DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2008 session. The unannotated South Carolina Code, consisting only of Code text and numbering, may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify Legislative Printing, Information and Technology Systems at LPITS@scstatehouse.net regarding any apparent errors or omissions in content of Code sections on this website, in which case LPITS will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 3.

 SOUTH CAROLINA STATE PORTS AUTHORITY

ARTICLE 1.

 CREATION AND ORGANIZATION

**SECTION 54‑3‑10.** Creation and membership of State Ports Authority.

The South Carolina State Ports Authority is hereby created consisting of a governing body of nine members, hereafter referred to as the Authority.

**SECTION 54‑3‑20.** Appointment and terms of members; vacancies.

The members of the board shall be appointed by the Governor, with the advice and consent of the Senate, for terms of seven years each and until their successors shall have been appointed and have qualified. In the event of a vacancy, however caused, a successor shall be appointed in the manner of original appointment for the unexpired term.

**SECTION 54‑3‑30.** Organization; officers; meetings.

They shall elect one of their number as chairman and one as vice‑chairman and shall also elect a secretary. The board shall meet upon the call of its chairman and a majority of its members shall constitute a quorum for the transaction of its business.

**SECTION 54‑3‑40.** Treasurer.

The Authority shall select one of its members to serve as its treasurer. The Authority shall require a surety bond of such appointee in such amount as the Authority may fix and the premium thereon shall be paid by the Authority as a necessary expense of the Authority.

ARTICLE 3.

 PURPOSES AND POWERS GENERALLY

**SECTION 54‑3‑110.** State may improve harbors and seaports through Authority.

Through the Authority the State may engage in promoting, developing, constructing, equipping, maintaining and operating the harbors or seaports within the State, namely Charleston, Georgetown and Port Royal, and works of internal improvement incident thereto, including the acquisition or construction, maintenance and operation at such seaports of harbor watercraft and terminal railroads, as well as other kinds of terminal facilities, and belt line roads or highways and bridges thereon and other bridges and causeways necessary or useful in connection therewith.

**SECTION 54‑3‑120.** Jurisdiction of Authority.

The jurisdiction of the Authority in any of said harbors or seaports within the State shall extend over the waters and shores of such harbors or seaports and over that part of all tributary streams flowing into such harbors or seaports in which the tide ebbs and flows and shall extend to the outer edge of the outer bar at such harbors or seaports.

**SECTION 54‑3‑130.** Purposes of Authority.

The Authority is created as an instrumentality of the State for the accomplishment of the following general purposes, all or any of them, which are intended to broaden and not to restrict any other powers given to it in this chapter, namely:

(1) To develop and improve the harbors or seaports of Charleston, Georgetown and Port Royal for the handling of water‑borne commerce from and to any part of the State and other states and foreign countries;

(2) To acquire, construct, equip, maintain, develop and improve such harbors or seaports and their port facilities;

(3) To foster and stimulate the shipment of freight and commerce through such ports, whether originating within or without the State, including the investigation and handling of matters pertaining to all transportation rates and rate structures affecting the same;

(4) To cooperate with the United States of America, and any agency or any department, corporation or instrumentality thereof in the maintenance, development, improvement and use of such harbors and seaports in connection with and in furtherance of the war operations and needs of the United States;

(5) To accept funds from any of the counties of Beaufort, Charleston or Georgetown, and to use them in such manner, within the purposes of the Authority, as shall be stipulated by the county and to act as agent or instrumentality for any of such counties in any matter coming within the general purposes of the Authority;

(6) To act as agent for the United States of America or any agency, department, corporation or instrumentality thereof, in any matter coming within the purposes or powers of the Authority;

(7) To cooperate and act as co‑assurer with the city of Augusta, Georgia, and the Georgia State Ports Authority in furtherance of the river development project known as the Savannah River Project Below Augusta;

(8) To promote, develop, construct, equip, maintain and operate a harbor or harbors within this State on the Savannah River, and in furtherance thereof have all of the powers, purposes and authority given by law to the Authority in reference to the harbors and seaports of Charleston, Georgetown and Port Royal; and

(9) In general to do and perform any act or function which may tend to or be useful toward the development and improvement of such harbors and seaports of this State and to the increase of water‑borne commerce, foreign and domestic, through such harbors and seaports.

