenues less
25 operating expenses.

26 Sec. 5. Section 28J.1, subsections 11, 12, and 14, Code
27 2022, are amended to read as follows:

28 11. "*Political subdivision*" means a ~~city, county,~~
29 ~~city-county consolidation, or multicounty consolidation, or~~
30 ~~combination thereof~~ municipality as defined in section 16.151.

31 12. "*Political subdivisions comprising the port authority*"
32 means the each political subdivisions subdivision which created
33 or participated in the creation of the port authority under
34 section 28J.2, or which joined an existing port authority under
35 section 28J.4.

1 14. *“Port authority revenue bonds” or “revenue bonds”* means
2 revenue bonds and revenue refunding bonds issued pursuant to
3 section 28J.21.

4 Sec. 6. Section 28J.1, Code 2022, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 15A. *“Public works project”* means a
7 project of a type that a political subdivision is authorized
8 to undertake as otherwise provided by law, including
9 but not limited to public roads and other transportation
10 infrastructure, utility systems such as water treatment
11 facilities and sewage treatment facilities, or a project as
12 defined in section 384.80.

13 Sec. 7. Section 28J.1, subsection 16, Code 2022, is amended
14 to read as follows:

15 16. *“Revenues”* means ~~rental~~ rents, fees, income, rates,
16 tolls, receipts, and other charges or revenues received by a
17 port authority or derived from the operations of a facility
18 or for the use or services of a facility, a gift or grant
19 received with respect to a facility, moneys received with
20 respect to the lease, sublease, sale, including installment
21 sale or conditional sale, or other disposition of a facility,
22 moneys received in repayment of and for interest on any
23 loans made by the port authority to a person or governmental
24 agency, proceeds of port authority revenue bonds for payment
25 of principal, premium, or interest on the bonds authorized
26 by the port authority, proceeds or borrowings under port
27 authority loan agreements for payment of principal, premium,
28 or interest on the port authority obligations thereunder,
29 proceeds or borrowings under lease contracts for the payment of
30 lease payments thereunder, proceeds under any certificates of
31 participation in or other participatory interests or evidences
32 of any obligations under a loan agreement or lease contract,
33 proceeds from any insurance, condemnation, or guarantee
34 pertaining to the financing of the facility, and income and
35 profit from the investment of the proceeds of port authority

1 revenue bonds, proceeds, or borrowings under loan agreements,
2 lease contracts, or proceeds of certificates of participation
3 in or other participatory interests or evidences of any
4 obligation under any loan agreement or lease contract or of any
5 revenues.

6 Sec. 8. Section 28J.2, subsection 1, Code 2022, is amended
7 to read as follows:

8 1. ~~Two~~ One or more political subdivisions may by resolution
9 create a port authority under this chapter ~~by resolution~~
10 anywhere in this state, regardless of proximity to a body of
11 water. If a proposal to create a port authority receives a
12 favorable majority of the members of the elected legislative
13 body of each of the political subdivisions, the port authority
14 is created at the time provided in the resolution. The
15 jurisdiction of a port authority includes the territory
16 described in section 28J.8.

17 Sec. 9. Section 28J.2, Code 2022, is amended by adding the
18 following new subsection:

19 NEW SUBSECTION. 5. A port authority is an entity separate
20 from the political subdivisions comprising the port authority.
21 The powers granted to the port authority pursuant to this
22 chapter are in addition to other powers, and constitute
23 independent powers that may be exercised by the port authority
24 whether or not the political subdivisions comprising the
25 port authority have or may exercise any of those powers
26 individually.

