

**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.