**SECTION 54‑3‑140.** Powers of Authority.

In order to enable it to carry out the purposes of this chapter, the Authority:

(1) Shall have the powers of a body corporate, including the power to sue and be sued, to make contracts and to adopt and use a common seal and alter it as may be deemed expedient;

(2) May rent, lease, buy, own, acquire, mortgage and dispose of such property, real or personal, as the Authority may deem proper to carry out the purposes and provisions of this chapter, all or any of them;

(3) May acquire, construct, maintain, equip and operate wharves, docks, ships, piers, quays, elevators, compresses, refrigeration storage plants, warehouses and other structures and any and all facilities needful for the convenient use of the same in the aid of commerce, including the dredging of approaches thereto and the construction of belt line roads and highways and bridges and causeways thereon and other bridges and causeways necessary or useful in connection therewith and shipyards, shipping facilities and transportation facilities incident thereto and useful or convenient for the use thereof, including terminal railroads;

(4) May acquire, construct, maintain, operate and contract to operate in any of said counties airports, seaplane bases, naval bases and any other facilities necessary or useful in carrying out the purposes of this chapter and of the Authority;

(5) Shall appoint and employ and dismiss at pleasure such employees as may be selected by the board of the Authority and fix and pay the compensation thereof;

(6) Shall establish an office for the transaction of its business in the city of Charleston and such other offices within and without the State as may be deemed by the board to be necessary or useful in carrying out the purposes of this chapter;

(7) May create and operate such agencies and departments as the board may deem necessary or useful for the furtherance of any of the purposes of this chapter;

(8) May pay all necessary costs and expenses involved in and incident to the formation and organization of the Authority and incident to the administration and operation thereof and all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this chapter;

(9) May apply for and accept loans and grants of money from any Federal agency for any and all of the purposes authorized in this chapter and expend such moneys in accordance with the directions and requirements attached thereto or imposed thereon by any such Federal agency and give such evidences of indebtedness as shall be required by any such Federal agency, except that no indebtedness of any kind incurred or created by the Authority shall constitute an indebtedness of the State, or any political subdivision thereof, and no such indebtedness shall involve or be secured by the faith, credit or taxing power of the State, or any political subdivision thereof;

(10) May act as agent for the United States of America or any agency, department, corporation or instrumentality thereof, in any matter coming within the purposes or powers of the Authority;

(11) May adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted and in which the powers granted to it may be enjoyed and may provide for the appointment of such committees, and the functions thereof, as the Authority may deem necessary or expedient in facilitating its business;

(12) May do any and all other acts and things in this chapter authorized or required to be done, whether or not included in the general powers in this section mentioned;

(13) May do any and all things necessary to accomplish the purposes of this chapter; and

(14) May promulgate rules and regulations governing the use of or doing business on the Authority’s property or facilities, including the adoption of safety standards and insurance coverage or proof of financial responsibility, and may provide for the licensing of persons, firms or corporations using or doing business on such property or facilities, and for license fees to cover the expense thereof. Licenses may be revoked after notice and hearing by the Authority for wilful breach of or failure to comply with such rules and regulations.

But the Authority shall not engage in shipbuilding except upon the unanimous vote of its members.

**SECTION 54‑3‑150.** Acquisition of property.

For the acquiring of rights‑of‑way and property necessary for the construction of terminal railroads and structures, including railroad crossings, airports, seaplane bases, naval bases, wharves, piers, ships, docks, quays, elevators, compresses, refrigerator storage plants, warehouses, and other riparian and littoral terminals and structures and approaches to them and transportation facilities needful for their convenient use and belt line roads and highways, causeways, and bridges and other bridges and causeways, and for the acquiring of property necessary for the river development project known as the Savannah River Project Below Augusta, and for the acquiring of property necessary for the development of a harbor or harbors within this State on the Savannah River, the Authority may purchase them by negotiation or may condemn them. The power of eminent domain shall apply not only to all property of private persons or corporations but also as to property already devoted to public use.