27 Sec. 10. Section 28J.3, subsection 1, Code 2022, is amended
28 to read as follows:

29 1. The political subdivisions comprising a port authority
30 may appropriate and expend public funds and make contributions
31 to the port authority to finance or subsidize the operation and
32 authorized purposes of the port authority and pay the costs
33 and expenses incurred by the port authority in carrying out
34 any operations or authorized purposes of the port authority.
35 Political subdivisions comprising the port authority may

1 enter into agreements with each other or the port authority
2 providing for the contributions to the port authority to be
3 made by each of the political subdivisions and providing for
4 the obligations of each of the political subdivisions to pay,
5 finance, or subsidize the costs and expenses incurred by the
6 port authority. Political subdivisions comprising the port
7 authority may, by resolution, authorize and appropriate funds
8 for any contribution, payment, or financing required to be
9 made under such agreement by the use of any method available
10 to government agencies for providing funds or financing under
11 section 28J.16. A port authority shall control tax revenues
12 allocated to the facilities the port authority administers and
13 all revenues derived from the operation of the port authority,
14 the sale of its property, interest on investments, or from any
15 other source related to the port authority.

16 Sec. 11. Section 28J.5, subsections 1, 2, and 5, Code 2022,
17 are amended to read as follows:

18 1. A port authority created pursuant to [section 28J.2](#) shall
19 be governed by a board of directors. Members of a board of
20 directors of a port authority created by two or more political
21 subdivisions shall be divided among the political subdivisions
22 comprising the port authority in such proportions as the
23 political subdivisions may agree and shall be appointed by the
24 respective political subdivision's elected legislative body.
25 Members of a board of directors of a port authority created by
26 one political subdivision shall be appointed by the political
27 subdivision's governing body.

28 2. The number of directors comprising the board of a port
29 authority created by two or more political subdivisions shall
30 be determined by agreement between the political subdivisions
31 comprising the port authority, ~~and which~~. The number of
32 directors comprising the board of directors of a port authority
33 created by one political subdivision shall consist of the
34 number of directors the political subdivision considers
35 necessary. The number may be changed by resolution of each

1 of the political subdivisions comprising the port authority
2 and in accordance with any agreement between the political
3 subdivisions comprising the port authority.

4 5. The board may provide procedures for the removal of a
5 director who fails to attend three consecutive regular meetings
6 of the board. If a director is so removed, a successor shall
7 be appointed for the remaining term of the removed director in
8 the same manner provided for the original appointment. ~~The~~
9 ~~appointing body~~ Any political subdivisions comprising the port
10 authority may at any time remove a director appointed by it for
11 ~~misfeasance, nonfeasance, or malfeasance in office and appoint~~
12 a successor for the remaining term of the removed director in
13 the same manner as provided for by the original appointment.

14 Sec. 12. Section 28J.8, subsection 1, Code 2022, is amended
15 to read as follows:

16 1. The area of jurisdiction of a port authority shall
17 include all of the territory of the port authority facility and
18 of the political subdivisions comprising the port authority
19 and, if the port authority owns or leases a railroad line or
20 airport, the territory on which the railroad's line, terminals,
21 and related facilities or the airport's runways, terminals,
22 and related facilities are located, regardless of whether the
23 territory is located in the political subdivisions comprising
24 the port authority.

25 Sec. 13. Section 28J.9, subsections 4, 8, and 10, Code 2022,
26 are amended to read as follows:

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

35 8. Issue port authority revenue bonds beyond the limit

1 of bonded indebtedness provided by law, payable solely from
2 revenues as provided in [section 28J.21](#), and enter into loan
3 agreements and lease contracts as provided in section 28J.21A,
4 for the purpose of providing funds to pay the costs of any
5 facility or facilities of the port authority or parts thereof.

6 10. Enjoy and possess the same legislative and executive
7 rights, privileges, and powers granted cities under ~~chapter~~
8 chapters 28F, 364, and 384, and counties under [chapter 331](#),
9 including the exercise of police power but excluding the power
10 to levy taxes.

11 Sec. 14. Section 28J.11, subsection 2, Code 2022, is amended
12 to read as follows:

13 2. Impair the powers of a political subdivision to develop
14 or improve a port ~~and terminal~~ authority facility except as
15 restricted by [section 28J.15](#).

16 Sec. 15. Section 28J.13, Code 2022, is amended to read as
17 follows:

18 **28J.13 Annual budget — use of rents and charges.**

19 The board shall annually prepare a budget for the port
20 authority. Revenues received by the port authority shall be
21 used for the general expenses of the port authority and to
22 pay interest, amortization, and retirement charges on, and
23 principal of, money borrowed and to make payments under lease
24 contracts. Except as provided in [section 28J.26](#), if there
25 remains, at the end of any fiscal year, a surplus of such funds
26 after providing for the above uses, the board shall pay such
27 surplus into the general funds of the political subdivisions
28 comprising the port authority as agreed to by the subdivisions.

29 Sec. 16. Section 28J.15, Code 2022, is amended to read as
30 follows:

31 **28J.15 Limitation on certain powers of political**
32 **subdivisions.**

33 A political subdivision creating or participating in the
34 creation of a port authority in accordance with [section 28J.2](#)
35 shall not, during the time the port authority is in existence,

1 exercise the rights and powers provided in chapters 28A, 28K,
2 and 384 relating to the political subdivision's authority over
3 a port, wharf, dock, harbor, or other facility substantially
4 similar to that political subdivision's authority under a port
5 authority granted under this chapter, except as provided in
6 section 28J.2.

7 Sec. 17. Section 28J.16, subsection 1, paragraphs a and c,
8 Code 2022, are amended to read as follows:

9 a. A port authority may charge, alter, and collect ~~rental~~
10 rents, fees, or other charges or revenues for the use or
11 services of any port authority facility and contract for the
12 use or services of a facility, and fix the terms, conditions,
13 ~~rental rents, fees, or other charges~~ for the use or services.

14 c. ~~The rental rents, fees, or other charges, and other~~
15 revenues of a port authority shall not be subject to
16 supervision or regulation by any other authority, commission,
17 board, bureau, or governmental agency of the state and the
18 contract may provide for acquisition of all or any part of
19 the port authority facility for such consideration payable
20 over the period of the contract or otherwise as the port
21 authority determines to be appropriate, but subject to the
22 provisions of any resolution authorizing the issuance of port
23 authority revenue bonds, loan agreements, lease contracts,
24 or certificates of participation in or other participatory
25 interests or evidences of any obligations under a loan
26 agreement or lease contract, or of any trust agreement securing
27 the bonds, loan agreements, lease contracts, or certificates of
28 participation in or other participatory interests or evidences
29 of any obligation under a loan agreement or lease contract.

30 Sec. 18. Section 28J.16, subsection 2, paragraph a, Code
31 2022, is amended to read as follows:

32 a. A governmental agency may cooperate with the port
33 authority in the acquisition, operation, or construction of a
34 port authority facility and shall enter into such agreements
35 with the port authority as may be appropriate, which shall

1 provide for contributions by the parties in a proportion as may
2 be agreed upon and other terms as may be mutually satisfactory
3 to the parties including the authorization of the construction
4 of the facility by one of the parties acting as agent for all
5 of the parties and the ownership, operation, and control of
6 the facility by the port authority to the extent necessary or
7 appropriate.

8 Sec. 19. Section 28J.17, subsection 1, paragraph a, Code
9 2022, is amended to read as follows:

10 a. A port authority may enter into a contract or other
11 arrangement with a person, railroad, utility company,
12 corporation, governmental agency including sewerage, drainage,
13 conservation, conservancy, or other improvement districts in
14 this or other states, or the governments or agencies of foreign
15 countries as may be necessary or convenient for the exercise
16 of the powers granted by **this chapter**. The port authority
17 may purchase, lease, or acquire land or other property in
18 any county of this state and in adjoining states for the
19 accomplishment of authorized purposes of the port authority, or
20 for the improvement of ~~the harbor and port~~ authority facilities
21 over which the port authority may have jurisdiction including
22 development of port authority facilities in adjoining states.
23 The authority granted in **this section** to enter into contracts
24 or other arrangements with the federal government includes the
25 power to enter into any contracts, arrangements, or agreements
26 that may be necessary to hold and save harmless the United
27 States from damages due to the construction and maintenance by
28 the United States of work the United States undertakes.