**SECTION 54‑3‑160.** Powers with respect to certain property.

The Authority may exercise in reference to any property, assets, holdings, leases, contracts, rights, franchises or licenses conveyed to it under Section 1 of Act No. 216 of 1945 (Acts 1945, p 365) all of the rights, privileges, powers, immunities, duties and functions conferred by Sections 54‑5‑10, 54‑5‑60, 54‑5‑80, 54‑5‑90 and Sections 5‑35‑10 to 5‑35‑40 upon cities of this State having a population of fifty thousand inhabitants or more and upon port utilities commissions of such cities.

**SECTION 54‑3‑170.** Use of certain State property.

The Authority may take, exclusively occupy, use and possess, in so far as may be necessary for carrying out the provisions of this chapter, any areas of land owned by the State and within the counties of Beaufort, Charleston and Georgetown, not in use for State purposes, including swamps and overflowed lands, bottoms of streams, lakes, rivers, bays, the sea and arms thereof and other waters of the State and the riparian rights thereto pertaining. When so taken and occupied, due notice of such taking and occupancy having been filed with the Secretary of State, such areas of land are hereby granted to and shall be the property of the Authority. For the purposes of this section, the meaning of the term “use” shall include the removal of material from and the placing of material on any such land. In case it shall be held by any court of competent jurisdiction that there are any lands owned by the State which may not be so granted, then the provisions of this section shall continue in full force and effect as to all other lands owned by the State. The provisions of this section are subject to all laws and regulations of the United States with respect to navigable waters.

**SECTION 54‑3‑180.** Exchange of property; removal of structures.

The Authority may exchange any property acquired under the authority of this chapter for other property usable in carrying out the powers hereby conferred and also may remove from lands needed for its purposes and reconstruction on other locations, buildings, terminals, railroads or other structures upon the payment of just compensation, if, in its judgment, it is necessary or expedient so to do in order to carry out any of its plans for port development, under the authorization of this chapter.

**SECTION 54‑3‑190.** Lease or grant of property to United States; reimbursing United States for certain acquisition costs.

The board of the Authority may assign, transfer, lease, convey, grant or donate to the United States of America, or to the appropriate agency or department thereof, any or all of the property of the Authority for any use by such grantee for any purpose included within the general purposes of this chapter, as stated in Section 54‑3‑130, such assignment, transfer, lease, conveyance, grant or donation to be upon such terms as the board of the Authority may deem advisable. In the event the United States of America should decide to undertake the acquisition, construction, equipment, maintenance or operation of the airports, seaplane bases, naval bases, wharves, piers, ships, refrigerator storage plants, warehouses, elevators, compresses, docks, shipyards, shipping and transportation facilities before referred to, including terminal railroads, roads, highways, causeways or bridges, and should itself decide to acquire the lands and properties necessarily needed in connection therewith by condemnation or otherwise, the board of the Authority may transfer and pay over to the United States of America, or to the appropriate agency or department thereof, such of the moneys belonging to the Authority as may be found needed or reasonably required by the United States of America to meet and pay the amount of judgments or condemnation, including costs, if any be taxed thereon, as may from time to time be rendered against the United States of America, or its appropriate agency, or as may be reasonably necessary to permit and allow the United States of America, or its appropriate agency, to acquire and become possessed of such lands and properties as are reasonably required for the construction and use of the facilities before referred to.

**SECTION 54‑3‑200.** Acquisition and operation of terminal railroads.

The Authority may acquire, own, lease, locate, install, construct, equip, hold, maintain, control and operate at harbors and seaports a line of terminal railroads with necessary sidings, turnouts, spurs, branches, switches, yard tracks, bridges, trestles and causeways and in connection therewith or appurtenant thereto may further lease, install, construct, acquire, own, maintain, control and use any and every kind or character of motive power and conveyance or appliance necessary or proper to carry passengers, goods, wares and merchandise over, along or upon the tracks of such railroads or other conveyances.

**SECTION 54‑3‑210.** Contracts with railroad employees.

The Authority may make agreements as to the scale of wages, seniority and working conditions with locomotive engineers, locomotive firemen, switchmen and switch engine foremen and hostlers engaged in the operation of the terminal railroads provided for in Section 54‑3‑200 and the service and equipment pertinent thereto. And should the Authority exercise the power herein given then the Authority shall make such agreements with such employees in accordance with the act of Congress known as the Railway Labor Act (USC Title 45, Sections 151‑163) as amended or as hereafter amended to the end that such agreements as to seniority and working conditions will obtain as to such employees and the standard rate of pay be provided as is in force relative to like employees of interstate railroads operating in the same territory with the terminal railroads authorized hereby.

**SECTION 54‑3‑220.** Connecting with or crossing other railroads.

The Authority may with its terminal railroads connect with or cross any other railroad upon the payment of just compensation and receive, deliver to and transport the freight, passengers and cars of common carrier railroads as though it were an ordinary common carrier.

**SECTION 54‑3‑230.** Foreign‑trade zones.

The South Carolina State Ports Authority is authorized to make application to the Foreign‑Trade Zones Board for the purpose of establishing, operating, and maintaining foreign‑trade zones in the State, under the act of Congress known as the Foreign‑Trade Zones Act which provides for the establishment, operation and maintenance of foreign‑trade zones in the United States.

The South Carolina State Ports Authority shall select and describe the location of the zones for which application may be made and shall make such rules and regulations concerning the operation, maintenance and policing of them as may be necessary to insure compliance with the Foreign‑Trade Zones Act and for other appropriate purposes.

The South Carolina State Ports Authority shall have full power and authority to erect, maintain and operate or lease any structures or buildings or enclosures as may be necessary or proper for the establishing, operating, and maintaining of any such foreign‑trade zones in the State of South Carolina.

The authority granted to the South Carolina State Ports Authority confers the right and duty and power to do all things necessary and proper to achieve compliance with the Foreign‑Trade Zone Act and to carry into effect the establishing, operating and maintaining of foreign‑trade zones within the State.

**SECTION 54‑3‑240.** Inland ports.

The South Carolina State Ports Authority is authorized to establish inland ports to provide services for the handling of general merchandise cargo; provided, however, that no such inland port shall be established unless it is designated as a United States Port of Entry by the United States Custom Service. The State Ports Authority shall select and describe the location of any such inland port and may erect, maintain and operate or lease any structure, building or enclosure as may be necessary for the establishment, operation and maintenance of any such port. The Authority shall make such rules and regulations and do such other things as may be necessary to carry out the purposes of this section.

**SECTION 54‑3‑245.** Seafood industrial port in Beaufort County.

In addition to the powers granted previously to the State Ports Authority, the Authority may construct, equip and operate a seafood industrial port in Beaufort County or it may contract with any agency or political subdivision of the State of South Carolina for any or all of these purposes.

**SECTION 54‑3‑250.** Inspection of motor vehicles prior to exportation.

No motor vehicle shall be exported to another country through the State Ports Authority unless the Authority has inspected the vehicle and determines that it is the same vehicle described on the documents required to be filed concerning the exportation of such vehicle.

**SECTION 54‑3‑260.** Construction of terminal or railroad on Daniel Island.

The authority must obtain the approval of the General Assembly prior to constructing a terminal or railroad on Daniel Island.

**SECTION 54‑3‑270.** Cooper River terminal facility environmental study and permitting; indemnification of Port Authority members for Cooper River Bridge funding.

(A) The State Ports Authority is required to begin environmental impact studies and other required actions in regard to the permitting process to locate new terminal facilities on the west bank of the Cooper River at locations it determines appropriate and with a capacity in conformance with available land at the proposed location or locations. If the locations identified are on real property not owned by the State Ports Authority, the authority is also authorized to begin the process of acquiring such property. Upon completion of the permitting process, the State Ports Authority shall render a report to the General Assembly concerning the new terminal facilities which shall include a request for any state funding necessary to complete the projects and the form such funding is requested to take. The State Ports Authority must provide the General Assembly with a summary of criteria developed for use in delineating the needs, requirements, and specifications of port expansion. The permit application must be drawn in a manner that is comprehensive, fair, and open to all sites available on the west bank of the Cooper River, based on their particular attributes, and may not exclude or prejudice artificially or unreasonably the acceptance of any site. This subsection does not authorize or allow State Ports Authority activity on the east bank of the Cooper River or the Wando side of Daniel Island except for use as dredge spoil disposal sites. This joint resolution does not constitute approval for the State Ports Authority required by Section 54‑3‑260 of the 1976 Code.