29 Sec. 20. Section 28J.19, Code 2022, is amended to read as
30 follows:

31 **28J.19 Property tax exemption.**

32 A port authority shall be exempt from and shall not be
33 required to pay taxes on real property that is purchased by a
34 port authority or real property belonging to a port authority
35 that is used exclusively for an authorized purpose, as provided

1 in section 427.1, subsection 34.

2 Sec. 21. NEW SECTION. 28J.21A Loan agreements — lease
3 contracts — trust agreements.

4 1. *Definitions.* As used in this section, unless the context
5 otherwise requires:

6 a. "*Lease contract*" includes any certificates of
7 participation or other participatory interests in the lease
8 contract or obligations arising out of the lease contract.

9 b. "*Loan agreement*" includes any notes, certificates, or any
10 other participatory interests issued to evidence the parties'
11 obligations arising out of the loan agreement.

12 2. *Loan agreements.* A port authority may enter into loan
13 agreements to borrow money to pay the costs of any facility, or
14 parts thereof, or to refund other obligations which are payable
15 from the net revenues of the port authority at lower, the same,
16 or higher rates of interest in accordance with the all of the
17 following terms and procedures:

18 a. A loan agreement entered into by a port authority may
19 contain provisions similar to those in loan agreements between
20 private parties, including but not limited to any of the
21 following:

22 (1) The loan agreement may provide for the issuance
23 of notes, certificates of participation, or any other
24 participatory interests to evidence the parties' obligations.

25 (2) The loan agreement may provide for maturity in one or
26 more installments.

27 (3) The loan agreement may be in registered form and carry
28 registration and conversion privileges.

29 (4) The loan agreement may be payable as to principal and
30 interest at times and places as specified.

31 (5) The loan agreement may be subject to terms of redemption
32 prior to maturity with or without a premium.

33 (6) The loan agreement may be in one or more denominations.

34 b. A provision of a loan agreement which stipulates that
35 a portion of the payments be applied as interest is subject

1 to chapter 74A and such interest may be at a variable rate or
2 rates changing from time to time in accordance with a base or
3 formula. Other laws relating to interest rates do not apply
4 and the provisions of chapter 75 are not applicable.

5 *c.* The board may authorize a loan agreement to be
6 payable solely from the net revenues of a port authority by
7 substantially following the authorization procedures of section
8 28J.21 for the issuance of revenue bonds. The resolution
9 authorizing the loan agreement may also prescribe additional
10 provisions, terms, conditions, and covenants that the port
11 authority deems advisable, consistent with this chapter,
12 including provisions for creating and maintaining reserve
13 funds and for the authorization of additional loan agreements
14 ranking on a parity with such loan agreements and additional
15 loan agreements junior and subordinate to such loan agreement,
16 and that such loan agreement shall rank on a parity with or
17 be junior and subordinate to any loan agreement which may be
18 then outstanding. A port authority loan agreement shall be
19 a contract between the port authority and the lender and the
20 resolution shall be made part of the contract.

21 *d.* A loan agreement to which a port authority is a party
22 is an obligation of the political subdivisions comprising the
23 port authority for the purposes of chapters 502 and 636, and
24 is a lawful investment for any bank, trust company, savings
25 association, deposit guaranty association, investment company,
26 insurance company, insurance association, executor, guardian or
27 trustee, and any fiduciary responsible for the investment of
28 funds or having charge of the loan retirement funds or sinking
29 funds of any port authority, governmental agency, or taxing
30 district of this state, any pension and annuity retirement
31 system, the Iowa public employees' retirement system, the
32 police officers and fire fighters retirement systems under
33 chapters 410 and 411, or a revolving fund of a governmental
34 agency of this state, and are acceptable as security for the
35 deposit of public funds under chapter 12C.