(B) The South Carolina Department of Transportation, the Public Railways Division of the Department of Commerce, and the State Infrastructure Bank are directed to explore all potential opportunities for federal funding of the infrastructure enhancements for port expansion on the western side of the Cooper River.

(C) The State shall take appropriate steps to provide indemnification to the State Ports Authority board members from any personal liability related to their service on the board in regard to funding provided to the South Carolina Transportation Infrastructure Bank for the Cooper River Bridge.

ARTICLE 5.

 SUPERVISION OF WHARVES, WAREHOUSES AND OTHER FACILITIES

**SECTION 54‑3‑410.** Authority shall have general supervision of wharves, warehouses and terminal facilities.

The Authority shall have general supervision in the port of Charleston of all wharves, warehouses and terminal facilities of all transmitting and transporting corporations and of all wharves, warehouses and terminal facilities of persons engaged in business as public warehousemen or wharfingers and shall examine them and keep itself informed as to their condition and the manner in which they are operated, with reference to the security and accommodation of the public and the compliance with all provisions of law applicable thereto.

**SECTION 54‑3‑420.** Examination of facilities.

The Authority may examine into all wharves, warehouses and terminal facilities, and the approaches thereto in Charleston County.

**SECTION 54‑3‑430.** Requiring repair or improvement of facilities.

Whenever in the judgment of the Authority it shall appear that repairs are necessary upon any such wharves, warehouses or terminal facilities or that any additions, improvements or enlargements in such wharves, warehouses or terminal facilities or any change in the mode of operating and constructing such business is reasonable and expedient in order to promote the security, convenience and accommodation of the public or to provide facilities required by the business offering at the port of Charleston, the Authority shall give information in writing to the owners or operators of such wharves, warehouses and terminal facilities of the improvements, changes, enlargements and betterments which it judges to be proper and if the owners or operators of such wharves, warehouses and terminal facilities shall fail within sixty days to adopt the suggestion of the Authority, the Authority shall take such legal proceedings as it may deem expedient.

**SECTION 54‑3‑440.** Authority may order improvements to facilities on petition.

Upon the written petition of the city council of Charleston or of any of the patrons of any person owning or operating a wharf, warehouse or terminal facility for public uses or for hire, alleging that the plant or equipment in Charleston County of such person is inadequate or unsuited to the public need, the Authority shall fix a time and place for a hearing upon such petition and shall mail notice thereof to the parties in interest and give due public notice thereof at least one week prior to such hearing. Upon such hearing the Authority may, if it finds the wharf, warehouse or terminal facility to be inadequate or unsuited to the public need, order and prescribe such wharf, warehouse or terminal facility as shall be adequate and suitable and fix a time within which such person owning or operating the same shall construct such additions or improvements. Such person shall thereupon construct such additions or improvements to its plant or equipment within the time so fixed.

**SECTION 54‑3‑450.** Unsafe or unsuitable facilities.

The owners or occupiers of any wharf, warehouse or terminal facility within Charleston County shall at all times, as long as such property is used for public purposes, keep it and the sheds thereon and the approaches thereto in proper condition and repair. If such wharf, warehouse, terminal facility, superstructures or the approaches thereto are dangerous to life or limb or unsafe or unsuitable for the persons using them, the Authority shall notify in writing the owner or occupier of such wharf, warehouse or terminal facility to put it in proper repair or condition. If the owner or occupier shall neglect or refuse to put such wharf, warehouse, terminal facility, superstructures or approaches in proper condition within thirty days after notice, such owner or occupier so offending shall be subject to a penalty of one hundred dollars and the further sum of ten dollars for each day such neglect shall continue and shall moreover pay all expense incurred by reason of such neglect or refusal. And if such wharf, warehouse or terminal facility be at such time used for public purposes, the Authority may repair and put it in safe and suitable condition at the expense of the owner or occupier. But the owner or occupier of any such property shall, within ten days after notice is served upon him to repair the same, have the right to apply to the Authority for a hearing.

**SECTION 54‑3‑460.** Penalties for violations of rules and regulations.

If any person having a wharf, warehouse or terminal facility used for public purposes in Charleston County shall be guilty of a violation of the rules and regulations provided and prescribed by the Authority, such person owning or operating such wharf, warehouse or terminal facility shall incur a penalty for each offense of not less than one hundred dollars nor more than three hundred dollars, to be fixed by the presiding judge. An action for the recovery of such penalty shall be in any court of competent jurisdiction in the State where such violation has occurred or wrong has been perpetrated.

**SECTION 54‑3‑470.** Appeals.

A person may appeal from an order, ruling, or requirement of the authority pursuant to this article to the Administrative Law Court as provided in Sections 1‑23‑380(B) and 1‑23‑600(D). The appeal shall stay the execution of an order, ruling, or requirement. No fines or penalties imposed by the authority are operative or commence to run until the final determination of the appeal.

**SECTION 54‑3‑480.** Article inapplicable to portions of Charleston County.

The provisions of this article shall not apply to any portion of Charleston County not included in the city of Charleston or in the portion of the county lying to the north of said city and between the Ashley and Cooper Rivers.

ARTICLE 7.

 ERECTION, REPAIRS AND REMOVAL OF WHARVES, DOCKS AND OTHER STRUCTURES

**SECTION 54‑3‑610.** Powers of Authority as to erection or removal of wharves, docks and other structures.

The Authority may fix the lines along the bay and harbor of Charleston and the rivers and creeks flowing therein within which riparian owners may erect wharves, docks and other proper erections and fixtures for commercial, manufacturing or any other purposes. The Authority may cause the removal of any wharf, dock, wreck or other structure that may obstruct navigation or that may, in its opinion, be injurious to said bay, harbor, rivers or creeks, at the expense of the owner or the person causing the obstructions. But the rights of any owner of a wharf whose lines have heretofore been fixed by grant or by authority of State legislation are in no wise to be disturbed.

**SECTION 54‑3‑620.** Permit for construction of wharf or other obstruction.

No person shall build or extend any wharf or other obstruction in or upon the waters of the bay or harbor of Charleston or the rivers or creeks flowing therein without first obtaining, in writing, from the Authority a permit for so doing, except when the lines of such wharf have been fixed by any grant or by authority of State legislation, under a penalty of twenty dollars for every day such wharf or obstruction shall remain.

**SECTION 54‑3‑630.** Penalty for building wharves or other obstructions beyond limits without authority.

No person shall build any wharf or other obstruction beyond the lines so fixed by the Authority except when the lines of such wharf have heretofore been fixed by grant or by authority of State legislation. Any person so doing shall pay the sum of twenty dollars for every such offense and shall moreover be fined in the sum of twenty dollars for every day such wharf or other obstruction shall remain.

**SECTION 54‑3‑640.** Duties of Authority as to repair of docks; owners liable for neglect.

The Authority shall examine, or cause to be examined, all the docks, public or private, upon the waters of Charleston bay and harbor and the rivers and creeks flowing therein. When it is the opinion of the Authority that any such dock is not in a proper condition for the purposes for which it was designed and used, it shall cause a notice to be served upon the owner or occupier of such dock and he shall deepen such dock and if such owner or occupier shall neglect or refuse to attend to such dock after thirty days’ notice, such person so offending shall forfeit and pay twenty dollars and the further sum of five dollars for every day he shall so neglect or refuse and shall, moreover, pay all expenses incurred by reason of such neglect or refusal.

**SECTION 54‑3‑650.** Authority shall prosecute for fines and penalties.

The Authority shall prosecute for fines and penalties under Sections 54‑3‑610 to 54‑3‑640.