1 3. *Lease contracts.* A port authority may enter into lease
2 contracts for real or personal property comprising a port
3 authority facility, or parts thereof, in accordance with all of
4 the following terms and procedures:

5 *a.* A port authority shall lease property only for a term
6 which does not exceed the economic life of the property, as
7 determined by the board.

8 *b.* A lease contract entered into by a port authority may
9 contain provisions similar to those found in lease contracts
10 between private parties, including but not limited to any of
11 the following:

12 (1) The lease contract may provide for the issuance of
13 certificates of participation or other participatory interests
14 in the lease contracts or any obligations thereunder.

15 (2) The lease contract may provide for the lessee to pay any
16 of the costs of operation or ownership of the leased property
17 and for the right to purchase the leased property.

18 *c.* A provision of a lease contract which stipulates that a
19 portion of the rent or lease payments be applied as interest
20 is subject to the provisions of chapter 74A and such interest
21 may be at a variable rate or rates changing from time to time
22 in accordance with a base or formula. Other laws relating to
23 interest rates shall not apply and the provisions of chapter
24 75 are not applicable.

25 *d.* The board may authorize a lease contract payable solely
26 from the net revenues of a port authority by substantially
27 following the authorization procedures set forth in section
28 28J.21 for the issuance of port authority revenue bonds. The
29 resolution authorizing the lease contract may also prescribe
30 additional provisions, terms, conditions, and covenants which
31 the port authority deems advisable, consistent with this
32 chapter, including provisions for creating and maintaining
33 reserve funds and the authorization of additional lease
34 contracts ranking on a parity with such lease contracts and
35 additional lease contracts junior and subordinate to such lease

1 contracts, and that such lease contracts shall rank on a parity
2 with or be junior and subordinate to any lease contract which
3 may be then outstanding. A port authority lease contract shall
4 be a contract between the port authority and the lessor and the
5 resolution shall be part of the contract.

6 e. A lease contract to which a port authority is a party
7 is an obligation of the political subdivisions comprising the
8 port authority for the purposes of chapters 502 and 636, and
9 is a lawful investment for any bank, trust company, savings
10 association, deposit guaranty association, investment company,
11 insurance company, insurance association, executor, guardian or
12 trustee, and any fiduciary responsible for the investment of
13 funds or having charge of the lease retirement funds or sinking
14 funds of any port authority, governmental agency or taxing
15 district of this state, any pension and annuity retirement
16 system, the Iowa public employees' retirement system, the
17 police officers and fire fighters retirement systems under
18 chapters 410 and 411, or a revolving fund of a governmental
19 agency of this state, and are acceptable as security for the
20 deposit of public funds under chapter 12C.

21 f. A contract for construction by a private party of
22 property to be leased by a port authority is not a contract for
23 a public improvement and shall not be subject to the provisions
24 of chapter 26 and section 28J.3, subsection 3. This paragraph
25 applies to all contracts that are subject to this subsection,
26 notwithstanding section 28J.9, subsection 18, or any other
27 provision of law that might otherwise apply, including a
28 requirement of notice, competitive bidding or selection, or
29 for the provision of security. However, if a contract is
30 funded in advance by means of the lessor depositing moneys to
31 be administered by a port authority with the port authority's
32 obligation to make rent or lease payments commencing with
33 its receipt of moneys, a contract for construction of the
34 property in question awarded by the port authority is a public
35 improvement and is subject to the provisions of chapter 26.

1 4. *Trust agreements.*

2 a. In the discretion of the port authority, a loan agreement
3 or a lease contract authorized under this section and the port
4 authority's obligations thereunder may be secured by a trust
5 agreement between the port authority and a corporate trustee
6 that may be any trust company or bank having the powers of a
7 trust company within this or any other state. Subject to the
8 other provisions of this paragraph, the corporate trustee may
9 also be the lender under a loan agreement or the lessor under a
10 lease contract authorized under this section.