ARTICLE 8.

 CESSATION OF MARINE TERMINAL OPERATIONS AT PORT ROYAL

**SECTION 54‑3‑700.** Cessation of marine terminal operations at Port Royal.

(A) Upon the effective date of this section:

(1) the State Ports Authority has no statutory responsibility to operate a marine terminal at Port Royal; and

(2) marine operations at Port Royal shall cease as soon as practicable.

(B) The State Ports Authority is hereby directed to sell all its real and personal property at Port Royal upon the effective date of this section, but in a manner that is financially responsible and advantageous to the State Ports Authority.

(C) The State Ports Authority shall, in its discretion, determine the manner of the sale, but in no event shall terms of the sale extend beyond December 31, 2006, except for parcels which may be under long‑term contract, in which case the South Carolina Ports Authority is directed to terminate such leases as soon as possible through “lease purchases,” “buy outs,” or any other lawful means.

(D) Any real or personal property at Port Royal which is to be sold must be first appraised and then sold at fair market value. The real property appraiser must be a State Certified General Real Estate Appraiser, a Member of the Appraisal Institute (MAI), and must be knowledgeable in appraisal and in appraising marine terminal facilities. The appraisal of the real property should include its future development opportunities and those of the surrounding properties. The sale of the real property shall comply with all state procedures, must be approved by the Budget and Control Board, must be on an open‑bid basis, and no bid may be accepted which is less than the property’s fair market value as shown by the appraisal. All proceeds from the sale of real and personal property at Port Royal must be retained by the State Ports Authority; provided, however, that the Town of Port Royal shall have the right to petition the Budget and Control Board for a portion of the net proceeds from any sale and may be allocated a portion of these net proceeds in an amount not to exceed five percent of the net proceeds upon showing the allocation is necessary to pay for infrastructure needs directly associated with and necessitated by the closing of the port as Port Royal. These funds must be expended at the direction of the Town Council of Port Royal with the approval of the Budget and Control Board, solely for the infrastructure, and shall have priority over all other expenditures except usual and necessary closing costs attributable to any sales contracts.

ARTICLE 9.

 PARTICULAR POWERS AS TO HARBOR AND BAY OF CHARLESTON

**SECTION 54‑3‑810.** Jurisdiction and powers of Authority over harbor and bay of Charleston.

The South Carolina State Ports Authority shall have jurisdiction over the harbor and bay of Charleston and the rivers and creeks flowing therein, may preserve peace and good order in said bay and harbor and shall make such regulations as it may see fit, not repugnant to the laws of the land, for the regulation and government of vessels entering said port and waters so as to provide for their safe and convenient use thereof and for the protection and preservation of said bay, harbor, rivers and creeks from injury by means of deposit of ballast and other materials, the creation of obstructions or for any other cause whatsoever, with authority to prescribe such penalties for the violation of such regulations as it may deem adequate; provided, that such penalty shall not exceed the sum of five hundred dollars for each offense, together with the expense of removing such obstructions or interferences with navigation. The solicitor of the circuit shall enforce such penalties upon the information and at the request of the Authority.

**SECTION 54‑3‑820.** Deposit of excavated material.

When any dredging or excavation shall be done in said bay and harbor or rivers and creeks or the docks thereon, the material excavated shall be deposited only at such place or places as may be designated by the Authority, under such penalty not exceeding the amount prescribed in Section 54‑3‑810, as the Authority shall prescribe. The Authority shall prosecute for fines and penalties under this section.

**SECTION 54‑3‑830.** Harbor master and port wardens.

The Authority may elect or appoint annually a harbor master and such number of port wardens as in its discretion is necessary for the bay and harbor of Charleston and the rivers and creeks flowing therein and may define and assign the duties of such harbor master and port wardens under the rules and regulations for the government of vessels within or entering into said harbor and waters, or any of them, and for their safe and convenient use of said waters and may regulate their compensation, with power to remove them, or any of them, at its discretion.

**SECTION 54‑3‑840.** Fees and harbor or port charges.

The Authority may levy and collect from all vessels entering into and using the port of Charleston such fees and harbor or port charges, not inconsistent with the law, as, in its discretion, may be necessary to pay the harbor master and port wardens for the services required of them and to defray the necessary expenses attendant upon the execution of the duties devolved upon it under this article in relation to the regulations for the safety and convenience of vessels entering said port and waters, or any of them.

**SECTION 54‑3‑850.** Payment and disbursement of fees, harbor or port charges, fines and penalties.

All fees, harbor or port charges, fines and penalties collected under the provisions of this article shall be paid over to the Authority and be disbursed by it in paying the salaries of the harbor master and port wardens and such other officers as it may see fit to appoint to facilitate the discharge of the duties imposed by this article and such other expenses as may be incident to such duties. At the end of each fiscal year it shall keep on hand the sum of five thousand dollars as an operating fund, and shall turn over all funds in excess of five thousand dollars to the State port construction fund.

**SECTION 54‑3‑860.** Authority shall report annually to General Assembly.

The Authority shall annually report to the General Assembly the amounts received for fees, harbor or port charges, fines and penalties and the disbursement thereof and also generally its acts and doings under this article.

ARTICLE 11.

 FINANCIAL MATTERS

**SECTION 54‑3‑1010.** Issuance of bonds.

As a means of raising the funds needed from time to time in the acquisition, construction, equipment, maintenance and operation of any facility, building structure, terminal railroad or any other matter or thing which the Authority is herein authorized to acquire, construct, equip, maintain or operate, all or any of them, the Authority may issue bonds, payable both as to principal and interest from the revenues to be derived from the operation of all or any part of its properties and facilities, and the powers and authority granted to counties, cities, school districts and other political subdivisions of the State are hereby extended to and made available to the Authority. All revenue bonds issued by the Authority to obtain funds for the acquisition, construction, equipment, maintenance and operation of its properties and facilities shall be issued in accordance with the provisions of Sections 6‑21‑10 to 6‑21‑570 and all conditions, restrictions and limitations imposed by said Sections 6‑21‑10 to 6‑21‑570 as amended, shall be observed by the Authority in the issuance of such bonds, except as follows:

(1) A pledge of the net revenues derived from the operation of its properties and facilities, all or any of them, rather than its gross revenues, may be made; and

(2) Free service may, in the discretion of the Authority, be afforded to the United States of America, or any agency, department, corporation or instrumentality thereof, by any property or facility of the Authority to acquire, construct, equip, maintain and operate which funds were obtained from the revenue bonds purchased and held by a Federal agency, provided such free service is with the consent and at the request of the Federal agency then holding the whole of such revenue bonds.

**SECTION 54‑3‑1020.** Disbursement of funds; surplus.

All funds of the Authority shall be deposited in a bank or banks to be designated by the Authority. Funds of the Authority shall be paid out only upon warrants signed by the treasurer of the Authority and countersigned by the chairman or the acting chairman. No warrants shall be drawn or issued disbursing any of the funds of the Authority except for a purpose authorized by this chapter and only when the account or expenditure for which they are to be given in payment has been audited and approved by the Authority. Any and all net revenues or earnings not necessary or desirable for the operation of its business shall be held subject to the further action of the General Assembly.

**SECTION 54‑3‑1030.** State port construction fund.

The Authority may accept contributions from all persons for the construction and equipping of port facilities and improvements in the ports of the State, and shall place all such contributions in a separate fund to be known as “the State port construction fund,” and shall use such fund only for the purpose of engineering, constructing and equipping new port facilities and improving and enlarging existing port facilities.

**SECTION 54‑3‑1040.** Annual financial statement.

At least once in each year the Authority shall publish once in some newspaper published in Charleston County a complete detailed statement of all moneys received and disbursed by the Authority during the preceding year. Such statement shall also show the several sources from which such funds were received and the balance on hand at the time of publishing the statement and shall show the complete financial condition of the Authority.

**SECTION 54‑3‑1050.** Property of Authority exempt from taxation.

The property of the Authority shall not be subject to any taxes or assessments thereon.