11 b. The trust agreement may provide for the issuance of
12 notes to evidence the port authority's obligations under a loan
13 agreement to which the port authority is a party. The trust
14 agreement may also provide for the issuance of certificates
15 of participation or other participatory interests in a lease
16 contract to which a port authority is a party. The trust
17 agreement, or any resolution authorizing the loan agreement or
18 the lease contract, may pledge or assign revenues of the port
19 authority to be received as payment of obligations under the
20 loan agreement or the lease contract and may contain provisions
21 for protecting and enforcing the rights and remedies of the
22 lender, the lessor, or the holders of notes evidencing the
23 port authority's obligations under the loan agreement. These
24 provisions may include covenants setting forth the duties of
25 the port authority in relation to the acquisition of property,
26 the construction, improvement, maintenance, repair, operation,
27 and insurance of the port authority facility in connection
28 with which the loan agreement or the lease contract is
29 authorized, the rentals or other charges to be imposed for the
30 use or services of any port authority facility, the custody,
31 safeguarding, and application of all moneys, and provisions for
32 the employment of consulting engineers in connection with the
33 construction or operation of any port authority facility.

34 c. A bank or trust company incorporated under the laws
35 of this state that acts as the depository of the proceeds or

1 borrowings provided under the loan agreement or lease contract
2 or of revenues, shall furnish any indemnifying bonds and may
3 pledge any securities that are required by the port authority.
4 The trust agreement may set forth the rights and remedies of
5 the lender, the lessor, or the holders of notes evidencing the
6 port authority's obligations under the loan agreement and may
7 restrict the individual right of action by the lender, the
8 lessor, or the holders of notes evidencing the port authority's
9 obligations under the loan agreement as is customary in trust
10 agreements or trust indentures securing similar loan agreements
11 or lease contracts. The trust agreement may contain any other
12 provisions that the port authority determines reasonable and
13 proper for the security of the lender, the lessor, or the
14 holders of notes evidencing the port authority's obligations
15 under the loan agreement. All expenses incurred in carrying
16 out the provisions of the trust agreement may be treated as
17 a part of the cost of the operation of the port authority
18 facility.

19 5. *Exclusions.* Port authority loan agreements and lease
20 contracts authorized under this chapter shall not constitute
21 a debt, indebtedness, or a pledge of the faith and credit of
22 the port authority or the state or any political subdivision
23 of the state, within the meaning of any state constitutional
24 provision or statutory limitation, nor constitute or give rise
25 to a pecuniary liability of the port authority, any political
26 subdivisions comprising the port authority, the state, or
27 any political subdivision of the state, or a charge against
28 the general credit or taxing power of the port authority.
29 Any political subdivisions comprising the port authority,
30 the state, or any political subdivision of the state, and
31 the holders or owners of the obligations owed under a loan
32 agreement or lease contract shall not have taxes levied by the
33 state or by a taxing authority of a governmental agency of the
34 state for the payment of the principal of or interest owed on
35 such obligations. However, a loan agreement or lease contract

1 and the obligation owed thereunder are payable solely from the
2 revenues and funds pledged for their payment as authorized
3 by this chapter. All loan agreements and lease contracts
4 authorized under this chapter and the evidence of obligations
5 owed under such loan agreements or lease contracts such shall
6 contain a statement to the effect that the loan agreement or
7 lease contract authorized under this chapter and the evidence
8 of obligations owed under the loan agreement or lease contract,
9 as to both principal and interest, are not debts of the port
10 authority or the state or any political subdivision of the
11 state, but are payable solely from revenues and funds pledged
12 for their payment.

13 6. *Judicial proceedings.*

14 a. The sole remedy for a breach or default of a term of
15 any port authority loan agreement or lease contract authorized
16 under this chapter is a proceeding in law or in equity by
17 suit, action, or mandamus to enforce and compel performance of
18 the duties required by this chapter and of the terms of the
19 resolution authorizing the loan agreement or lease contract,
20 or to obtain the appointment of a receiver to take possession
21 of and operate the port authority and to perform the duties
22 required by this chapter and the terms of the resolution
23 authorizing the loan agreement or lease contract.

24 b. An action shall not be brought after fifteen days from
25 the time the loan agreement or lease contract is authorized by
26 the port authority with regards to any of the following:

27 (1) The legality of the port authority loan agreement or
28 lease contract.

29 (2) The power of a port authority to authorize the port
30 authority loan agreement or lease contract.

31 (3) The effectiveness of any proceedings relating to the
32 authorization of the port authority loan agreement or lease
33 contract.

34 Sec. 22. Section 28J.25, Code 2022, is amended to read as
35 follows:

1 **28J.25 Funds and property held in trust — use and deposit of**
2 **funds.**

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

27 Sec. 23. Section 28J.26, subsection 1, Code 2022, is amended
28 to read as follows:

29 1. If a port authority has surplus funds after making all
30 deposits into all funds required by the terms, covenants,
31 conditions, and provisions of outstanding revenue bonds, pledge
32 orders, loan agreements, or lease contracts and refunding bonds
33 which are payable from the revenues of the port authority
34 and after complying with all of the requirements, terms,
35 covenants, conditions, and provisions of the proceedings and

1 resolutions pursuant to which revenue bonds, pledge orders,
2 and refunding bonds are issued or the loan agreement or lease
3 contract is authorized, the board may transfer the surplus
4 funds to any other fund of the port authority in accordance
5 with this chapter and chapter 12C, provided that a transfer
6 shall not be made if it conflicts with any of the requirements,
7 terms, covenants, conditions, or provisions of a resolution
8 authorizing the issuance of revenue bonds, pledge orders,
9 or other obligations ~~which are~~ or loan agreements or lease
10 contracts payable from the revenues of the port authority which
11 are then outstanding.

12 Sec. 24. Section 427.1, subsection 34, Code 2022, is amended
13 to read as follows:

14 34. *Port authority property.* The property of a port
15 authority created pursuant to section 28J.2, when devoted to
16 public use and not held for pecuniary profit, or property
17 purchased by a port authority.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 This bill relates to the powers and duties of port
22 authorities.

23 Under Code chapter 28J, the bill modifies the defined
24 terms "authorized purposes", "city", "cost", "facility" or
25 "port authority facility", "governmental agency", "political
26 subdivision", "political subdivisions comprising the port
27 authority", "port authority revenue bonds" or "revenue bonds",
28 and "revenues". The bill creates and defines the terms "net
29 revenues" and "public works project".

30 The bill allows for the creation of a port authority by one
31 or more political subdivisions, rather than by two or more
32 political subdivisions. The bill provides for the creation of
33 a port authority anywhere in this state regardless of proximity
34 to a body of water. The bill also provides that a port
35 authority is an entity separate from the political subdivisions

1 comprising the port authority. The powers granted to the
2 port authority may be exercised whether or not the political
3 subdivisions comprising the port authority may exercise those
4 same powers.

5 The bill provides that the political subdivisions
6 comprising the port authority may make contributions to the
7 port authority, in addition to appropriating or expending
8 public funds as set forth in current law, to finance or
9 subsidize the operation and authorized purposes of the port
10 authority, and pay the costs and expenses incurred by the
11 port authority in carrying out any operations or authorized
12 purposes of the port authority. Under the bill, political
13 subdivisions comprising the port authority are allowed to
14 enter into agreements with each other or the port authority
15 providing for the contributions to the port authority to be
16 made by each of the political subdivisions and providing for
17 the obligations of each of the political subdivisions to pay,
18 finance, or subsidize the costs and expenses incurred by the
19 port authority.

20 The bill makes conforming changes to Code section 28J.5
21 relating to the membership of the board of directors of a port
22 authority created by one political subdivision. The bill
23 further provides that any political subdivisions comprising the
24 port authority may appoint a successor for the remaining term
25 of a removed director.

26 The bill modifies the powers of a port authority as it
27 relates to its property regardless of whatever the property is
28 within or outside the territory of the political subdivisions
29 comprising the port authority if in furtherance of any
30 authorized purpose. The bill further allows a port authority
31 to enter into loan agreements and lease contracts, as provided
32 for in the bill, and to exercise the same powers granted to
33 cities under Code chapters 28F (joint financing of public works
34 and facilities) and 384 (city finance).

35 The bill allows a port authority to use its revenues for

1 principal on borrowed money and payments under lease contracts.
2 The bill further provides that a contract regarding rentals or
3 charges for use of services of a port authority may provide
4 for acquisition of the port authority facility subject to the
5 provisions of any resolution authorizing the issuance of port
6 authority revenue bonds, loan agreements, lease contracts, or
7 any trust agreement securing such bonds, loan agreements, or
8 lease contracts.

9 The bill allows a governmental agency to cooperate with the
10 port authority in the operation of a port authority facility.

11 The bill provides that real property that is purchased by a
12 port authority is not subject to certain property taxes.

13 Under the provisions of the bill, a port authority may enter
14 into certain loan agreements and lease contracts. A port
15 authority may enter into loan agreements to borrow money to
16 pay the costs of any facility, or parts thereof, or to refund
17 other obligations which are payable from the net revenues of
18 the port authority at lower, the same, or higher rates of
19 interests. A port authority may enter into lease contracts
20 for real or personal property comprising a port authority
21 facility, but can only lease property for a term that does not
22 exceed the economic life of the property. The bill details
23 certain provisions similar to those in loan agreements and
24 lease contracts between private parties that a loan agreement
25 or lease contract entered into by a port authority may contain.
26 The bill provides certain conditions for when a loan agreement
27 or lease contract stipulates that a portion of the payments
28 be applied as interest. The board of a port authority can
29 authorize a loan agreement or lease contract, along with
30 prescribing additional terms and provisions, by resolution and
31 such resolution becomes part of the loan agreement or lease
32 contract. A loan agreement or lease contract in which a port
33 authority is a party is an obligation of political subdivisions
34 comprising the port authority. A contract for construction by
35 a private party of property to be leased by a port authority

1 is not a contract for public improvement, except under certain
2 conditions.

3 The bill authorizes loan agreements or lease contracts to be
4 secured by a trust agreement between the port authority and a
5 corporate trustee, and further provides how the trust agreement
6 functions.

7 The bill provides that loan agreements and lease contracts
8 authorized by the bill do not constitute a debt, indebtedness,
9 or a pledge of faith and credit of the port authority or of
10 the state or any political subdivisions of the state nor do
11 any such agreements give rise to pecuniary liability as to
12 these entities or act as a charge against the general credit
13 or taxing power of the port authority. The bill provides that
14 any political subdivisions comprising the port authority, the
15 state, or any political subdivisions of the state, and the
16 holders or owners of obligations owed under a loan agreement
17 or lease contract cannot have taxes levied by the state or
18 by a taxing authority of a governmental agency of the state
19 for the payment of the principal of or interest owed on such
20 obligations.

21 Under the bill, the sole remedy for a breach or default of
22 any port authority loan agreement or lease contract authorized
23 by the bill is a proceeding in law or in equity to enforce and
24 compel performance of required duties and the terms of the
25 resolution authorizing the loan agreement or lease contract,
26 or to obtain the appointment of a receiver to take possession
27 and operate the port authority to perform the required duties
28 and terms. An action cannot be brought after 15 days from the
29 time the loan agreement or lease contract is authorized by the
30 port authority if the action regards the legality of the loan
31 agreement or lease contract, the power of the port authority
32 to authorize the loan agreement or lease contract, or the
33 effectiveness of any proceeding relating to the authorization
34 of the loan agreement or lease contract.

35 The bill makes conforming changes to Code sections 28J.8,

S.F. _____

1 28J.11, 28J.15, 28J.17, 28J.25, and 28J.26.